



26        (c)3. A felony of the third degree is reclassified to a  
 27 felony of the second degree.

28        (d)4. A felony of the second degree is reclassified to a  
 29 felony of the first degree.

30        (e)5. A felony of the first degree is reclassified to a  
 31 life felony.

32        (1)(b) As used in this section ~~paragraph (a)~~, the term:

33        (a)1. "Advanced age" means that the victim is older than  
 34 65 years of age.

35        (b)2. "Homeless status" means that the victim:

36        1.a. Lacks a fixed, regular, and adequate nighttime  
 37 residence; or

38        2.b. Has a primary nighttime residence that is:

39        a.(I) A supervised publicly or privately operated shelter  
 40 designed to provide temporary living accommodations; or

41        b.(II) A public or private place not designed for, or  
 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        1. An individual.

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.

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  
 54 person or a group within a class delineated in this section.

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  
 60 such civil action, the plaintiff may recover reasonable attorney  
 61 fees and costs.

62           ~~(4)(3)~~ It is an essential element of this section that the  
 63 record reflect that the defendant perceived, knew, or had  
 64 reasonable grounds to know or perceive that the victim was  
 65 within a ~~the~~ class delineated in this section.

66           Section 2. Section 775.0863, Florida Statutes, is amended  
 67 to read:

68           775.0863 Evidencing prejudice while committing offense  
 69 against person with mental or physical disability;  
 70 reclassification.—

71           ~~(2)(1)(a)~~ The penalty for any felony or misdemeanor must  
 72 ~~shall~~ be reclassified as provided in this subsection if the  
 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

76 | to a misdemeanor of the first degree.

77 |     ~~(b)2.~~ A misdemeanor of the first degree is reclassified to  
78 | a felony of the third degree.

79 |     ~~(c)3.~~ 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 |     ~~(e)5.~~ A felony of the first degree is reclassified to a  
84 | life felony.

85 |     ~~(1)(b)~~ As used in this section ~~paragraph (a)~~, the term:

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 |         ~~1.~~ An individual.

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

HB 883

2022

101 person or a group within the class delineated in this section.

102 ~~(3)-(2)~~ A person or an 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.