

By Senator Berman

31-00300-22

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1                   A bill to be entitled  
2       An act relating to crimes evidencing prejudice;  
3       amending s. 775.085, F.S.; expanding grounds for the  
4       reclassification of crimes to include acts of  
5       prejudice based on the gender or gender identity of  
6       any person; specifying that the reclassification  
7       occurs if the crime was based in whole or in part on  
8       the race, color, ancestry, ethnicity, religion, sexual  
9       orientation, national origin, homeless status,  
10      advanced age, gender, or gender identity of any  
11      person; defining the term "gender identity"; amending  
12      s. 775.0863, F.S.; replacing the term "mental or  
13      physical disability" with the term "disability";  
14      defining the term "disability"; specifying that the  
15      reclassification of a certain crime occurs if the  
16      crime was based in whole or in part on a disability of  
17      any person; amending s. 877.19, F.S.; expanding the  
18      data the Governor is required to collect and  
19      disseminate to include incidents of criminal acts that  
20      evidence prejudice based on gender, gender identity,  
21      or disability; providing an effective date.

22  
23 Be It Enacted by the Legislature of the State of Florida:

24  
25       Section 1. Subsection (1) of section 775.085, Florida  
26       Statutes, is amended to read:

27       775.085 Evidencing prejudice while committing offense;  
28       reclassification.—

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

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

36 1. A misdemeanor of the second degree is reclassified to a  
37 misdemeanor of the first degree.

38 2. A misdemeanor of the first degree is reclassified to a  
39 felony of the third degree.

40 3. A felony of the third degree is reclassified to a felony  
41 of the second degree.

42 4. A felony of the second degree is reclassified to a  
43 felony of the first degree.

44 5. A felony of the first degree is reclassified to a life  
45 felony.

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

47 1. "Advanced age" means that the person ~~victim~~ is older  
48 than 65 years of age.

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

54 ~~3.2.~~ "Homeless status" means that the person ~~victim~~:

55 a. Lacks a fixed, regular, and adequate nighttime  
56 residence; or

57 b. Has a primary nighttime residence that is:

58 (I) A supervised publicly or privately operated shelter

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59 designed to provide temporary living accommodations; or

60 (II) A public or private place not designed for, or  
61 ordinarily used as, a regular sleeping accommodation for human  
62 beings.

63 Section 2. Section 775.0863, Florida Statutes, is amended  
64 to read:

65 775.0863 Evidencing prejudice while committing offense  
66 against person with ~~mental or physical~~ disability;  
67 reclassification.—

68 (1) (a) The penalty for any felony or misdemeanor shall be  
69 reclassified as provided in this subsection if the commission of  
70 such felony or misdemeanor evidences prejudice based in whole or  
71 in part on a ~~mental or physical~~ disability of any person ~~the~~  
72 ~~victim~~:

73 1. A misdemeanor of the second degree is reclassified to a  
74 misdemeanor of the first degree.

75 2. A misdemeanor of the first degree is reclassified to a  
76 felony of the third degree.

77 3. A felony of the third degree is reclassified to a felony  
78 of the second degree.

79 4. A felony of the second degree is reclassified to a  
80 felony of the first degree.

81 5. A felony of the first degree is reclassified to a life  
82 felony.

83 (b) As used in paragraph (a), the term "disability" ~~"mental~~  
84 ~~or physical disability"~~ means a physical or mental impairment  
85 that substantially limits one or more of a person's major life  
86 activities ~~a condition of mental or physical incapacitation due~~  
87 ~~to a developmental disability, organic brain damage, or mental~~

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88 ~~illness, and one or more mental or physical limitations that~~  
89 ~~restrict a person's ability to perform the normal activities of~~  
90 ~~daily living.~~

91 (2) A person or organization that establishes by clear and  
92 convincing evidence that it has been coerced, intimidated, or  
93 threatened in violation of this section has a civil cause of  
94 action for treble damages, an injunction, or any other  
95 appropriate relief in law or in equity. Upon prevailing in such  
96 civil action, the plaintiff may recover reasonable attorney fees  
97 and costs.

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~~  
101 was within the class delineated in this section.

102 Section 3. Subsection (2) of section 877.19, Florida  
103 Statutes, is amended to read:

104 877.19 Hate Crimes Reporting Act.—

105 (2) ACQUISITION AND PUBLICATION OF DATA.—The Governor,  
106 through the Florida Department of Law Enforcement, shall collect  
107 and disseminate data on incidents of criminal acts that evidence  
108 prejudice based on race, religion, ethnicity, color, ancestry,  
109 sexual orientation, gender, gender identity, disability, or  
110 national origin. All law enforcement agencies shall report  
111 monthly to the Florida Department of Law Enforcement concerning  
112 such offenses in such form and in such manner as prescribed by  
113 rules adopted by the department. Such information shall be  
114 compiled by the department and disseminated upon request to any  
115 local law enforcement agency, unit of local government, or state  
116 agency.

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Section 4. This act shall take effect July 1, 2022.