

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

Barcode 493984

CHAMBER ACTION

Senate

House

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Senator Storms moved the following **amendment to amendment**
(022998):

Senate Amendment

On page 3, line 23, through
page 6, line 3, delete those lines

and insert:

(3)(a) Any person who:

1. Is convicted of a violation of s. 787.025(2)(c); s. 794.011(2), (3), (4), (5), or (8); s. 796.03; s. 800.04(4), (5), (6)(b), or (7)(c); s. 827.071(2), (3), (4), or (5); or s. 847.0145 and was 18 years of age or older at the time of the offense; and
 2. Has been twice previously been convicted of a violation of s. 787.025(2)(c); s. 794.011(2), (3), (4), (5), or (8); s. 796.03; s. 800.04(4), (5), (6)(b), or (7)(c); s. 827.071(2), (3), (4) or (5); or s. 847.0145,
- must be sentenced to a mandatory minimum term of life imprisonment.

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

8 ~~(4)(3)~~ "Serious personal injury" means great bodily
9 harm or pain, permanent disability, or permanent
10 disfigurement.

11 ~~(5)(4)~~ The offense described in subsection (2) or
12 subsection (3) which is being charged must have been committed
13 after the date of commission of the last prior conviction for
14 an offense that is a prior conviction described in paragraph
15 (2)(e) or subsection (3).

16 ~~(6)(5)~~ It is irrelevant that a factor listed in
17 subsection (2) is an element of an offense described in that
18 subsection. It is also irrelevant that such an offense was
19 reclassified to a higher felony degree under s. 794.023 or any
20 other law.

21 ~~(7)(6)~~ Notwithstanding s. 775.082(3), chapter 958, any
22 other law, or any interpretation or construction thereof, a
23 person subject to sentencing under this section must be
24 sentenced to the mandatory term of imprisonment provided under
25 this section. If the mandatory minimum term of imprisonment
26 imposed under this section exceeds the maximum sentence
27 authorized under s. 775.082, s. 775.084, or chapter 921, the
28 mandatory minimum term of imprisonment under this section must
29 be imposed. If the mandatory minimum term of imprisonment
30 under this section is less than the sentence that could be
31 imposed under s. 775.082, s. 775.084, or chapter 921, the

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1 sentence imposed must include the mandatory minimum term of
2 imprisonment under this section.

3 ~~(8)(7)~~ A defendant sentenced to a mandatory minimum
4 term of imprisonment under this section is not eligible for
5 statutory gain-time under s. 944.275 or any form of
6 discretionary early release, other than pardon or executive
7 clemency, or conditional medical release under s. 947.149,
8 before serving the minimum sentence.

9 Section 1. Section 775.0847, Florida Statutes, is
10 created to read:

11 775.0847 Sexual offenses; reclassification.--

12 (1) The penalty for any misdemeanor or felony under s.
13 794.075, shall be reclassified, and the offender subject to an
14 enhanced penalty, as follows:

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

18 (b) If the offender has twice previously been
19 convicted of a violation of s. 794.075, the offense shall be
20 reclassified as a felony of the second degree and the offender
21 must be sentenced to a minimum mandatory term of imprisonment
22 of 5 years.

23 (c) If the offender has previously been convicted of a
24 violation of s. 787.025(2)(c); s. 794.011(2), (3), (4), (5),
25 or (8); s. 796.03; s. 800.04(4), (5), (6)(b), or (7)(c); s.
26 827.071(2), (3), (4), or (5); or s. 847.0145, the offense
27 shall be reclassified as a second degree felony and the
28 offender must be sentenced to a minimum mandatory term of
29 imprisonment of 5 years.

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