

## CHAPTER 99-172

### Committee Substitute for House Bill No. 183

An act relating to sentencing; amending s. 775.085, F.S.; reclassifying penalties relating to offenses evidencing prejudice; amending s. 794.023, F.S.; reclassifying offenses involving multiple perpetrators of sexual battery; providing an effective date.

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

Section 1. Paragraph (a) of subsection (1) of section 775.085, Florida Statutes, 1998 Supplement, is amended to read:

775.085 Evidencing prejudice while committing offense; reclassification 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, national origin, mental or physical disability, or advanced age of the victim:

1. A misdemeanor of the second degree is reclassified to ~~shall be punishable as if it were~~ a misdemeanor of the first degree.

2. A misdemeanor of the first degree is reclassified to ~~shall be punishable as if it were~~ a felony of the third degree.

3. A felony of the third degree is reclassified to ~~shall be punishable as if it were~~ a felony of the second degree.

4. A felony of the second degree is reclassified to ~~shall be punishable as if it were~~ a felony of the first degree.

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

Section 2. Section 794.023, Florida Statutes, as amended by chapter 97-194, Laws of Florida, is amended to read:

794.023 Sexual battery by multiple perpetrators; reclassification of offenses enhanced penalties.—

(1) The Legislature finds that an act of sexual battery, when committed by more than one person, presents a great danger to the public and is extremely offensive to civilized society. It is therefore the intent of the Legislature to reclassify offenses ~~provide enhanced penalties~~ for acts of sexual battery committed by more than one person.

(2) ~~The penalty for~~ A violation of s. 794.011 shall be reclassified ~~increased~~ as provided in this subsection if it is charged and proven by the prosecution

that, during the same criminal transaction or episode, more than one person committed an act of sexual battery on the same victim.

(a) A felony of the second degree is reclassified to ~~shall be punishable as if it were~~ a felony of the first degree.

(b) A felony of the first degree is reclassified to ~~shall be punishable as if it were~~ a life felony.

This subsection does not apply to life felonies or capital felonies. For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, a felony offense that is reclassified under this subsection is ranked one level above the ranking under s. 921.0022 or s. 921.0023 of the offense committed.

Section 3. This act shall take effect July 1, 1999.

Approved by the Governor May 14, 1999.

Filed in Office Secretary of State May 14, 1999.