

A bill to be entitled

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

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

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

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

794.011 Sexual battery.--

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

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

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

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

46 (c) When the offender coerces the victim to submit by  
47 threatening to retaliate against the victim, or any other  
48 person, and the victim reasonably believes that the offender has  
49 the ability to execute the threat in the future.

50 (d) When the offender, without the prior knowledge or  
51 consent of the victim, administers or has knowledge of someone  
52 else administering to the victim any narcotic, anesthetic, or  
53 other intoxicating substance which mentally or physically  
54 incapacitates the victim.

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

HB 59

2007

57 (f) When the victim is physically incapacitated.

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

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

75 (11) Notwithstanding any other provision of law, any  
76 person who has been designated as a sexual predator under s.  
77 775.21 who is convicted of an offense under this chapter upon a  
78 child under 12 years of age that is classified as a capital  
79 felony, a life felony, or a first degree felony and who was 18  
80 years of age or older at the time of the offense shall be  
81 sentenced to life in prison without the possibility of parole or  
82 eligibility for gain-time.

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

HB 59

2007

85           794.0115 Dangerous sexual felony offender; mandatory  
86 sentencing.--

87           (2) Any person who is convicted of a violation of s.  
88 787.025(2)(c); s. 794.011(2), (3), (4), (5), or (8); s.  
89 800.04(4) or (5); s. 825.1025(2) or (3); s. 827.071(2), (3), or  
90 (4); or s. 847.0145; or of any similar offense under a former  
91 designation, which offense the person committed when he or she  
92 was 18 years of age or older, and the person:

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

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

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

99           (d) Committed the offense while under the jurisdiction of  
100 a court for a felony offense under the laws of this state, for  
101 an offense that is a felony in another jurisdiction, or for an  
102 offense that would be a felony if that offense were committed in  
103 this state; or

104           (e) Has previously been convicted of a violation of s.  
105 787.025(2)(c); s. 794.011(2), (3), (4), (5), or (8); s.  
106 800.04(4) or (5); s. 825.1025(2) or (3); s. 827.071(2), (3), or  
107 (4); s. 847.0145; of any offense under a former statutory  
108 designation which is similar in elements to an offense described  
109 in this paragraph; or of any offense that is a felony in another  
110 jurisdiction, or would be a felony if that offense were  
111 committed in this state, and which is similar in elements to an  
112 offense described in this paragraph,

HB 59

2007

113  
114 is a dangerous sexual felony offender, who must be sentenced to  
115 a mandatory minimum term of life in prison without the  
116 possibility of parole or eligibility for gain-time ~~25 years~~  
117 ~~imprisonment up to, and including, life imprisonment.~~

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

120 794.065 Unlawful place of residence for persons convicted  
121 of certain sex offenses.--

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

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

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