

1 A bill to be entitled
 2 An act relating to child abuse; amending s. 827.03, F.S.;
 3 revising the definition of the term "child abuse" to
 4 include inappropriate or excessively harsh discipline of a
 5 child by a parent, legal custodian, or caregiver;
 6 providing a criminal penalty; defining the term
 7 "inappropriate or excessively harsh corporal discipline";
 8 reenacting ss. 775.082(9)(a), 787.04(5), and 901.15(8),
 9 F.S., relating to mandatory minimum sentences for certain
 10 reoffenders previously released from prison, removing
 11 minors from the state or concealing minors contrary to
 12 state agency order or court order, and when arrest by an
 13 officer without a warrant is lawful, to incorporate the
 14 amendment to s. 827.03, F.S., in references thereto;
 15 providing an effective date.

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

18
 19 Section 1. Subsection (1) of section 827.03, Florida
 20 Statutes, is amended, and subsection (5) is added to that
 21 section, to read:

22 827.03 Abuse, aggravated abuse, and neglect of a child;
 23 penalties.--

24 (1) "Child abuse" means:

25 (a) Intentional infliction of physical or mental injury
 26 upon a child;

27 (b) An intentional act that could reasonably be expected
 28 to result in physical or mental injury to a child; ~~or~~

29 (c) Active encouragement of any person to commit an act
 30 that results or could reasonably be expected to result in
 31 physical or mental injury to a child; ~~or-~~

32 (d) Inappropriate or excessively harsh corporal discipline
 33 of a child by a parent, legal custodian, or caregiver.

34
 35 A person who knowingly or willfully abuses a child without
 36 causing great bodily harm, permanent disability, or permanent
 37 disfigurement to the child commits a felony of the third degree,
 38 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

39 (5) For purposes of this section, "inappropriate or
 40 excessively harsh corporal discipline" means an act of
 41 discipline that results or could reasonably be expected to
 42 result in any of the following or other similar injuries:

43 (a) Sprains, dislocations, or cartilage damage.

44 (b) Bone or skull fractures.

45 (c) Brain or spinal cord damage.

46 (d) Intracranial hemorrhage or injury to other internal
 47 organs.

48 (e) Asphyxiation, suffocation, or drowning.

49 (f) Injury resulting from the use of a deadly weapon.

50 (g) Burns or scalding.

51 (h) Cuts, lacerations, punctures, or bites.

52 (i) Disfigurement.

53 (j) Loss or impairment of a body part or function.

54 (k) Significant bruises or welts.

55 (l) Mental injury, as defined in s. 39.01.

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56 Section 2. For the purpose of incorporating the amendment
57 made by this act to section 827.03, Florida Statutes, in a
58 reference thereto, paragraph (a) of subsection (9) of section
59 775.082, Florida Statutes, is reenacted to read:

60 775.082 Penalties; applicability of sentencing structures;
61 mandatory minimum sentences for certain reoffenders previously
62 released from prison.--

63 (9)(a)1. "Prison releasee reoffender" means any defendant
64 who commits, or attempts to commit:

- 65 a. Treason;
- 66 b. Murder;
- 67 c. Manslaughter;
- 68 d. Sexual battery;
- 69 e. Carjacking;
- 70 f. Home-invasion robbery;
- 71 g. Robbery;
- 72 h. Arson;
- 73 i. Kidnapping;
- 74 j. Aggravated assault with a deadly weapon;
- 75 k. Aggravated battery;
- 76 l. Aggravated stalking;
- 77 m. Aircraft piracy;
- 78 n. Unlawful throwing, placing, or discharging of a
79 destructive device or bomb;
- 80 o. Any felony that involves the use or threat of physical
81 force or violence against an individual;
- 82 p. Armed burglary;

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83 q. Burglary of a dwelling or burglary of an occupied
84 structure; or

85 r. Any felony violation of s. 790.07, s. 800.04, s.
86 827.03, or s. 827.071;

87
88 within 3 years after being released from a state correctional
89 facility operated by the Department of Corrections or a private
90 vendor or within 3 years after being released from a
91 correctional institution of another state, the District of
92 Columbia, the United States, any possession or territory of the
93 United States, or any foreign jurisdiction, following
94 incarceration for an offense for which the sentence is
95 punishable by more than 1 year in this state.

96 2. "Prison releasee reoffender" also means any defendant
97 who commits or attempts to commit any offense listed in sub-
98 subparagraphs (a)1.a.-r. while the defendant was serving a
99 prison sentence or on escape status from a state correctional
100 facility operated by the Department of Corrections or a private
101 vendor or while the defendant was on escape status from a
102 correctional institution of another state, the District of
103 Columbia, the United States, any possession or territory of the
104 United States, or any foreign jurisdiction, following
105 incarceration for an offense for which the sentence is
106 punishable by more than 1 year in this state.

107 3. If the state attorney determines that a defendant is a
108 prison releasee reoffender as defined in subparagraph 1., the
109 state attorney may seek to have the court sentence the defendant
110 as a prison releasee reoffender. Upon proof from the state

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111 attorney that establishes by a preponderance of the evidence
112 that a defendant is a prison releasee reoffender as defined in
113 this section, such defendant is not eligible for sentencing
114 under the sentencing guidelines and must be sentenced as
115 follows:

116 a. For a felony punishable by life, by a term of
117 imprisonment for life;

118 b. For a felony of the first degree, by a term of
119 imprisonment of 30 years;

120 c. For a felony of the second degree, by a term of
121 imprisonment of 15 years; and

122 d. For a felony of the third degree, by a term of
123 imprisonment of 5 years.

124 Section 3. For the purpose of incorporating the amendment
125 made by this act to section 827.03, Florida Statutes, in a
126 reference thereto, subsection (5) of section 787.04, Florida
127 Statutes, is reenacted to read:

128 787.04 Removing minors from state or concealing minors
129 contrary to state agency order or court order.--

130 (5) It is a defense under this section that a person who
131 leads, takes, entices, or removes a minor beyond the limits of
132 the state reasonably believes that his or her action was
133 necessary to protect the minor from child abuse as defined in s.
134 827.03.

135 Section 4. For the purpose of incorporating the amendment
136 made by this act to section 827.03, Florida Statutes, in a
137 reference thereto, subsection (8) of section 901.15, Florida
138 Statutes, is reenacted to read:

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139 901.15 When arrest by officer without warrant is
140 lawful.--A law enforcement officer may arrest a person without a
141 warrant when:

142 (8) There is probable cause to believe that the person has
143 committed child abuse, as defined in s. 827.03. The decision to
144 arrest shall not require consent of the victim or consideration
145 of the relationship of the parties. It is the public policy of
146 this state to protect abused children by strongly encouraging
147 the arrest and prosecution of persons who commit child abuse. A
148 law enforcement officer who acts in good faith and exercises due
149 care in making an arrest under this subsection is immune from
150 civil liability that otherwise might result by reason of his or
151 her action.

152 Section 5. This act shall take effect July 1, 2006.