

1 A bill to be entitled
 2 An act relating to crimes evidencing prejudice;
 3 amending s. 775.085, F.S.; providing definitions;
 4 expanding grounds for the reclassification of crimes
 5 to include acts of prejudice based upon the gender of
 6 a victim; specifying that the reclassification occurs
 7 if the crime was based in whole or in part on the
 8 actual or perceived characteristics of the victim;
 9 amending s. 775.0863, F.S.; revising the definition of
 10 the term "mental or physical disability"; defining the
 11 term "victim"; providing for the reclassification of a
 12 crime if it was based in whole or in part on the
 13 actual or perceived mental or physical disability of
 14 the victim; amending s. 817.034, F.S.; conforming
 15 provisions to changes made by the act; providing an
 16 effective date.

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 18 Be It Enacted by the Legislature of the State of Florida:

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

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

24 (1) ~~(b)~~ As used in this section ~~paragraph (a)~~, the term:
 25 (a)1. "Advanced age" means that the victim is older than

26 | 65 years of age.

27 | (b) "Ethnicity" means the cultural characteristics and
 28 | traits that make someone part of a particular ethnic group.

29 | (c) "Gender" means the sex assigned to an individual at
 30 | birth.

31 | (d)2. "Homeless status" means that the victim:

32 | 1.a. Lacks a fixed, regular, and adequate nighttime
 33 | residence; or

34 | 2.b. Has a primary nighttime residence that is:

35 | a.(I) A supervised publicly or privately operated shelter
 36 | designed to provide temporary living accommodations; or

37 | b.(II) A public or private place not designed for, or
 38 | ordinarily used as, a regular sleeping accommodation for human
 39 | beings.

40 | (e) "National origin" means the country in which a person
 41 | was born, the nationality of an ancestor, or the country of
 42 | origin of a person's ancestors whether naturally, by marriage,
 43 | or by adoption.

44 | (f) "Race" includes traits historically associated with
 45 | race, including, but not limited to, hair texture, hair type,
 46 | and protective hairstyles, such as braids, locs, and twists.

47 | (g) "Religion" means all aspects of religious observance,
 48 | practice, and belief.

49 | (h) "Victim" includes, but is not limited to, all of the
 50 | following:

51 1. An individual.

52 2. A public or private organization that owns property
53 that is defaced, damaged, or destroyed based upon the
54 perpetrator's prejudice against a person or group included in a
55 class delineated in this section.

56 3. A state entity or a local governmental entity, as
57 defined in s. 164.1031(1), which owns property that is defaced,
58 damaged, or destroyed based upon the perpetrator's prejudice
59 against a person or group included in a class delineated in this
60 section.

61 (2)(a) The penalty for any felony or misdemeanor must
62 ~~shall~~ be reclassified as provided in this subsection if the
63 commission of such felony or misdemeanor evidences prejudice
64 based in whole or in part on the actual or perceived race,
65 color, ancestry, ethnicity, religion, gender, sexual
66 orientation, national origin, homeless status, or advanced age
67 of the victim:

68 (a)1. A misdemeanor of the second degree is reclassified
69 to a misdemeanor of the first degree.

70 (b)2. A misdemeanor of the first degree is reclassified to
71 a felony of the third degree.

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

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

76 (e)5- A felony of the first degree is reclassified to a
 77 life felony.

78 (3)-(2) A person or an organization that establishes by
 79 clear and convincing evidence that it has been coerced,
 80 intimidated, or threatened in violation of this section has a
 81 civil cause of action for treble damages, an injunction, or any
 82 other appropriate relief in law or in equity. Upon prevailing in
 83 such civil action, the plaintiff may recover reasonable attorney
 84 fees and costs.

85 (4)-(3) It is an essential element of this section that the
 86 record reflect that the defendant perceived, knew, or had
 87 reasonable grounds to know or perceive that the victim was
 88 included in a ~~within the~~ class delineated in this section.

