

By the Committee on Criminal Justice; and Senator Haridopolos

307-1630-04

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A bill to be entitled  
An act relating to habitual misdemeanor  
offenders; creating s. 775.0837, F.S.; defining  
terms; providing for sentencing a habitual  
misdemeanor offender, as specified; providing  
penalties; providing a sentencing exception;  
providing an effective date.

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

Section 1. Section 775.0837, Florida Statutes, is  
created to read:

775.0837 Habitual misdemeanor offender; definitions;  
penalties.--

(1) As used in this section, the term:

(a) "Convicted" means a determination of guilt which  
is the result of a trial or the entry of a plea of guilty or  
nolo contendere, regardless of whether adjudication is  
withheld.

(b) "Habitual misdemeanor offender" means a defendant  
before the court for sentencing for a misdemeanor who has been  
convicted, as an adult, of four or more misdemeanor offenses,  
which:

1. In relation to each other and the misdemeanor  
before the court for sentencing, are separate offenses that  
are not part of the same criminal transaction or episode; and

2. Were committed within 1 year of the date the  
misdemeanor before the court for sentencing was committed.

(c) "Imprisonment" means incarceration in a county  
jail operated by the county or a private vendor or a state  
correctional facility operated by the Department of

1 Corrections or a private vendor, including private  
2 correctional facilities contracted by the state.

3 (2) If the court finds that a defendant before the  
4 court for sentencing for a misdemeanor is a habitual  
5 misdemeanor offender, the court shall sentence the defendant  
6 as a habitual misdemeanor offender and impose one of the  
7 following sentences:

8 (a) A term of imprisonment of not less than 6 months  
9 and may impose a term of imprisonment of up to 1 year;

10 (b) Commitment to a secure residential treatment  
11 program for not less than 6 months, but not to exceed 364  
12 days, if the residential treatment program is operated by the  
13 county or a private vendor with which the county has  
14 contracted to operate such program; or

15 (c) Detention for not less than 6 months, but not to  
16 exceed 364 days, to a designated residence, if the detention  
17 is supervised or monitored by the county or by a private  
18 vendor with which the county has contracted to supervise or  
19 monitor the detention.

20  
21 The court may not sentence a defendant under this subsection  
22 if the misdemeanor offense before the court for sentencing has  
23 been reclassified as a felony as a result of any prior  
24 qualifying misdemeanor.

25 Section 2. This act shall take effect July 1, 2004.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
Senate Bill 1376

- Provides that a defendant is a "habitual misdemeanor offender" if: the current offense is a misdemeanor; there are four or more prior convictions, as an adult, for a misdemeanor; all qualifying offenses were committed within a 1 year period; and all qualifying offenses are separate offenses that are not part of the same criminal transaction or episode.
- Provides for the following additional sentencing options: commitment to a secure residential treatment program for not less than 6 months, but not to exceed 364 days, if the residential treatment program is operated by the county or a private vendor the county has contracted with to operate such program; or detention for not less than 6 months, but not to exceed 364 days, to a designated residence, if the detention is supervised or monitored by the county or by a private vendor the county has contracted with to supervise or monitor the detention.
- Defines the term "imprisonment."