

By the Committees on Appropriations; Criminal Justice; and  
Senator Haridopolos

309-2376-04

1                                   A bill to be entitled  
2           An act relating to habitual misdemeanor  
3           offenders; creating s. 775.0837, F.S.;  
4           providing definitions; specifying alternatives  
5           for sentencing a habitual misdemeanor offender;  
6           providing that such alternatives are  
7           imprisonment, commitment, or detention;  
8           specifying a minimum and maximum time period  
9           for such alternatives; providing criminal  
10          penalties; limiting the applicability of the  
11          sentencing alternatives; providing an effective  
12          date.

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

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

18           775.0837 Habitual misdemeanor offenders.--

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

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

24           (b) "Habitual misdemeanor offender" means a defendant  
25 who is before the court for sentencing for a specified  
26 misdemeanor offense and who has previously been convicted, as  
27 an adult, of four or more specified misdemeanor offenses which  
28 meet the following criteria:

29           1. The offenses, in relation to each other and the  
30 misdemeanor before the court for sentencing, are separate

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1 offenses that are not part of the same criminal transaction or  
2 episode.

3 2. The offenses were committed within 1 year of the  
4 date that the misdemeanor before the court for sentencing was  
5 committed.

6 (c) "Specified misdemeanor offense" means those  
7 misdemeanor offenses described in chapter 741, chapter 784,  
8 chapter 790, chapter 796, chapter 800, chapter 806, chapter  
9 810, chapter 812, chapter 817, chapter 831, chapter 832,  
10 chapter 843, chapter 856, chapter 893, or chapter 901.

11 (d) "Imprisonment" means incarceration in a county  
12 jail operated by the county or a private vendor.

13 (2) If the court finds that a defendant before the  
14 court for sentencing for a misdemeanor is a habitual  
15 misdemeanor offender, the court shall sentence the defendant  
16 as a habitual misdemeanor offender and impose one of the  
17 following sentences:

18 (a) A term of imprisonment of not less than 6 months,  
19 but not to exceed 1 year;

20 (b) Commitment to a residential treatment program for  
21 not less than 6 months, but not to exceed 364 days, provided  
22 that the treatment program is operated by the county or a  
23 private vendor with which the county has contracted to operate  
24 such program, or by a private vendor under contract with the  
25 state or licensed by the state to operate such program or  
26 other community-based treatment program or a combination of  
27 residential and community-based program; or

28 (c) Detention for not less than 6 months, but not to  
29 exceed 364 days, to a designated residence, if the detention  
30 is supervised or monitored by the county or by a private  
31

1 vendor with which the county has contracted to supervise or  
2 monitor the detention.

3  
4 The court may not sentence a defendant under this subsection  
5 if the misdemeanor offense before the court for sentencing has  
6 been reclassified as a felony as a result of any prior  
7 qualifying misdemeanor.

8 Section 2. This act shall take effect upon becoming a  
9 law.

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11 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
12 COMMITTEE SUBSTITUTE FOR  
13 CS for SB 1376

- 14  
15 - Provides that qualifying misdemeanors include misdemeanor  
16 violations under the chapters relating to domestic  
17 violence, assault, battery, weapons, prostitution, lewd  
18 exhibition, arson, criminal mischief, trespass, theft,  
19 fraud, forgery, worthless checks, obstructing justice,  
20 drunkenness, loitering, prowling, controlled substances,  
21 and providing a false name.  
22 - Clarifies that there must be at least 5 misdemeanor  
23 convictions to trigger the habitual misdemeanor  
24 sanctions.  
25 - Modifies definition of imprisonment so it includes only  
26 incarceration in jail operated by the county or a private  
27 vendor with which the county contracts.  
28 - Modifies one of the sanctions provided relating to  
29 residential treatment programs to specify that  
30 residential treatment does not have to be in a secure  
31 facility and to provide that county residential and  
community-based program options may be utilized.