

By Senator Rich

34-1588-06

See HB

1 A bill to be entitled

2 An act relating to child abuse; amending s.

3 827.03, F.S.; revising the definition of the

4 term "child abuse" to include inappropriate or

5 excessively harsh discipline of a child by a

6 parent, legal custodian, or caregiver;

7 providing a criminal penalty; defining the term

8 "inappropriate or excessively harsh corporal

9 discipline"; reenacting ss. 775.082(9)(a),

10 787.04(5), and 901.15(8), F.S., relating to

11 mandatory minimum sentences for certain

12 reoffenders previously released from prison,

13 removing minors from the state or concealing

14 minors contrary to state agency order or court

15 order, and when arrest by an officer without a

16 warrant is lawful, to incorporate the amendment

17 to s. 827.03, F.S., in references thereto;

18 providing an effective date.

19

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

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22 Section 1. Subsection (1) of section 827.03, Florida

23 Statutes, is amended, and subsection (5) is added to that

24 section, to read:

25 827.03 Abuse, aggravated abuse, and neglect of a

26 child; penalties.--

27 (1) "Child abuse" means:

28 (a) Intentional infliction of physical or mental

29 injury upon a child;

30 (b) An intentional act that could reasonably be

31 expected to result in physical or mental injury to a child; ~~or~~

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

4 (d) Inappropriate or excessively harsh corporal
5 discipline of a child by a parent, legal custodian, or
6 caregiver.

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8 A person who knowingly or willfully abuses a child without
9 causing great bodily harm, permanent disability, or permanent
10 disfigurement to the child commits a felony of the third
11 degree, punishable as provided in s. 775.082, s. 775.083, or
12 s. 775.084.

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

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

18 (b) Bone or skull fractures.

19 (c) Brain or spinal cord damage.

20 (d) Intracranial hemorrhage or injury to other
21 internal organs.

22 (e) Asphyxiation, suffocation, or drowning.

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

24 (g) Burns or scalding.

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

26 (i) Disfigurement.

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

28 (k) Significant bruises or welts.

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

30 Section 2. For the purpose of incorporating the
31 amendment made by this act to section 827.03, Florida

1 Statutes, in a reference thereto, paragraph (a) of subsection
2 (9) of section 775.082, Florida Statutes, is reenacted to
3 read:

4 775.082 Penalties; applicability of sentencing
5 structures; mandatory minimum sentences for certain
6 reoffenders previously released from prison.--

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

- 9 a. Treason;
- 10 b. Murder;
- 11 c. Manslaughter;
- 12 d. Sexual battery;
- 13 e. Carjacking;
- 14 f. Home-invasion robbery;
- 15 g. Robbery;
- 16 h. Arson;
- 17 i. Kidnapping;
- 18 j. Aggravated assault with a deadly weapon;
- 19 k. Aggravated battery;
- 20 l. Aggravated stalking;
- 21 m. Aircraft piracy;
- 22 n. Unlawful throwing, placing, or discharging of a
23 destructive device or bomb;
- 24 o. Any felony that involves the use or threat of
25 physical force or violence against an individual;
- 26 p. Armed burglary;
- 27 q. Burglary of a dwelling or burglary of an occupied
28 structure; or
- 29 r. Any felony violation of s. 790.07, s. 800.04, s.
30 827.03, or s. 827.071;

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1 | within 3 years after being released from a state correctional
2 | facility operated by the Department of Corrections or a
3 | private vendor or within 3 years after being released from a
4 | correctional institution of another state, the District of
5 | Columbia, the United States, any possession or territory of
6 | the United States, or any foreign jurisdiction, following
7 | incarceration for an offense for which the sentence is
8 | punishable by more than 1 year in this state.

9 | 2. "Prison releasee reoffender" also means any
10 | defendant who commits or attempts to commit any offense listed
11 | in sub-subparagraphs (a)1.a.-r. while the defendant was
12 | serving a prison sentence or on escape status from a state
13 | correctional facility operated by the Department of
14 | Corrections or a private vendor or while the defendant was on
15 | escape status from a correctional institution of another
16 | state, the District of Columbia, the United States, any
17 | possession or territory of the United States, or any foreign
18 | jurisdiction, following incarceration for an offense for which
19 | the sentence is punishable by more than 1 year in this state.

20 | 3. If the state attorney determines that a defendant
21 | is a prison releasee reoffender as defined in subparagraph 1.,
22 | the state attorney may seek to have the court sentence the
23 | defendant as a prison releasee reoffender. Upon proof from the
24 | state attorney that establishes by a preponderance of the
25 | evidence that a defendant is a prison releasee reoffender as
26 | defined in this section, such defendant is not eligible for
27 | sentencing under the sentencing guidelines and must be
28 | sentenced as follows:

29 | a. For a felony punishable by life, by a term of
30 | imprisonment for life;

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

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

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

7 Section 3. For the purpose of incorporating the
8 amendment made by this act to section 827.03, Florida
9 Statutes, in a reference thereto, subsection (5) of section
10 787.04, Florida Statutes, is reenacted to read:

11 787.04 Removing minors from state or concealing minors
12 contrary to state agency order or court order.--

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

18 Section 4. For the purpose of incorporating the
19 amendment made by this act to section 827.03, Florida
20 Statutes, in a reference thereto, subsection (8) of section
21 901.15, Florida Statutes, is reenacted to read:

22 901.15 When arrest by officer without warrant is
23 lawful.--A law enforcement officer may arrest a person without
24 a warrant when:

25 (8) There is probable cause to believe that the person
26 has committed child abuse, as defined in s. 827.03. The
27 decision to arrest shall not require consent of the victim or
28 consideration of the relationship of the parties. It is the
29 public policy of this state to protect abused children by
30 strongly encouraging the arrest and prosecution of persons who
31 commit child abuse. A law enforcement officer who acts in good

1 faith and exercises due care in making an arrest under this
2 subsection is immune from civil liability that otherwise might
3 result by reason of his or her action.

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

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