

By Senators Brown-Waite and Smith

10-681A-02

1                                   A bill to be entitled  
2           An act relating to sentencing; creating s.  
3           775.31, F.S.; providing for the  
4           reclassification of offenses the commission of  
5           which facilitated or furthered any act of  
6           terrorism; defining the term "terrorism";  
7           amending s. 782.04, F.S.; including any felony  
8           that is an act of terrorism or is in  
9           furtherance of an act of terrorism as a  
10          qualifying offense under the felony murder  
11          provisions; creating the crime of felony murder  
12          involving any felony that is an act of  
13          terrorism or is in furtherance of an act of  
14          terrorism; defining the term "terrorism";  
15          providing an effective date.

16  
17 Be It Enacted by the Legislature of the State of Florida:

18  
19           Section 1.   Section 775.31, Florida Statutes, is  
20 created to read:

21           775.31 Facilitating or furthering terrorism; felony or  
22 misdemeanor reclassification.--

23           (1) If a person is convicted of committing a felony or  
24 misdemeanor that facilitated or furthered any act of  
25 terrorism, the court shall reclassify the felony or  
26 misdemeanor to the next higher degree as provided in this  
27 section. The reclassification shall be made in the following  
28 manner:

29           (a) In the case of a misdemeanor of the second degree,  
30 the offense is reclassified as a misdemeanor of the first  
31 degree.

1           (b) In the case of a misdemeanor of the first degree,  
2 the offense is reclassified as a felony of the third degree.

3           (c) In the case of a felony of the third degree, the  
4 offense is reclassified as a felony of the second degree.

5           (d) In the case of a felony of the second degree, the  
6 offense is reclassified as a felony of the first degree.

7           (e) In the case of a felony of the first degree or a  
8 felony of the first degree punishable by a term of  
9 imprisonment not exceeding life, the offense is reclassified  
10 as a life felony.

11           (2) For purposes of sentencing under chapter 921, the  
12 following offense severity ranking levels apply:

13           (a) An offense that is a misdemeanor of the first  
14 degree and that is reclassified under this section as a felony  
15 of the third degree is ranked in level 2 of the offense  
16 severity ranking chart.

17           (b) A felony offense that is reclassified under this  
18 section is ranked one level above the ranking specified in s.  
19 921.0022 or s. 921.0023 for the offense committed.

20           (3) As used in this section, the term "terrorism"  
21 means an activity that:

22           (a)1. Involves a violent act or an act dangerous to  
23 human life which is a violation of the criminal laws of this  
24 state or of the United States; or

25           2. Involves a violation of s. 815.06; and

26           (b) Is intended to:

27           1. Intimidate, injure, or coerce a civilian  
28 population;

29           2. Influence the policy of a government by  
30 intimidation or coercion; or

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1           3. Affect the conduct of government through  
2 destruction of property, assassination, murder, kidnapping, or  
3 aircraft piracy.

4           Section 2. Section 782.04, Florida Statutes, is  
5 amended to read:

6           782.04 Murder.--

7           (1)(a) The unlawful killing of a human being:

8           1. When perpetrated from a premeditated design to  
9 effect the death of the person killed or any human being;

10           2. When committed by a person engaged in the  
11 perpetration of, or in the attempt to perpetrate, any:

12           a. Trafficking offense prohibited by s. 893.135(1),

13           b. Arson,

14           c. Sexual battery,

15           d. Robbery,

16           e. Burglary,

17           f. Kidnapping,

18           g. Escape,

19           h. Aggravated child abuse,

20           i. Aggravated abuse of an elderly person or disabled  
21 adult,

22           j. Aircraft piracy,

23           k. Unlawful throwing, placing, or discharging of a  
24 destructive device or bomb,

25           l. Carjacking,

26           m. Home-invasion robbery,

27           n. Aggravated stalking,

28           o. Murder of another human being,

29           p. Resisting an officer with violence to his or her  
30 person, ~~or~~

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1           q. Felony that is an act of terrorism or is in  
2 furtherance of an act of terrorism; or

3           3. Which resulted from the unlawful distribution of  
4 any substance controlled under s. 893.03(1), cocaine as  
5 described in s. 893.03(2)(a)4., or opium or any synthetic or  
6 natural salt, compound, derivative, or preparation of opium by  
7 a person 18 years of age or older, when such drug is proven to  
8 be the proximate cause of the death of the user,

9  
10 is murder in the first degree and constitutes a capital  
11 felony, punishable as provided in s. 775.082.

12           (b) In all cases under this section, the procedure set  
13 forth in s. 921.141 shall be followed in order to determine  
14 sentence of death or life imprisonment.

