

CHAPTER 98-83

Committee Substitute for Senate Bill No. 154

An act relating to offenses that evidence prejudice; amending s. 775.085, F.S.; providing enhanced penalties for offenses that show evidence of prejudice against the victim, based on the victim's mental or physical disability or advanced age; providing definitions; providing an effective date.

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

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

775.085 Evidencing prejudice while committing offense; enhanced penalties.—

(1)(a) The penalty for any felony or misdemeanor shall be reclassified as provided in this subsection if the commission of such felony or misdemeanor evidences prejudice based on the race, color, ancestry, ethnicity, religion, sexual orientation, ~~or~~ national origin, mental or physical disability, or advanced age of the victim:

1.(a) A misdemeanor of the second degree shall be punishable as if it were a misdemeanor of the first degree.

2.(b) A misdemeanor of the first degree shall be punishable as if it were a felony of the third degree.

3.(c) A felony of the third degree shall be punishable as if it were a felony of the second degree.

4.(d) A felony of the second degree shall be punishable as if it were a felony of the first degree.

5. A felony of the first degree shall be punishable as if it were a life felony.

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

1. “Mental or physical disability” means that the victim suffers from a condition of physical or mental incapacitation due to a developmental disability, organic brain damage, or mental illness, and has one or more physical or mental limitations that restrict the victim’s ability to perform the normal activities of daily living.

2. “Advanced age” means that the victim is older than 65 years of age.

(2) A person or organization ~~that which~~ establishes by clear and convincing evidence that it has been coerced, intimidated, or threatened in violation of this section ~~has shall have~~ 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’s fees and costs.

(3) It ~~is shall be~~ 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 victim was within the class delineated in this section herein.

Section 2. This act shall take effect October 1, 1998.

Became a law without the Governor's approval May 22, 1998.

Filed in Office Secretary of State May 21, 1998.