

By Senator Gutman

34-756-98

1 A bill to be entitled
2 An act relating to felony offenders; amending
3 s. 775.084, F.S.; providing that for purposes
4 of sentencing an offender as a violent career
5 criminal, a habitual felony offender, or a
6 habitual violent felony offender, placement of
7 the offender on community control without an
8 adjudication of guilt is considered a prior
9 conviction under certain circumstances;
10 providing an effective date.

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

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14 Section 1. Subsections (1) and (2) of section 775.084,
15 Florida Statutes, are amended to read:

16 775.084 Violent career criminals; habitual felony
17 offenders and habitual violent felony offenders; definitions;
18 procedure; enhanced penalties.--

19 (1) As used in this act:

20 (a) "Habitual felony offender" means a defendant for
21 whom the court may impose an extended term of imprisonment, as
22 provided in paragraph (4)(a), if it finds that:

23 1. The defendant has previously been convicted of any
24 combination of two or more felonies in this state or other
25 qualified offenses.

26 2. The felony for which the defendant is to be
27 sentenced was committed:

28 a. While the defendant was serving a prison sentence
29 or other commitment imposed as a result of a prior conviction
30 for a felony or other qualified offense; or

31

1 b. Within 5 years after ~~of~~ the date of the conviction
2 of the defendant's last prior felony or other qualified
3 offense, or within 5 years after ~~of~~ the defendant's release
4 from a prison sentence or other commitment imposed as a result
5 of a prior conviction for a felony or other qualified offense,
6 whichever is later.

7 3. The felony for which the defendant is to be
8 sentenced, and one of the two prior felony convictions, is not
9 a violation of s. 893.13 relating to the purchase or the
10 possession of a controlled substance.

11 4. The defendant has not received a pardon for any
12 felony or other qualified offense that is necessary for the
13 operation of this paragraph.

14 5. A conviction of a felony or other qualified offense
15 necessary to the operation of this paragraph has not been set
16 aside in any postconviction proceeding.

17 (b) "Habitual violent felony offender" means a
18 defendant for whom the court may impose an extended term of
19 imprisonment, as provided in paragraph (4)(b), if it finds
20 that:

21 1. The defendant has previously been convicted of a
22 felony or an attempt or conspiracy to commit a felony and one
23 or more of such convictions was for:

- 24 a. Arson;
- 25 b. Sexual battery;
- 26 c. Robbery;
- 27 d. Kidnapping;
- 28 e. Aggravated child abuse;
- 29 f. Aggravated abuse of an elderly person or disabled
30 adult;
- 31 g. Aggravated assault;

- 1 h. Murder;
- 2 i. Manslaughter;
- 3 j. Aggravated manslaughter of an elderly person or
4 disabled adult;
- 5 k. Aggravated manslaughter of a child;
- 6 l. Unlawful throwing, placing, or discharging of a
7 destructive device or bomb;
- 8 m. Armed burglary;
- 9 n. Aggravated battery; or
- 10 o. Aggravated stalking.
- 11 2. The felony for which the defendant is to be
12 sentenced was committed:
- 13 a. While the defendant was serving a prison sentence
14 or other commitment imposed as a result of a prior conviction
15 for an enumerated felony; or
- 16 b. Within 5 years after ~~of~~ the date of the conviction
17 of the last prior enumerated felony, or within 5 years after
18 ~~of~~ the defendant's release from a prison sentence or other
19 commitment imposed as a result of a prior conviction for an
20 enumerated felony, whichever is later.
- 21 3. The defendant has not received a pardon on the
22 ground of innocence for any crime that is necessary for the
23 operation of this paragraph.
- 24 4. A conviction of a crime necessary to the operation
25 of this paragraph has not been set aside in any postconviction
26 proceeding.
- 27 (c) "Violent career criminal" means a defendant for
28 whom the court must impose imprisonment pursuant to paragraph
29 (4)(c), if it finds that:
- 30
- 31

1 1. The defendant has previously been convicted as an
2 adult three or more times for an offense in this state or
3 other qualified offense that is:
4 a. Any forcible felony, as described in s. 776.08;
5 b. Aggravated stalking, as described in s. 784.048(3)
6 and (4);
7 c. Aggravated child abuse, as described in s.
8 827.03(2);
9 d. Aggravated abuse of an elderly person or disabled
10 adult, as described in s. 825.102(2);
11 e. Lewd, lascivious, or indecent conduct, as described
12 in s. 800.04;
13 f. Escape, as described in s. 944.40; or
14 g. A felony violation of chapter 790 involving the use
15 or possession of a firearm.
16 2. The defendant has been incarcerated in a state
17 prison or a federal prison.
18 3. The primary felony offense for which the defendant
19 is to be sentenced is a felony enumerated in subparagraph 1.
20 and was committed on or after October 1, 1995, and:
21 a. While the defendant was serving a prison sentence
22 or other commitment imposed as a result of a prior conviction
23 for an enumerated felony; or
24 b. Within 5 years after the conviction of the last
25 prior enumerated felony, or within 5 years after the
26 defendant's release from a prison sentence or other commitment
27 imposed as a result of a prior conviction for an enumerated
28 felony, whichever is later.
29 4. The defendant has not received a pardon for any
30 felony or other qualified offense that is necessary for the
31 operation of this paragraph.

