1 A bill to be entitled 2 An act relating to offenses evidencing prejudice; 3 amending s. 775.085, F.S.; expanding grounds for the reclassification of offenses to include prejudice 4 5 based on the gender or gender identity of any person; 6 specifying that reclassification of offenses occurs if 7 the commission of the offenses is based on prejudice 8 towards any person on specified grounds; providing for 9 reclassification of offenses evidencing prejudice 10 based on the gender or gender identity of the victim; defining the term "gender identity"; amending s. 11 12 775.0863, F.S.; replacing the term "mental or physical disability" with the term "disability"; defining the 13 14 term "disability"; specifying that the reclassification occurs if the offense was based in 15 16 whole or in part on a disability of any person; 17 providing an effective date. 18 19 Be It Enacted by the Legislature of the State of Florida: 20 Section 775.085, Florida Statutes, is amended 21 Section 1. to read: 22 23 775.085 Evidencing prejudice while committing offense; reclassification.-24 25 (1) (a) The penalty for any felony or misdemeanor shall be Page 1 of 5

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26 reclassified as provided in this subsection if the commission of 27 such felony or misdemeanor evidences prejudice based in whole or 28 in part on the race, color, ancestry, ethnicity, religion, 29 sexual orientation, national origin, homeless status, or 30 advanced age, gender, or gender identity of any person the 31 victim: 32 1. A misdemeanor of the second degree is reclassified to a 33 misdemeanor of the first degree. 34 A misdemeanor of the first degree is reclassified to a 2. 35 felony of the third degree. 3. A felony of the third degree is reclassified to a 36 37 felony of the second degree. 4. A felony of the second degree is reclassified to a 38 39 felony of the first degree. 5. A felony of the first degree is reclassified to a life 40 41 felony. 42 (b) As used in paragraph (a), the term: 43 "Advanced age" means that the victim is older than 65 1. 44 years of age. 45 2. "Gender identity" means a person's gender-related 46 identity, appearance, or behavior, regardless of whether such gender-related identity, appearance, or behavior is different 47 48 from that traditionally associated with the person's physiology 49 or assigned sex at birth. 50 "Homeless status" means that the victim: 3.2. Page 2 of 5

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a. Lacks a fixed, regular, and adequate nighttimeresidence; or

b. Has a primary nighttime residence that is:

54 (I) A supervised publicly or privately operated shelter55 designed to provide temporary living accommodations; or

56 (II) A public or private place not designed for, or 57 ordinarily used as, a regular sleeping accommodation for human 58 beings.

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

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

Section 2. Subsections (1) and (3) of section 775.0863,
Florida Statutes, are amended to read:

72 775.0863 Evidencing prejudice while committing offense 73 against person with mental or physical disability; 74 reclassification.-

75

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

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reclassified as provided in this subsection if the commission of 76 77 such felony or misdemeanor evidences prejudice based in whole or 78 in part on a mental or physical disability of any person the 79 victim: 80 1. A misdemeanor of the second degree is reclassified to a 81 misdemeanor of the first degree. 82 2. A misdemeanor of the first degree is reclassified to a 83 felony of the third degree. 3. A felony of the third degree is reclassified to a 84 85 felony of the second degree. 4. A felony of the second degree is reclassified to a 86 87 felony of the first degree. 88 5. A felony of the first degree is reclassified to a life 89 felony. 90 (b) As used in paragraph (a), the term "disability" "mental or physical disability" means a physical or mental 91 92 impairment that substantially limits one or more of a person's 93 major life activities a condition of mental or physical 94 incapacitation due to a developmental disability, organic brain 95 damage, or mental illness, and one or more mental or physical 96 limitations that restrict a person's ability to perform the 97 normal activities of daily living. It is an essential element of this section that the 98 (3) record reflect that the defendant perceived, knew, or had 99 100 reasonable grounds to know or perceive that the person victim

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FLORIDA HOUSE OF REPRESENTATIV	ΕS
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101	was	within	the	class	deli	neated	in t	this se	ect	cion.		
102		Sectio	on 3	. This	s act	shall	take	e effe	ct	October	1,	2020.

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