

Bill No. CS/CS/HB 41 (c2)

Barcode 022998

CHAMBER ACTION

Senate

House

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Senator Storms moved the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

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

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

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

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

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

3. Except as provided in subparagraph 4., for a life

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1 felony committed on or after July 1, 1995, by a term of
2 imprisonment for life or by imprisonment for a term of years
3 not exceeding life imprisonment.

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

7 ~~(I)a.~~ A term of imprisonment for life; or

8 ~~(II)b.~~ A split sentence that is a term of not less
9 than 25 years' imprisonment and not exceeding life
10 imprisonment, followed by probation or community control for
11 the remainder of the person's natural life, as provided in s.
12 948.012(4).

13 b. For a life felony committed on or after July 1,
14 2007, which is a person's second or subsequent violation of s.
15 800.04(5)(b), by a term of imprisonment for life.

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

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

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

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

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

31 (b) Used or threatened to use a deadly weapon during

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1 the commission of the offense;

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

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

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

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

23 (3)(a) Any person who:

24 1. Is convicted of a violation of s. 787.025(2)(c); s.
25 794.011(2), (3), (4), (5), or (8); s. 796.03; s. 794.065(1);
26 s. 800.04(4), (5), (6)(b), or (7)(c); s. 825.1025(2), (3), or
27 (4); s. 827.071(2), (3), (4), or (5); or s. 847.0145 and was
28 18 years of age or older at the time of the offense; and

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

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

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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.
 18 794.075, shall be reclassified, and the offender subject to an
 19 enhanced penalty, as follows:

20 (a) If the offender has previously been convicted of a
 21 violation of s. 794.075, the offense shall be reclassified as
 22 a felony of the third degree.

23 (b) If the offender has twice previously been
 24 convicted of a violation of s. 794.075, the offense shall be
 25 reclassified as a felony of the second degree and the offender
 26 must be sentenced to a minimum mandatory term of imprisonment
 27 of 5 years.

28 (c) If the offender has previously been convicted of a
 29 violation of s. 787.025(2)(c); s. 794.011(2), (3), (4), (5),
 30 or (8); s. 794.065(1); s. 796.03; s. 800.04(4), (5), (6)(b),
 31 or (7)(c); s. 825.1025(2), (3), or (4); s. 827.071(2), (3),

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1 (4), or (5); or s. 847.0145, the offense shall be reclassified
2 as a second degree felony and the offender must be sentenced
3 to a minimum mandatory term of imprisonment of 5 years.

4 (2) For purposes of this section, any offense listed
5 in this section includes any offense under a former
6 designation which is similar in elements to an offense
7 described in this section and any offense that is a
8 misdemeanor or felony in another jurisdiction, or would be a
9 misdemeanor or felony if that offense were committed in this
10 state, and that is similar in elements to an offense described
11 in this section.

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

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15 ===== T I T L E A M E N D M E N T =====

16 And the title is amended as follows:

17 Delete everything before the enacting clause

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19 and insert:

20 A bill to be entitled
21 An act relating to sexual offenses; amending s.
22 775.082, F.S.; requiring life sentences for
23 certain second or subsequent offenders;
24 amending s. 794.0115, F.S.; adding offenses to
25 dangerous sexual felony offender law; requiring
26 mandatory minimum life sentences for certain
27 offenders; creating s. 775.0847, F.S.;
28 providing enhanced penalties for certain sexual
29 offenses; providing mandatory minimum
30 sentences; providing an effective date.

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