

Amendment No. ____ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

11 Representative(s) Trovillion offered the following:

Substitute Amendment for Amendment (681855)

14 In the title
15 remove from the bill: everything before the enacting clause
16
17 and insert in lieu thereof:

18 A bill to be entitled
19 An act relating to sentencing; creating the
20 "Three-Strike Violent Felony Offender Act";
21 amending s. 775.082, F.S.; redefining the term
22 "prison releasee reoffender"; revising
23 legislative intent; amending s. 775.084, F.S.,
24 relating to sentencing of habitual felony
25 offenders, habitual violent felony offenders,
26 and violent career criminals; redefining the
27 terms "habitual felony offender" and "habitual
28 violent felony offender"; revising the
29 alternative time periods within which the
30 habitual felony offender or habitual violent
31 felony offender could have committed the felony

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1 to be sentenced; providing that the felony to
2 be sentenced could have been committed either
3 while the defendant was serving a prison
4 sentence or other sentence, or within 5 years
5 of the defendant's release from a prison
6 sentence, probation, community control, or
7 other sentence, under specified circumstances
8 when the sentence was imposed as a result of a
9 prior conviction for a felony, enumerated
10 felony, or other qualified offense; removing
11 certain references to "commitment" and
12 otherwise conforming terminology; providing
13 that the placing of a person on probation
14 without an adjudication of guilt shall be
15 treated as a prior conviction regardless of
16 when the subsequent offense was committed;
17 defining "three-time violent felony offender";
18 requiring conviction as an adult of a felony in
19 at least 2 separate and distinct incidents and
20 sentencing events; providing a category of
21 enumerated felony offenses within the
22 definition; requiring the court to sentence a
23 defendant as a three-time violent felony
24 offender and impose certain mandatory minimum
25 terms of imprisonment under specified
26 circumstances when the defendant is to be
27 sentenced for committing or attempting to
28 commit, any of the enumerated felony offenses
29 and the defendant has previously been convicted
30 of committing or attempting to commit, any two
31 of the enumerated felony offenses; providing

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1 penalties; providing procedures and criteria
2 for court determination if the defendant is a
3 three-time violent felony offender; providing
4 for sentencing as a three-time violent felony
5 offender; providing mandatory term of
6 imprisonment for life when the three-time
7 violent felony offense for which the defendant
8 is to be sentenced is a felony punishable by
9 life; providing mandatory prison term of 30
10 years when the three-time violent felony
11 offense is a first degree felony; providing
12 mandatory prison term of 15 years when the
13 three-time violent felony offense is a second
14 degree felony; providing mandatory prison term
15 of 5 years when the three-time violent felony
16 offense is a third degree felony; providing for
17 construction; providing that certain sentences
18 imposed before July 1, 1999, are not subject to
19 s. 921.002, F.S., relating to the Criminal
20 Punishment Code; providing for ineligibility of
21 a three-time violent felony offender for
22 parole, control release, or early release;
23 amending ss. 784.07 and 784.08, F.S.; providing
24 minimum terms of imprisonment for persons
25 convicted of aggravated assault or aggravated
26 battery of a law enforcement officer or a
27 person 65 years of age or older; amending s.
28 790.235, F.S., relating to prohibitions
29 against, and penalties for, unlawful possession
30 or other unlawful acts involving firearm,
31 electric weapon or device, or concealed weapon

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1 by a violent career criminal; conforming cross
2 references to changes made by the act; creating
3 s. 794.0115, F.S.; defining "repeat sexual
4 batterer"; providing within the definition a
5 category of enumerated felony offenses in
6 violation of s. 794.011, F.S., relating to
7 sexual battery; requiring the court to sentence
8 a defendant as a repeat sexual batterer and
9 impose a 10-year mandatory minimum term of
10 imprisonment under specified circumstances when
11 the defendant is to be sentenced for committing
12 or attempting to commit, any of the enumerated
13 felony violations of s. 794.011, F.S., and the
14 defendant has previously been convicted of
15 committing or attempting to commit, any one of
16 certain enumerated felony offenses involving
17 sexual battery; providing penalties; providing
18 procedures and criteria for court determination
19 if the defendant is a repeat sexual batterer;
20 providing for sentencing as a repeat sexual
21 batterer; providing for construction; amending
22 s. 794.011, F.S., to conform references to
23 changes made by the act; amending s. 893.135,
24 F.S.; redefining the offense of trafficking in
25 cannabis to include unlawful sale, purchase,
26 manufacture, delivery, bringing into the state,
27 or possession of cannabis in excess of 25
28 pounds or 300 cannabis plants; providing
29 mandatory minimum prison terms and mandatory
30 fine amounts for trafficking in specified
31 quantities of cannabis, cocaine, or illegal