15           (2) The unlawful killing of a human being, when  
16 perpetrated by any act imminently dangerous to another and  
17 evincing a depraved mind regardless of human life, although  
18 without any premeditated design to effect the death of any  
19 particular individual, is murder in the second degree and  
20 constitutes a felony of the first degree, punishable by  
21 imprisonment for a term of years not exceeding life or as  
22 provided in s. 775.082, s. 775.083, or s. 775.084.

23           (3) When a person is killed in the perpetration of, or  
24 in the attempt to perpetrate, any:

25           (a) Trafficking offense prohibited by s. 893.135(1),

26           (b) Arson,

27           (c) Sexual battery,

28           (d) Robbery,

29           (e) Burglary,

30           (f) Kidnapping,

31           (g) Escape,

- 1           (h) Aggravated child abuse,  
2           (i) Aggravated abuse of an elderly person or disabled  
3 adult,  
4           (j) Aircraft piracy,  
5           (k) Unlawful throwing, placing, or discharging of a  
6 destructive device or bomb,  
7           (l) Carjacking,  
8           (m) Home-invasion robbery,  
9           (n) Aggravated stalking,  
10          (o) Murder of another human being, ~~or~~  
11          (p) Resisting an officer with violence to his or her  
12 person, or  
13          (q) Felony that is an act of terrorism or is in  
14 furtherance of an act of terrorism,  
15  
16 by a person other than the person engaged in the perpetration  
17 of or in the attempt to perpetrate such felony, the person  
18 perpetrating or attempting to perpetrate such felony is guilty  
19 of murder in the second degree, which constitutes a felony of  
20 the first degree, punishable by imprisonment for a term of  
21 years not exceeding life or as provided in s. 775.082, s.  
22 775.083, or s. 775.084.  
23          (4) The unlawful killing of a human being, when  
24 perpetrated without any design to effect death, by a person  
25 engaged in the perpetration of, or in the attempt to  
26 perpetrate, any felony other than any:  
27          (a) Trafficking offense prohibited by s. 893.135(1),  
28          (b) Arson,  
29          (c) Sexual battery,  
30          (d) Robbery,  
31          (e) Burglary,

- 1 (f) Kidnapping,  
2 (g) Escape,  
3 (h) Aggravated child abuse,  
4 (i) Aggravated abuse of an elderly person or disabled  
5 adult,  
6 (j) Aircraft piracy,  
7 (k) Unlawful throwing, placing, or discharging of a  
8 destructive device or bomb,  
9 (l) Unlawful distribution of any substance controlled  
10 under s. 893.03(1), cocaine as described in s. 893.03(2)(a)4.,  
11 or opium or any synthetic or natural salt, compound,  
12 derivative, or preparation of opium by a person 18 years of  
13 age or older, when such drug is proven to be the proximate  
14 cause of the death of the user,  
15 (m) Carjacking,  
16 (n) Home-invasion robbery,  
17 (o) Aggravated stalking,  
18 (p) Murder of another human being, ~~or~~  
19 (q) Resisting an officer with violence to his or her  
20 person, or  
21 (r) Felony that is an act of terrorism or is in  
22 furtherance of an act of terrorism,  
23  
24 is murder in the third degree and constitutes a felony of the  
25 second degree, punishable as provided in s. 775.082, s.  
26 775.083, or s. 775.084.  
27 (5) As used in this section, the term "terrorism"  
28 means an activity that:  
29 (a)1. Involves a violent act or an act dangerous to  
30 human life which is a violation of the criminal laws of this  
31 state or of the United States; or

1           2. Involves a violation of s. 815.06; and  
2           (b) Is intended to:  
3           1. Intimidate, injure, or coerce a civilian  
4 population;  
5           2. Influence the policy of a government by  
6 intimidation or coercion; or  
7           3. Affect the conduct of government through  
8 destruction of property, assassination, murder, kidnapping, or  
9 aircraft piracy.  
10           Section 3. This act shall take effect upon becoming a  
11 law.  
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13                               \*\*\*\*\*  
14                               SENATE SUMMARY  
15           Provides for the reclassification of a felony or  
16 misdemeanor to the next higher degree if the trier of  
17 fact finds that the offense facilitated or furthered the  
18 commission of an act of terrorism. Defines the term  
19 "terrorism." Provides for a felony that is an act of  
20 terrorism or that is in furtherance of an act of  
21 terrorism to constitute a qualifying offense for purposes  
22 of charging the offender with felony murder. (See bill  
23 for details.)  
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