

By Senator Burt

16-1160-01

1 A bill to be entitled
 2 An act relating to repeat sexual batterers;
 3 amending s. 794.0115, F.S.; changing
 4 terminology to "repeat sexual offender";
 5 providing additional offenses the commission of
 6 which or the attempt, solicitation, or
 7 conspiracy to commit will qualify an offender
 8 for designation as a repeat sexual offender;
 9 increasing the minimum penalty; providing an
 10 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. Section 794.0115, Florida Statutes, is
 15 amended to read:

16 794.0115 Repeat sexual offenders ~~batterers~~;
 17 definition; procedure; enhanced penalties.--

18 (1) As used in this act, "repeat sexual offender
 19 ~~batterer~~" means a defendant for whom the court must impose a
 20 mandatory minimum term of imprisonment, as provided in
 21 subsection (3), if it finds that:

22 (a) The defendant has previously been convicted of a
 23 felony or an attempt, solicitation, or conspiracy to commit in
 24 this state or another jurisdiction any felony offense the
 25 elements of which are similar to those proscribed in s.
 26 787.025, chapter 794, s. 796.03, s. 800.04, s. 825.1025, s.
 27 827.071, s. 847.0133, s. 847.0135, or s. 847.0145. ~~a felony~~
 28 ~~and one or more of such convictions was for:~~

29 ~~1. Any felony offense in violation of s.~~
 30 ~~794.011(2)(b), (3), (4), or (5), or an attempt or conspiracy~~
 31 ~~to commit the felony offense.~~

1 ~~2. A qualified offense as defined in s. 775.084(1)(e),~~
2 ~~if the elements of the qualified offense are substantially~~
3 ~~similar to the elements of a felony offense in violation of s.~~
4 ~~794.011(2)(b), (3), (4), or (5), or an attempt or conspiracy~~
5 ~~to commit the felony offense.~~

6 (b) The felony for which the defendant is to be
7 sentenced is one of the felonies enumerated in paragraph (a)
8 ~~subparagraph (a)1. or subparagraph (a)2.~~and was committed:

9 1. While the defendant was serving a prison sentence
10 or other sentence imposed as a result of a prior conviction
11 for any offense enumerated in paragraph (a)~~subparagraph (a)1.~~
12 ~~or subparagraph (a)2.;~~ or

13 2. Within 10 years after the date of the conviction of
14 the last prior offense enumerated in paragraph (a)
15 ~~subparagraph (a)1. or subparagraph (a)2.~~, or within 10 years
16 after the defendant's release from a prison sentence,
17 probation, community control, or other sentence imposed as a
18 result of a prior conviction for any offense enumerated in
19 paragraph (a)~~subparagraph (a)1. or subparagraph (a)2.~~,
20 whichever is later.

21 (c) 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 subsection.

24 (d) A conviction of a crime necessary to the operation
25 of this subsection has not been set aside in any
26 postconviction proceeding.

27 (2) In a separate proceeding, the court shall
28 determine if the defendant is a repeat sexual offender
29 batterer. The procedure shall be as follows:

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1 (a) The court shall obtain and consider a presentence
2 investigation prior to the imposition of a sentence as a
3 repeat sexual offender ~~batterer~~.

4 (b) Written notice shall be served on the defendant
5 and the defendant's attorney a sufficient time prior to the
6 entry of a plea or prior to the imposition of sentence in
7 order to allow the preparation of a submission on behalf of
8 the defendant.

9 (c) Except as provided in paragraph (a), all evidence
10 presented shall be presented in open court with full rights of
11 confrontation, cross-examination, and representation by
12 counsel.

13 (d) Each of the findings required as the basis for
14 such sentence shall be found to exist by a preponderance of
15 the evidence and shall be appealable to the extent normally
16 applicable to similar findings.

17 (e) For the purpose of identification of a repeat
18 sexual offender ~~batterer~~, the court shall fingerprint the
19 defendant pursuant to s. 921.241.

20 (f) For an offense committed on or after the effective
21 date of this act, if the state attorney pursues a repeat
22 sexual offender ~~batterer~~ sanction against the defendant and
23 the court, in a separate proceeding pursuant to this
24 subsection, determines that the defendant meets the criteria
25 under subsection (1) for imposing such sanction, the court
26 must sentence the defendant as a repeat sexual offender
27 ~~batterer~~, subject to imprisonment pursuant to this section as
28 provided in subsection (3).

29 (3)(a) The court, in conformity with the procedure
30 established in subsection (2), must sentence the repeat sexual
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1 offender ~~batterer~~ to a mandatory minimum term of 25 ~~10~~ years'
2 imprisonment.

3 (b) Nothing in this subsection shall prevent a court
4 from imposing a greater sentence of incarceration as
5 authorized by law.

6 Section 2. This act shall take effect October 1, 2001.

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SENATE SUMMARY

10 Changes terminology from "repeat sexual batterer" to
11 "repeat sexual offender." Provides additional offenses
12 the commission of which, or the attempt, solicitation, or
13 conspiracy to commit, which will qualify a defendant as a
repeat sexual offender. Increases the mandatory minimum
penalty from 10 years' imprisonment to 25 years'
imprisonment.

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