

By Senator Storms

10-1244A-07

See CS/HB 41

1                                   A bill to be entitled  
2           An act relating to sexual offenses; amending s.  
3           775.082, F.S.; requiring life sentences for  
4           certain second or subsequent offenders;  
5           amending s. 794.0115, F.S.; adding offenses to  
6           the dangerous sexual felony offender law;  
7           requiring mandatory minimum life sentences for  
8           certain offenders; creating s. 775.0847, F.S.;  
9           providing enhanced penalties for certain sexual  
10          offenses; providing mandatory minimum  
11          sentences; providing an effective date.

12  
13 Be It Enacted by the Legislature of the State of Florida:

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15           Section 1. Paragraph (a) of subsection (3) of section  
16 775.082, Florida Statutes, is amended to read:

17           775.082 Penalties; applicability of sentencing  
18 structures; mandatory minimum sentences for certain  
19 reoffenders previously released from prison.--

20           (3) A person who has been convicted of any other  
21 designated felony may be punished as follows:

22           (a)1. For a life felony committed prior to October 1,  
23 1983, by a term of imprisonment for life or for a term of  
24 years not less than 30.

25           2. Except as provided in subparagraph 3., for a life  
26 felony committed on or after October 1, 1983, by a term of  
27 imprisonment for life or by a term of imprisonment not  
28 exceeding 40 years.

29           3. Except as provided in subparagraph 4., for a life  
30 felony committed on or after July 1, 1995, by a term of  
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1 imprisonment for life or by imprisonment for a term of years  
2 not exceeding life imprisonment.

3       4.a. Except as provided in sub-subparagraph b., for a  
4 life felony committed on or after September 1, 2005, which is  
5 a violation of s. 800.04(5)(b), by:

6           (I)a- A term of imprisonment for life; or

7           (II)b- A split sentence that is a term of not less  
8 than 25 years' imprisonment and not exceeding life  
9 imprisonment, followed by probation or community control for  
10 the remainder of the person's natural life, as provided in s.  
11 948.012(4).

12       b. For a life felony committed on or after July 1,  
13 2007, which is a person's second or subsequent violation of s.  
14 800.04(5)(b), by a term of imprisonment for life.

15       Section 2. Section 794.0115, Florida Statutes, is  
16 amended to read:

17       794.0115 Dangerous sexual felony offender; mandatory  
18 sentencing.--

19       (1) This section may be cited as the "Dangerous Sexual  
20 Felony Offender Act."

21       (2) Any person who is convicted of a violation of s.  
22 787.025(2)(c); s. 794.011(2), (3), (4), (5), or (8); s.  
23 796.03; s. 794.065(1); s. 800.04(4), ~~or~~ (5), (6)(b), or  
24 (7)(c); s. 825.1025(2), ~~or~~ (3), or (4); s. 827.071(2), (3), ~~or~~  
25 (4), or (5); or s. 847.0145; or of any similar offense under a  
26 former designation, which offense the person committed when he  
27 or she was 18 years of age or older, and the person:

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

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

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

3 (d) Committed the offense while under the jurisdiction  
4 of a court for a felony offense under the laws of this state,  
5 for an offense that is a felony in another jurisdiction, or  
6 for an offense that would be a felony if that offense were  
7 committed in this state; or

8 (e) Has previously been convicted of a violation of s.  
9 787.025(2)(c); s. 794.011(2), (3), (4), (5), or (8); s.  
10 796.03; s. 794.065(1); s. 800.04(4), ~~or~~ (5), (6)(b), or  
11 (7)(c); s. 825.1025(2), ~~or~~ (3), or (4); s. 827.071(2), (3), ~~or~~  
12 (4), or (5); s. 847.0145; of any offense under a former  
13 ~~statutory~~ designation which is similar in elements to an  
14 offense described in this paragraph; or of any offense that is  
15 a felony in another jurisdiction, or would be a felony if that  
16 offense were committed in this state, and which is similar in  
17 elements to an offense described in this paragraph,

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19 is a dangerous sexual felony offender, who must be sentenced  
20 to a mandatory minimum term of 25 years imprisonment up to,  
21 and including, life imprisonment.

