

## CHAMBER ACTION

1 The Criminal Justice Committee recommends the following:

2  
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to high-risk offenders; providing a short  
7 title; amending s. 794.011, F.S., and reenacting  
8 subsections (3), (4), and (5), relating to persons  
9 committing sexual battery upon certain persons, to  
10 incorporate the amendment to s. 794.0115, F.S., in  
11 references thereto; providing that sexual predators who  
12 commit a sexual battery against certain victims shall be  
13 sentenced to life in prison without the possibility of  
14 parole or gain-time; amending s. 794.0115, F.S.;  
15 increasing the mandatory minimum sentence applicable to  
16 dangerous sexual felony offenders; amending s. 794.065,  
17 F.S.; providing for county or municipal ordinances  
18 relating to the residence of persons subject to  
19 registration as sexual offenders or designated as sexual  
20 predators; providing applicability; providing an effective  
21 date.

22  
23 Be It Enacted by the Legislature of the State of Florida:

Page 1 of 6

HB 251

2006  
CS

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25 Section 1. This act may be cited as the "Sexual Predator  
26 Elimination Act."

27 Section 2. For the purpose of incorporating the amendment  
28 made by this act to section 794.0115, Florida Statutes, in  
29 references thereto, subsections (3), (4), and (5) of section  
30 794.011, Florida Statutes, are reenacted, and subsection (11) is  
31 added to that section, to read:

32 794.011 Sexual battery.--

33 (3) A person who commits sexual battery upon a person 12  
34 years of age or older, without that person's consent, and in the  
35 process thereof uses or threatens to use a deadly weapon or uses  
36 actual physical force likely to cause serious personal injury  
37 commits a life felony, punishable as provided in s. 775.082, s.  
38 775.083, s. 775.084, or s. 794.0115.

39 (4) A person who commits sexual battery upon a person 12  
40 years of age or older without that person's consent, under any  
41 of the following circumstances, commits a felony of the first  
42 degree, punishable as provided in s. 775.082, s. 775.083, s.  
43 775.084, or s. 794.0115:

44 (a) When the victim is physically helpless to resist.

45 (b) When the offender coerces the victim to submit by  
46 threatening to use force or violence likely to cause serious  
47 personal injury on the victim, and the victim reasonably  
48 believes that the offender has the present ability to execute  
49 the threat.

50 (c) When the offender coerces the victim to submit by  
51 threatening to retaliate against the victim, or any other

HB 251

2006  
CS

52 | person, and the victim reasonably believes that the offender has  
53 | the ability to execute the threat in the future.

54 | (d) When the offender, without the prior knowledge or  
55 | consent of the victim, administers or has knowledge of someone  
56 | else administering to the victim any narcotic, anesthetic, or  
57 | other intoxicating substance which mentally or physically  
58 | incapacitates the victim.

59 | (e) When the victim is mentally defective and the offender  
60 | has reason to believe this or has actual knowledge of this fact.

61 | (f) When the victim is physically incapacitated.

62 | (g) When the offender is a law enforcement officer,  
63 | correctional officer, or correctional probation officer as  
64 | defined by s. 943.10(1), (2), (3), (6), (7), (8), or (9), who is  
65 | certified under the provisions of s. 943.1395 or is an elected  
66 | official exempt from such certification by virtue of s. 943.253,  
67 | or any other person in a position of control or authority in a  
68 | probation, community control, controlled release, detention,  
69 | custodial, or similar setting, and such officer, official, or  
70 | person is acting in such a manner as to lead the victim to  
71 | reasonably believe that the offender is in a position of control  
72 | or authority as an agent or employee of government.

73 | (5) A person who commits sexual battery upon a person 12  
74 | years of age or older, without that person's consent, and in the  
75 | process thereof does not use physical force and violence likely  
76 | to cause serious personal injury commits a felony of the second  
77 | degree, punishable as provided in s. 775.082, s. 775.083, s.  
78 | 775.084, or s. 794.0115.

79           (11) Notwithstanding any other provision of law, any  
 80 person who has been designated as a sexual predator under s.  
 81 775.21 who is convicted of an offense under this chapter upon a  
 82 child under 12 years of age that is classified as a capital  
 83 felony, a life felony, or a first degree felony and who was 18  
 84 years of age or older at the time of the offense shall be  
 85 sentenced to life in prison without the possibility of parole or  
 86 eligibility for gain-time.

87           Section 3. Subsection (2) of section 794.0115, Florida  
 88 Statutes, is amended to read:

89           794.0115 Dangerous sexual felony offender; mandatory  
 90 sentencing.--

91           (2) Any person who is convicted of a violation of s.  
 92 787.025; s. 794.011(2), (3), (4), (5), or (8); s. 800.04(4) or  
 93 (5); s. 825.1025(2) or (3); s. 827.071(2), (3), or (4); or s.  
 94 847.0145; or of any similar offense under a former designation,  
 95 which offense the person committed when he or she was 18 years  
 96 of age or older, and the person:

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

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

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

103           (d) Committed the offense while under the jurisdiction of  
 104 a court for a felony offense under the laws of this state, for  
 105 an offense that is a felony in another jurisdiction, or for an

HB 251

2006  
CS

106 offense that would be a felony if that offense were committed in  
107 this state; or

108 (e) Has previously been convicted of a violation of s.  
109 787.025; s. 794.011(2), (3), (4), (5), or (8); s. 800.04(4) or  
110 (5); s. 825.1025(2) or (3); s. 827.071(2), (3), or (4); s.  
111 847.0145; of any offense under a former statutory designation  
112 which is similar in elements to an offense described in this  
113 paragraph; or of any offense that is a felony in another  
114 jurisdiction, or would be a felony if that offense were  
115 committed in this state, and which is similar in elements to an  
116 offense described in this paragraph,

117  
118 is a dangerous sexual felony offender, who must be sentenced to  
119 a mandatory minimum term of life in prison without the  
120 possibility of parole or eligibility for gain-time 25 years  
121 ~~imprisonment up to, and including, life imprisonment.~~

122 Section 4. Subsection (3) is added to section 794.065,  
123 Florida Statutes, to read:

124 794.065 Unlawful place of residence for persons convicted  
125 of certain sex offenses.--

126 (3) No state law shall prevent a county or municipality  
127 from enacting an ordinance relating to the residence of persons  
128 subject to registration as sexual offenders under s. 943.0435 or  
129 designated as sexual predators under s. 775.21 that restricts  
130 the residence of such persons within its jurisdiction as it may  
131 deem appropriate to protect its citizens.

HB 251

2006  
CS

132           Section 5. The amendments to ss. 794.011 and 794.0115,  
133 Florida Statutes, by this act shall apply to offenses committed  
134 on or after the effective date of this act.

135           Section 6. This act shall take effect upon becoming a law.