

By the Committee on Criminal Justice; and Senator Cowin

307-2294-03

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A bill to be entitled
An act relating to sexual offenders; amending
s. 794.0115, F.S.; providing a short title;
defining a dangerous sexual felony offender;
providing mandatory sentencing for such
offenders; providing an effective date.

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

Section 1. 794.0115, Florida Statutes, is amended to
read:

(Substantial rewording of section. See
s. 794.0115, F.S., for present text.)

794.0115 Dangerous sexual felony offender; mandatory
sentencing.--

(1) This section may be cited as the "Dangerous Sexual
Felony Offender Act."

(2) Any person who is convicted of a violation of s.
787.025; s. 794.011(2), (3), (4), (5), or (8); s. 800.04(4) or
(5); s. 827.071(2), (3), or (4); s. 825.1025; or s. 847.0145;
or any similar offense under a former designation, which
offense the person committed when he or she was 18 years of
age or older, and the person:

(a) Caused serious personal injury to the victim as a
result of the commission of the offense;

(b) Used or threatened to use a deadly weapon during
the commission of the offense;

(c) Victimized more than one person during the course
of the criminal episode applicable to the offense;

(d) Committed the offense while under the jurisdiction
of a court for a felony offense under the laws of this state,

1 for an offense that is a felony in another jurisdiction, or
2 for an offense that would be a felony if that offense were
3 committed in this state; or
4 (e) Has previously been convicted of a violation of s.
5 787.025; s. 794.011(2), (3), (4), (5), or (8); s. 800.04(4) or
6 (5); s. 825.1025; s. 827.071(2), (3), or (4); or s. 847.0145;
7 of any offense under a former statutory designation which is
8 similar in elements to an offense described in this
9 subparagraph; or of any offense that is a felony in another
10 jurisdiction, or would be a felony if that offense were
11 committed in this state, and which is similar in elements to
12 an offense described in this subparagraph,
13
14 is a dangerous sexual felony offender, who must be sentenced
15 to a mandatory minimum term of 25 years imprisonment up to,
16 and including, life imprisonment.
17 (3) "Serious personal injury" means great bodily harm
18 or pain, permanent disability, or permanent disfigurement.
19 (4) The offense described in subsection (2) which is
20 being charged must have been committed after the date of
21 commission of the last prior conviction for an offense that is
22 a prior conviction described in paragraph (2)(e).
23 (5) It is irrelevant that a factor listed in paragraph
24 (2) is an element of an offense described in that paragraph.
25 It is also irrelevant that such an offense was reclassified to
26 a higher felony degree under s. 794.023 or any other law.
27 (6) Notwithstanding s. 775.082(3), chapter 958, any
28 other law, or any interpretation or construction thereof, a
29 person subject to sentencing under this section must be
30 sentenced to the mandatory term of imprisonment provided under
31 this section. If the mandatory minimum term of imprisonment

1 imposed under this section exceeds the maximum sentence
2 authorized under s. 775.082, s. 775.084, or chapter 921, the
3 mandatory minimum term of imprisonment under this section must
4 be imposed. If the mandatory minimum term of imprisonment
5 under this section is less than the sentence that could be
6 imposed under s. 775.082, s. 775.084, or chapter 921, the
7 sentence imposed must include the mandatory minimum term of
8 imprisonment under this section.

9 (7) A defendant sentenced to a mandatory minimum term
10 of imprisonment under this section is not eligible for
11 statutory gain-time under s. 944.275 or any form of
12 discretionary early release, other than pardon or executive
13 clemency, or conditional medical release under s. 947.149,
14 before serving the minimum sentence.

15 Section 2. This act shall take effect July 1, 2003.
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 2172

- Deletes all of the current provisions of s. 794.0115, F.S., which currently provides for a 10-year mandatory minimum term of imprisonment for certain recidivist sexual offenders designated "repeat sexual batterers."
- Changes the mandatory minimum term to 25 years to life.
- Provides that this term must be imposed or included in sentencing of a person as a "dangerous sexual felony offender," which the bill defines as a person who is convicted of any one of several sexual offenses, which the person committed when he or she was 18 years of age or older, and the person meets any one of the several designated factors, such as causing serious personal injury to the victim as a result of the offense.
- Provides that it is irrelevant that a factor for sentencing is an element of the offense or that such offense was reclassified to a higher felony degree.
- Provides that a person sentenced to a mandatory minimum term under this section is not eligible for statutory gain-time or any form of discretionary early release, other than pardon or executive clemency, or conditional medical release before serving the minimum sentence.