

1 A bill to be entitled
2 An act relating to assault or battery of a law enforcement
3 officer or other specified persons; amending s. 775.082,
4 F.S.; expanding the definition of the term "prison
5 releasee reoffender" to include a defendant who commits
6 any felony violation relating to an assault or battery of
7 a law enforcement officer or other specified person for
8 the purpose of sentencing the reoffender to certain
9 specified periods of imprisonment; amending s. 775.084,
10 F.S.; expanding the definitions of the terms "habitual
11 violent felony offender" and "three-time violent felony
12 offender" to include an offender who commits any felony
13 violation relating to an assault or battery of a law
14 enforcement officer or other specified person for the
15 purpose of sentencing the offender to certain periods of
16 imprisonment; reenacting s. 775.261(2)(a), F.S., relating
17 to the Florida Career Offender Registration Act, to
18 incorporate the amendments to ss. 775.082 and 775.084,
19 F.S., in references thereto; reenacting s. 944.608(1),
20 F.S., relating to information that must be given to the
21 Department of Law Enforcement concerning a career
22 offender, to incorporate the amendments to ss. 775.082 and
23 775.084, F.S., in references thereto; reenacting s.
24 944.609(1), F.S., relating to notification of information
25 on a career offender who is in the custody of, or under
26 supervision of, the Department of Corrections at the time
27 of the inmate's release, to incorporate the amendments to
28 ss. 775.082 and 775.084, F.S., in references thereto;

29 | reenacting s. 944.705(6), F.S., relating to notifying
 30 | inmates of certain information at the time of the inmate's
 31 | release, to incorporate the amendment to s. 775.082, F.S.,
 32 | in references thereto; providing an effective date.

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

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 36 | Section 1. Paragraph (a) of subsection (9) of section
 37 | 775.082, Florida Statutes, is amended to read:

38 | 775.082 Penalties; applicability of sentencing structures;
 39 | mandatory minimum sentences for certain reoffenders previously
 40 | released from prison.--

41 | (9)(a)1. "Prison releasee reoffender" means any defendant
 42 | who commits, or attempts to commit:

- 43 | a. Treason;
- 44 | b. Murder;
- 45 | c. Manslaughter;
- 46 | d. Sexual battery;
- 47 | e. Carjacking;
- 48 | f. Home-invasion robbery;
- 49 | g. Robbery;
- 50 | h. Arson;
- 51 | i. Kidnapping;
- 52 | j. Aggravated assault with a deadly weapon;
- 53 | k. Aggravated battery;
- 54 | l. Aggravated stalking;
- 55 | m. Aircraft piracy;
- 56 | n. Unlawful throwing, placing, or discharging of a

57 destructive device or bomb;

58 o. Any felony that involves the use or threat of physical

59 force or violence against an individual;

60 p. Armed burglary;

61 q. Burglary of a dwelling or burglary of an occupied

62 structure; ~~or~~

63 r. Any felony violation of s. 784.07; or

64 s.~~r.~~ Any felony violation of s. 790.07, s. 800.04, s.

65 827.03, or s. 827.071;

66

67 within 3 years after being released from a state correctional

68 facility operated by the Department of Corrections or a private

69 vendor or within 3 years after being released from a

70 correctional institution of another state, the District of

71 Columbia, the United States, any possession or territory of the

72 United States, or any foreign jurisdiction, following

73 incarceration for an offense for which the sentence is

74 punishable by more than 1 year in this state.

75 2. "Prison releasee reoffender" also means any defendant

76 who commits or attempts to commit any offense listed in sub-

77 subparagraphs (a)1.a.-r. while the defendant was serving a

78 prison sentence or on escape status from a state correctional

79 facility operated by the Department of Corrections or a private

80 vendor or while the defendant was on escape status from a

81 correctional institution of another state, the District of

82 Columbia, the United States, any possession or territory of the

83 United States, or any foreign jurisdiction, following

84 incarceration for an offense for which the sentence is

85 | punishable by more than 1 year in this state.

86 | 3. If the state attorney determines that a defendant is a
 87 | prison releasee reoffender as defined in subparagraph 1., the
 88 | state attorney may seek to have the court sentence the defendant
 89 | as a prison releasee reoffender. Upon proof from the state
 90 | attorney that establishes by a preponderance of the evidence
 91 | that a defendant is a prison releasee reoffender as defined in
 92 | this section, such defendant is not eligible for sentencing
 93 | under the sentencing guidelines and must be sentenced as
 94 | follows:

95 | a. For a felony punishable by life, by a term of
 96 | imprisonment for life;

97 | b. For a felony of the first degree, by a term of
 98 | imprisonment of 30 years;

99 | c. For a felony of the second degree, by a term of
 100 | imprisonment of 15 years; and

101 | d. For a felony of the third degree, by a term of
 102 | imprisonment of 5 years.

