

CS/HB 309

2016

1 A bill to be entitled
2 An act relating to crimes evidencing prejudice;
3 amending s. 775.085, F.S.; providing for the
4 enhancement of penalties for an offense if the
5 commission of the offense evidences prejudice based on
6 the victim's employment as a justice or judge, a
7 correctional officer or correctional probation
8 officer, or a first responder; defining the term
9 "employment"; providing an effective date.

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

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13 Section 1. Section 775.085, Florida Statutes, is amended
14 to read:

15 775.085 Evidencing prejudice while committing offense;
16 reclassification.—

17 (1) (a) The penalty for any felony or misdemeanor shall be
18 reclassified as provided in this subsection if the commission of
19 such felony or misdemeanor evidences prejudice based on the
20 race, color, ancestry, ethnicity, religion, sexual orientation,
21 national origin, homeless status, mental or physical disability,
22 or advanced age of the victim or the victim's employment as a
23 justice or a judge for the state courts system as defined in s.
24 25.382, a correctional officer or a correctional probation
25 officer as defined in s. 943.10, or a first responder as defined
26 in s. 112.1815:

27 1. A misdemeanor of the second degree is reclassified to a
 28 misdemeanor of the first degree.

29 2. A misdemeanor of the first degree is reclassified to a
 30 felony of the third degree.

31 3. A felony of the third degree is reclassified to a
 32 felony of the second degree.

33 4. A felony of the second degree is reclassified to a
 34 felony of the first degree.

35 5. A felony of the first degree is reclassified to a life
 36 felony.

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

38 ~~1.2.~~ "Advanced age" means that the victim is older than 65
 39 years of age.

40 2. "Employment" includes a full-time, a part-time, an
 41 auxiliary, or a volunteer position.

42 3. "Homeless status" means that the victim:

43 a. Lacks a fixed, regular, and adequate nighttime
 44 residence; or

45 b. Has a primary nighttime residence that is:

46 (I) A supervised publicly or privately operated shelter
 47 designed to provide temporary living accommodations; or

48 (II) A public or private place not designed for, or
 49 ordinarily used as, a regular sleeping accommodation for human
 50 beings.

51 ~~4.1.~~ "Mental or physical disability" means that the victim
 52 suffers from a condition of physical or mental incapacitation

53 | due to a developmental disability, organic brain damage, or
54 | mental illness, and has one or more physical or mental
55 | limitations that restrict the victim's ability to perform the
56 | normal activities of daily living.

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
63 | ~~attorney's~~ fees 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 victim was
67 | within the class delineated in this section.

68 | Section 2. This act shall take effect October 1, 2016.