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1 drugs; providing for sentencing pursuant to the
2 Criminal Punishment Code of offenders convicted
3 of trafficking in specified quantities of
4 cannabis; providing penalties; reenacting s.
5 397.451(7), F.S., relating to the prohibition
6 against dissemination of state funds to service
7 providers convicted of certain offenses, s.
8 782.04(4)(a), F.S., relating to murder, s.
9 893.1351(1), F.S., relating to lease or rent
10 for the purpose of trafficking in a controlled
11 substance, s. 903.133, F.S., relating to the
12 prohibition against bail on appeal for certain
13 felony convictions, s. 907.041(4)(b), F.S.,
14 relating to pretrial detention and release, s.
15 921.0022(3)(g), (h), and (i), F.S., relating to
16 the Criminal Punishment Code offense severity
17 ranking chart, s. 921.0024(1)(b), F.S.,
18 relating to the Criminal Punishment Code
19 worksheet computations and scoresheets, s.
20 921.142(2), F.S., relating to sentencing for
21 capital drug trafficking felonies, s. 943.0585,
22 F.S., relating to court-ordered expunction of
23 criminal history records, and s. 943.059, F.S.,
24 relating to court-ordered sealing of criminal
25 history records, to incorporate said amendment
26 in references; amending s. 943.0535, F.S.,
27 relating to aliens and criminal records;
28 requiring clerk of the courts to furnish
29 criminal records to United States immigration
30 officers; requiring state attorney to assist
31 clerk of the courts in determining which

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1 defendants are aliens; requiring the Governor
2 to place public service announcements
3 explaining the provisions of this act;
4 providing an effective date.

5
6 WHEREAS, in 1996, Florida had the highest violent crime
7 rate of any state in the nation, exceeding the national
8 average by 66 percent, and

9 WHEREAS, although this state possessed the highest
10 state violent crime rate in 1996 in the nation, the
11 incarceration rate in this state in 1996 was less than the
12 incarceration rate in at least eleven other states, all of
13 which had a lower violent crime rate than the rate in this
14 state, and

15 WHEREAS, since 1988, criminals in this state have
16 committed at least 1.6 million violent crimes against
17 Floridians and visitors to this state, and

18 WHEREAS, the per capita violent crime rate has
19 increased 86 percent in this state in the last 25 years, and

20 WHEREAS, in fiscal year 1996-1997, over 16,000 violent
21 felons in this state were sentenced to probation, community
22 control, and other punishments that did not incarcerate the
23 violent felon for the maximum prison term authorized by law,
24 and

25 WHEREAS, during that same fiscal year, less than 9,900
26 violent felons were sentenced to prison, while during that
27 same period criminals committed approximately 150,000 violent
28 felonies, and

29 WHEREAS, in this state, as of June 30, 1997, more
30 violent felons were on probation, community control, control
31 release, or parole, than were in state prison, and

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1 WHEREAS, in 1997, only 15.6 percent of all persons
2 convicted of a felony were sentenced to state prison, the
3 second lowest rate of incarcerated felons since 1984, and

4 WHEREAS, the rate of incarcerated felons has declined
5 seven out of the last eight years, and

6 WHEREAS, since fiscal year 1993-1994, the per capita
7 prison population rate in this state has increased 10 percent
8 and the proportion of violent offenders incarcerated in state
9 prison has increased 5 percent, and

10 WHEREAS, since 1995, the Florida Legislature has
11 enacted stronger criminal punishment laws, including requiring
12 all prisoners to serve 85 percent of their court-imposed
13 sentences, and

14 WHEREAS, since 1994, the violent crime rate in this
15 state has decreased 9.8 percent, and

16 WHEREAS, the Legislature previously has found that a
17 substantial and disproportionate number of serious crimes are
18 committed in this state by a relatively small number of repeat
19 and violent felony offenders, that priority should be given to
20 the incarceration of career criminals for extended prison
21 terms, and that, in the case of violent career criminals, such
22 extended terms must include substantial minimum terms of
23 imprisonment, and

24 WHEREAS, as of June 30, 1997, only 71 designated
25 "violent career criminals" have been sentenced to mandatory
26 prison terms, out of a prison population of over 65,000 state
27 inmates; and this number does not approach the true number of
28 repeat violent felony offenders in this state, and

29 WHEREAS, to be sentenced as a "violent career
30 criminal," a felon must be convicted of at least four violent,
31 forcible, or serious felonies and must have served a prison

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1 term, and

2 WHEREAS, current law does not require the courts to
3 impose mandatory prison terms on violent felons who commit
4 three violent felonies, and these three-time violent felony
5 offenders should be sentenced to mandatory maximum prison
6 terms to protect citizens of this state and visitors, and

7 WHEREAS, studies such as the recent report issued by
8 the National Center for Policy Analysis, "Does punishment
9 deter?", indicate that recent crime rates have declined
10 because of the increasing number of incarcerated felons, and

11 WHEREAS, since California enacted "three strike"
12 legislation in 1994 that requires courts to impose mandatory
13 prison terms on repeat felony offenders convicted of three
14 serious crimes, that state has experienced significant
15 reductions in violent crime, and overall crime rates, and

16 WHEREAS, a study by the RAND Corporation estimates that
17 the enforcement of this California legislation will reduce
18 serious crime in California committed by adults between 22 and
19 34 percent, and

20 WHEREAS, the enactment and enforcement of legislation
21 in Florida that requires courts to impose mandatory prison
22 terms on three-time violent felony offenders will improve
23 public safety by incapacitating repeat offenders who are most
24 likely to murder, rape, rob, or assault innocent victims in
25 our communities, and

26 WHEREAS, imposing mandatory prison terms on three-time
27 violent felony offenders will prevent such offenders from
28 committing more crimes in our communities, and likely
29 accelerate recent declines in the violent crime rate in this
30 state, NOW, THEREFORE,

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