1	A bill to be entitled
2	An act relating to reclassification of crimes
3	evidencing prejudice; amending ss. 775.085 and
4	775.0863, F.S.; providing for the reclassification of
5	felony and misdemeanor offenses for defacing,
6	damaging, or destroying a victim's property based upon
7	a perpetrator's prejudice; defining the term "victim";
8	providing an effective date.
9	
10	Be It Enacted by the Legislature of the State of Florida:
11	
12	Section 1. Section 775.085, Florida Statutes, is amended
13	to read:
14	775.085 Evidencing prejudice while committing offense;
15	reclassification
16	<u>(2)</u> <del>(1) (a)</del> The penalty for any felony or misdemeanor <u>must</u>
17	shall be reclassified as provided in this subsection if the
18	commission of such felony or misdemeanor evidences prejudice
19	based on the race, color, ancestry, ethnicity, religion, sexual
20	orientation, national origin, homeless status, or advanced age
21	of the victim:
22	<u>(a)</u> A misdemeanor of the second degree is reclassified
23	to a misdemeanor of the first degree.
24	(b) <sup>2</sup> . A misdemeanor of the first degree is reclassified to
25	a felony of the third degree.
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26	$(c)^{3}$ . A felony of the third degree is reclassified to a
27	felony of the second degree.
28	<u>(d)</u> 4. A felony of the second degree is reclassified to a
29	felony of the first degree.
30	<u>(e)</u> $5$ . A felony of the first degree is reclassified to a
31	life felony.
32	<u>(1)</u> (b) As used in <u>this section</u> <del>paragraph (a)</del> , the term:
33	(a) <del>1.</del> "Advanced age" means that the victim is older than
34	65 years of age.
35	$(b)^2$ . "Homeless status" means that the victim:
36	<u>1.</u> a. Lacks a fixed, regular, and adequate nighttime
37	residence; or
38	2.b. Has a primary nighttime residence that is:
39	<u>a.<del>(I)</del> A supervised publicly or privately operated shelter</u>
40	designed to provide temporary living accommodations; or
41	<u>b.<del>(II)</del> A public or private place not designed for, or</u>
42	ordinarily used as, a regular sleeping accommodation for human
43	beings.
44	(c) "Victim" includes, but is not limited to, all of the
45	following:
46	<u>1. An individual.</u>
47	2. A public or private organization that owns property
48	that is defaced, damaged, or destroyed based upon the
49	perpetrator's prejudice against a person or a group within a
50	class delineated in this section.

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51 3. A state or local governmental entity as defined in s. 52 164.1031(1) which owns property that is defaced, damaged, or 53 destroyed based upon the perpetrator's prejudice against a person or a group within a class delineated in this section. 54 55 (3) (2) A person or an organization that establishes by 56 clear and convincing evidence that it has been coerced, 57 intimidated, or threatened in violation of this section has a 58 civil cause of action for treble damages, an injunction, or any 59 other appropriate relief in law or in equity. Upon prevailing in such civil action, the plaintiff may recover reasonable attorney 60 61 fees and costs. (4) (4) (3) It is an essential element of this section that the 62 63 record reflect that the defendant perceived, knew, or had 64 reasonable grounds to know or perceive that the victim was within a the class delineated in this section. 65 66 Section 2. Section 775.0863, Florida Statutes, is amended to read: 67 775.0863 Evidencing prejudice while committing offense 68 69 against person with mental or physical disability; 70 reclassification.-71 (2) (1) (a) The penalty for any felony or misdemeanor must shall be reclassified as provided in this subsection if the 72 73 commission of such felony or misdemeanor evidences prejudice 74 based on a mental or physical disability of the victim: 75 (a) 1. A misdemeanor of the second degree is reclassified Page 3 of 5

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76	to a misdemeanor of the first degree.
77	(b) $\frac{2}{2}$ . A misdemeanor of the first degree is reclassified to
78	a felony of the third degree.
79	(c) A felony of the third degree is reclassified to a
80	felony of the second degree.
81	(d)4. A felony of the second degree is reclassified to a
82	felony of the first degree.
83	<u>(e)</u> $5$ . A felony of the first degree is reclassified to a
84	life felony.
85	<u>(1)</u> As used in <u>this section</u> <del>paragraph (a)</del> , the term <u>:</u>
86	(a) "Mental or physical disability" means a condition of
87	mental or physical incapacitation due to a developmental
88	disability, organic brain damage, or mental illness, and one or
89	more mental or physical limitations that restrict a person's
90	ability to perform the normal activities of daily living.
91	(b) "Victim" includes, but is not limited to, all of the
92	following:
93	<u>1. An individual.</u>
94	2. A public or private organization that owns property
95	that is defaced, damaged, or destroyed based upon the
96	perpetrator's prejudice against a person or a group within the
97	class delineated in this section.
98	3. A state or local governmental entity as defined in s.
99	164.1031(1) which owns property that is defaced, damaged, or
100	destroyed based upon the perpetrator's prejudice against a
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101	person or a group within the class delineated in this section.
102	(3)(2) A person or <u>an</u> organization that establishes by
103	clear and convincing evidence that it has been coerced,
104	intimidated, or threatened in violation of this section has a
105	civil cause of action for treble damages, an injunction, or any
106	other appropriate relief in law or in equity. Upon prevailing in
107	such civil action, the plaintiff may recover reasonable attorney
108	fees and costs.
109	(4) (3) It is an essential element of this section that the
110	record reflect that the defendant perceived, knew, or had
111	reasonable grounds to know or perceive that the victim was
112	within the class delineated in this section.
113	Section 3. This act shall take effect October 1, 2022.

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