

1 A bill to be entitled
 2 An act relating to offenses evidencing prejudice;
 3 amending s. 775.085, F.S.; expanding grounds for the
 4 reclassification of offenses to include prejudice
 5 based on the gender or gender identity of any person;
 6 specifying that reclassification of offenses occurs if
 7 the commission of the offense is based on prejudice
 8 towards any person on specified grounds; defining the
 9 term "gender identity"; amending s. 775.0863, F.S.;
 10 replacing the term "mental or physical disability"
 11 with the term "disability"; defining the term
 12 "disability"; specifying that the reclassification
 13 occurs if the offense is based in whole or in part on
 14 a disability of any person; providing an effective
 15 date.

16
 17 Be It Enacted by the Legislature of the State of Florida:

18
 19 Section 1. Section 775.085, Florida Statutes, is amended
 20 to read:

21 775.085 Evidencing prejudice while committing offense;
 22 reclassification.—

23 (1) (a) The penalty for any felony or misdemeanor shall be
 24 reclassified as provided in this subsection if the commission of
 25 such felony or misdemeanor evidences prejudice based in whole or

26 | in part on the race, color, ancestry, ethnicity, religion,
27 | sexual orientation, national origin, homeless status, ~~or~~
28 | advanced age, gender, or gender identity of any person the
29 | victim:

30 | 1. A misdemeanor of the second degree is reclassified to a
31 | misdemeanor of the first degree.

32 | 2. A misdemeanor of the first degree is reclassified to a
33 | felony of the third degree.

34 | 3. A felony of the third degree is reclassified to a
35 | felony of the second degree.

36 | 4. A felony of the second degree is reclassified to a
37 | felony of the first degree.

38 | 5. A felony of the first degree is reclassified to a life
39 | felony.

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

41 | 1. "Advanced age" means that the victim is older than 65
42 | years of age.

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

48 | ~~3.2.~~ "Homeless status" means that the victim:

49 | a. Lacks a fixed, regular, and adequate nighttime
50 | residence; or

51 b. Has a primary nighttime residence that is:

52 (I) A supervised publicly or privately operated shelter

53 designed to provide temporary living accommodations; or

54 (II) A public or private place not designed for, or

55 ordinarily used as, a regular sleeping accommodation for human

56 beings.

57 (2) A person or organization that establishes by clear and

58 convincing evidence that it has been coerced, intimidated, or

59 threatened in violation of this section has a civil cause of

60 action for treble damages, an injunction, or any other

61 appropriate relief in law or in equity. Upon prevailing in such

62 civil action, the plaintiff may recover reasonable attorney fees

63 and costs.

64 (3) It is an essential element of this section that the

65 record reflect that the defendant perceived, knew, or had

66 reasonable grounds to know or perceive that the person ~~victim~~

67 was within the class delineated in this section.

68 Section 2. Subsections (1) and (3) of section 775.0863,

69 Florida Statutes, are amended to read:

70 775.0863 Evidencing prejudice while committing offense

71 against person with ~~mental or physical~~ disability;

72 reclassification.—

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

74 reclassified as provided in this subsection if the commission of

75 such felony or misdemeanor evidences prejudice based in whole or

76 | in part on a ~~mental or physical~~ disability of any person ~~the~~
 77 | ~~victim:~~

78 | 1. A misdemeanor of the second degree is reclassified to a
 79 | misdemeanor of the first degree.

80 | 2. A misdemeanor of the first degree is reclassified to a
 81 | felony of the third degree.

82 | 3. A felony of the third degree is reclassified to a
 83 | felony of the second degree.

84 | 4. A felony of the second degree is reclassified to a
 85 | felony of the first degree.

86 | 5. A felony of the first degree is reclassified to a life
 87 | felony.

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

96 | (3) It is an essential element of this section that the
 97 | record reflect that the defendant perceived, knew, or had
 98 | reasonable grounds to know or perceive that the person ~~victim~~
 99 | was within the class delineated in this section.

100 | Section 3. This act shall take effect October 1, 2021.