

26 reclassified as provided in this subsection if the commission of
27 such felony or misdemeanor evidences prejudice based in whole or
28 in part on the race, color, ancestry, ethnicity, religion,
29 sexual orientation, national origin, homeless status, ~~or~~
30 advanced age, gender, or gender identity of any person ~~the~~
31 ~~victim~~:

32 1. A misdemeanor of the second degree is reclassified to a
33 misdemeanor of the first degree.

34 2. A misdemeanor of the first degree is reclassified to a
35 felony of the third degree.

36 3. A felony of the third degree is reclassified to a
37 felony of the second degree.

38 4. A felony of the second degree is reclassified to a
39 felony of the first degree.

40 5. A felony of the first degree is reclassified to a life
41 felony.

42 (b) As used in paragraph (a), the term:

43 1. "Advanced age" means that the victim is older than 65
44 years of age.

45 2. "Gender identity" means a person's gender-related
46 identity, appearance, or behavior, regardless of whether such
47 gender-related identity, appearance, or behavior is different
48 from that traditionally associated with the person's physiology
49 or assigned sex at birth.

50 ~~3.2.~~ "Homeless status" means that the victim:

51 a. Lacks a fixed, regular, and adequate nighttime
 52 residence; or

53 b. Has a primary nighttime residence that is:

54 (I) A supervised publicly or privately operated shelter
 55 designed to provide temporary living accommodations; or

56 (II) A public or private place not designed for, or
 57 ordinarily used as, a regular sleeping accommodation for human
 58 beings.

59 (2) A person or organization that establishes by clear and
 60 convincing evidence that it has been coerced, intimidated, or
 61 threatened in violation of this section has a civil cause of
 62 action for treble damages, an injunction, or any other
 63 appropriate relief in law or in equity. Upon prevailing in such
 64 civil action, the plaintiff may recover reasonable attorney fees
 65 and costs.

66 (3) It is an essential element of this section that the
 67 record reflect that the defendant perceived, knew, or had
 68 reasonable grounds to know or perceive that the person ~~victim~~
 69 was within the class delineated in this section.

70 Section 2. Subsections (1) and (3) of section 775.0863,
 71 Florida Statutes, are amended to read:

72 775.0863 Evidencing prejudice while committing offense
 73 against person with ~~mental or physical~~ disability;
 74 reclassification.—

75 (1)(a) The penalty for any felony or misdemeanor shall be

76 reclassified as provided in this subsection if the commission of
77 such felony or misdemeanor evidences prejudice based in whole or
78 in part on a ~~mental or physical~~ disability of any person the
79 ~~victim~~:

80 1. A misdemeanor of the second degree is reclassified to a
81 misdemeanor of the first degree.

82 2. A misdemeanor of the first degree is reclassified to a
83 felony of the third degree.

84 3. A felony of the third degree is reclassified to a
85 felony of the second degree.

86 4. A felony of the second degree is reclassified to a
87 felony of the first degree.

88 5. A felony of the first degree is reclassified to a life
89 felony.

90 (b) As used in paragraph (a), the term "disability"
91 ~~"mental or physical disability"~~ means a physical or mental
92 impairment that substantially limits one or more of a person's
93 major life activities ~~a condition of mental or physical~~
94 ~~incapacitation due to a developmental disability, organic brain~~
95 ~~damage, or mental illness, and one or more mental or physical~~
96 ~~limitations that restrict a person's ability to perform the~~
97 ~~normal activities of daily living.~~

98 (3) It is an essential element of this section that the
99 record reflect that the defendant perceived, knew, or had
100 reasonable grounds to know or perceive that the person ~~victim~~

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101 | was within the class delineated in this section.

102 | Section 3. This act shall take effect October 1, 2020.