89 **Section 2. Section 775.0863, Florida Statutes, is amended**
 90 **to read:**

91 775.0863 Evidencing prejudice while committing offense
 92 against person with mental or physical disability;
 93 reclassification.-

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

95 (a) "Mental or physical disability" means:

96 1. A condition of mental or physical incapacitation due to
 97 a developmental disability, organic brain damage, or mental
 98 illness, and one or more mental or physical limitations that
 99 restrict a person's ability to perform the normal activities of
 100 daily living; or

101 2. A mental or physical impairment that substantially
102 limits one or more major life activities of an individual. As
103 used in this subparagraph, the term:

104 a. "Major life activity" means an important function of an
105 individual, such as caring for one's self, performing manual
106 tasks, walking, seeing, hearing, speaking, breathing, learning,
107 or working.

108 b. "Mental or physical impairment" means:

109 (I) A physiological disorder or condition, disfigurement,
110 or anatomical loss that affects one or more bodily functions; or

111 (II) A mental or psychological disorder that is addressed
112 in one of the diagnostic categories specified in the most recent
113 edition of the Diagnostic and Statistical Manual of Mental
114 Disorders published by the American Psychiatric Association,
115 such as an intellectual or developmental disability, an organic
116 brain syndrome, a traumatic brain injury, a posttraumatic stress
117 disorder, or an emotional or a mental illness.

118 (b) "Victim" includes, but is not limited to, all of the
119 following:

120 1. An individual.

121 2. A public or private organization that owns property
122 that is defaced, damaged, or destroyed based upon the
123 perpetrator's prejudice against a person or a group included in
124 the class delineated in this section.

125 3. A state entity or a local governmental entity, as

126 defined in s. 164.1031(1), which owns property that is defaced,
127 damaged, or destroyed based upon the perpetrator's prejudice
128 against a person or a group included in the class delineated in
129 this section.

130 (2)(a) The penalty for any felony or misdemeanor must
131 ~~shall~~ be reclassified as provided in this subsection if the
132 commission of such felony or misdemeanor evidences prejudice
133 based in whole or in part on an actual or a perceived ~~a~~ mental
134 or physical disability of the victim:

135 (a)1. A misdemeanor of the second degree is reclassified
136 to a misdemeanor of the first degree.

137 (b)2. A misdemeanor of the first degree is reclassified to
138 a felony of the third degree.

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

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

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

145 (3)(2) A person or an organization that establishes by
146 clear and convincing evidence that it has been coerced,
147 intimidated, or threatened in violation of this section has a
148 civil cause of action for treble damages, an injunction, or any
149 other appropriate relief in law or in equity. Upon prevailing in
150 such civil action, the plaintiff may recover reasonable attorney

151 fees and costs.

152 (4)~~(3)~~ It is an essential element of this section that the
 153 record reflect that the defendant perceived, knew, or had
 154 reasonable grounds to know or perceive that the victim was
 155 included in ~~within~~ the class delineated in this section.

156 **Section 3. Paragraph (c) of subsection (4) of section**
 157 **817.034, Florida Statutes, is amended to read:**

158 817.034 Florida Communications Fraud Act.—

159 (4) OFFENSES.—

160 (c) The penalty for committing an offense specified in
 161 paragraph (a) or paragraph (b) against a person age 65 years or
 162 older, against a minor, or against a person with a mental or
 163 physical disability, as defined in s. 775.0863(1) ~~s.~~
 164 ~~775.0863(1)(b)~~, shall be reclassified as follows:

165 1. A misdemeanor of the first degree is reclassified to a
 166 felony of the third degree.

167 2. A felony of the third degree is reclassified to a
 168 felony of the second degree.

169 3. A felony of the second degree is reclassified to a
 170 felony of the first degree.

171 4. A felony of the first degree is reclassified to a life
 172 felony.

173 **Section 4.** This act shall take effect July 1, 2025.