22 (3)(a) Any person who:

23 1. Is convicted of a violation of s. 787.025(2)(c); s.  
24 794.011(2), (3), (4), (5), or (8); s. 796.03; s. 794.065(1);  
25 s. 800.04(4), (5), (6)(b), or (7)(c); s. 825.1025(2), (3), or  
26 (4); s. 827.071(2), (3), (4), or (5); or s. 847.0145 and was  
27 18 years of age or older at the time of the offense; and

28 2. Has been twice previously been convicted of a  
29 violation of s. 787.025(2)(c); s. 794.011(2), (3), (4), (5),  
30 or (8); s. 796.03; s. 794.065(1); s. 800.04(4), (5), (6)(b), or  
31

1 (7)(c); s. 825.1025(2), (3) or (4); s. 827.071(2), (3), (4) or  
2 (5); or s. 847.0145,

3  
4 must be sentenced to a mandatory minimum term of life  
5 imprisonment.

6 (b) Any offense listed in this subsection includes any  
7 offense under a former designation which is similar in  
8 elements to an offense described in this subsection and any  
9 offense that is a felony in another jurisdiction, or would be  
10 a felony if that offense were committed in this state, and  
11 that is similar in elements to an offense described in this  
12 subsection.

13 (4)(3) "Serious personal injury" means great bodily  
14 harm or pain, permanent disability, or permanent  
15 disfigurement.

16 (5)(4) The offense described in subsection (2) or  
17 subsection (3) which is being charged must have been committed  
18 after the date of commission of the last prior conviction for  
19 an offense that is a prior conviction described in paragraph  
20 (2)(e) or subsection (3).

21 (6)(5) It is irrelevant that a factor listed in  
22 subsection (2) is an element of an offense described in that  
23 subsection. It is also irrelevant that such an offense was  
24 reclassified to a higher felony degree under s. 794.023 or any  
25 other law.

26 (7)(6) Notwithstanding s. 775.082(3), chapter 958, any  
27 other law, or any interpretation or construction thereof, a  
28 person subject to sentencing under this section must be  
29 sentenced to the mandatory term of imprisonment provided under  
30 this section. If the mandatory minimum term of imprisonment  
31 imposed under this section exceeds the maximum sentence

1 authorized under s. 775.082, s. 775.084, or chapter 921, the  
2 mandatory minimum term of imprisonment under this section must  
3 be imposed. If the mandatory minimum term of imprisonment  
4 under this section is less than the sentence that could be  
5 imposed under s. 775.082, s. 775.084, or chapter 921, the  
6 sentence imposed must include the mandatory minimum term of  
7 imprisonment under this section.

8 ~~(8)(7)~~ A defendant sentenced to a mandatory minimum  
9 term of imprisonment under this section is not eligible for  
10 statutory gain-time under s. 944.275 or any form of  
11 discretionary early release, other than pardon or executive  
12 clemency, or conditional medical release under s. 947.149,  
13 before serving the minimum sentence.

14 Section 3. Section 775.0847, Florida Statutes, is  
15 created to read:

16 775.0847 Sexual offenses; reclassification.--

17 (1) The penalty for any misdemeanor or felony under s.  
18 365.16(1)(a), s. 794.075, s. 800.02, s. 800.03, s. 810.14, s.  
19 810.145, or s. 877.26 shall be reclassified, and the offender  
20 subject to an enhanced penalty, as follows:

21 (a) If the offender has previously been convicted of a  
22 violation of s. 365.16(1)(a), s. 794.075, s. 800.02, s.  
23 800.03, s. 810.14, s. 810.145, or s. 877.26, the offense shall  
24 be reclassified as a felony of the third degree.

25 (b) If the offender has twice previously been  
26 convicted of a violation of s. 365.16(1)(a), s. 794.075, s.  
27 800.02, s. 800.03, s. 810.14, s. 810.145, or s. 877.26, the  
28 offense shall be reclassified as a felony of the second degree  
29 and the offender must be sentenced to a minimum mandatory term  
30 of imprisonment of 5 years.

1           (c) If the offender has previously been convicted of a  
2 violation of s. 787.025(2)(c); s. 794.011(2), (3), (4), (5),  
3 or (8); s. 794.065(1); s. 796.03; s. 800.04(4), (5), (6)(b),  
4 or (7)(c); s. 825.1025(2), (3), or (4); s. 827.071(2), (3),  
5 (4), or (5); or s. 847.0145, the offense shall be reclassified  
6 as a second degree felony and the offender must be sentenced  
7 to a minimum mandatory term of imprisonment of 5 years.

8           (2) Any offense listed in this section includes any  
9 offense under a former designation which is similar in  
10 elements to an offense described in this section and any  
11 offense that is a misdemeanor or felony in another  
12 jurisdiction, or would be a misdemeanor or felony if that  
13 offense were committed in this state, and that is similar in  
14 elements to an offense described in this section.

15           Section 4. This act shall take effect July 1, 2007.  
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