103 | Section 2. Paragraphs (b) and (c) of subsection (1) of
 104 | section 775.084, Florida Statutes, are amended to read:

105 | 775.084 Violent career criminals; habitual felony
 106 | offenders and habitual violent felony offenders; three-time
 107 | violent felony offenders; definitions; procedure; enhanced
 108 | penalties or mandatory minimum prison terms.--

109 | (1) As used in this act:

110 | (b) "Habitual violent felony offender" means a defendant
 111 | for whom the court may impose an extended term of imprisonment,
 112 | as provided in paragraph (4) (b), if it finds that:

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113 | 1. The defendant has previously been convicted of a felony
 114 | or an attempt or conspiracy to commit a felony and one or more
 115 | of such convictions was for:

- 116 | a. Arson;
- 117 | b. Sexual battery;
- 118 | c. Robbery;
- 119 | d. Kidnapping;
- 120 | e. Aggravated child abuse;
- 121 | f. Aggravated abuse of an elderly person or disabled
 122 | adult;
- 123 | g. Aggravated assault with a deadly weapon;
- 124 | h. Murder;
- 125 | i. Manslaughter;
- 126 | j. Aggravated manslaughter of an elderly person or
 127 | disabled adult;
- 128 | k. Aggravated manslaughter of a child;
- 129 | l. Unlawful throwing, placing, or discharging of a
 130 | destructive device or bomb;
- 131 | m. Armed burglary;
- 132 | n. Aggravated battery; ~~or~~
- 133 | o. Any felony violation of s. 784.07; or
- 134 | p.~~or~~ Aggravated stalking.

135 | 2. The felony for which the defendant is to be sentenced
 136 | was committed:

- 137 | a. While the defendant was serving a prison sentence or
 138 | other sentence, or court-ordered or lawfully imposed supervision
 139 | that is imposed as a result of a prior conviction for an
 140 | enumerated felony; or

141 b. Within 5 years of the date of the conviction of the
 142 last prior enumerated felony, or within 5 years of the
 143 defendant's release from a prison sentence, probation, community
 144 control, control release, conditional release, parole, or court-
 145 ordered or lawfully imposed supervision or other sentence that
 146 is imposed as a result of a prior conviction for an enumerated
 147 felony, whichever is later.

148 3. The defendant has not received a pardon on the ground
 149 of innocence for any crime that is necessary for the operation
 150 of this paragraph.

151 4. A conviction of a crime necessary to the operation of
 152 this paragraph has not been set aside in any postconviction
 153 proceeding.

154 (c) "Three-time violent felony offender" means a defendant
 155 for whom the court must impose a mandatory minimum term of
 156 imprisonment, as provided in paragraph (4)(c), if it finds that:

157 1. The defendant has previously been convicted as an adult
 158 two or more times of a felony, or an attempt to commit a felony,
 159 and two or more of such convictions were for committing, or
 160 attempting to commit, any of the following offenses or
 161 combination thereof:

- 162 a. Arson;
- 163 b. Sexual battery;
- 164 c. Robbery;
- 165 d. Kidnapping;
- 166 e. Aggravated child abuse;
- 167 f. Aggravated abuse of an elderly person or disabled
 168 adult;

- 169 g. Aggravated assault with a deadly weapon;
- 170 h. Murder;
- 171 i. Manslaughter;
- 172 j. Aggravated manslaughter of an elderly person or
- 173 disabled adult;
- 174 k. Aggravated manslaughter of a child;
- 175 l. Unlawful throwing, placing, or discharging of a
- 176 destructive device or bomb;
- 177 m. Armed burglary;
- 178 n. Aggravated battery;
- 179 o. Aggravated stalking;
- 180 p. Home invasion/robbery;
- 181 q. Carjacking; ~~or~~
- 182 r. Any felony violation of s. 784.07; or
- 183 s. ~~r.~~ An offense that ~~which~~ is in violation of a law of any
- 184 other jurisdiction if the elements of the offense are
- 185 substantially similar to the elements of any felony offense
- 186 enumerated in sub-subparagraphs a.-q., or an attempt to commit
- 187 any such felony offense.
- 188 2. The felony for which the defendant is to be sentenced
- 189 is one of the felonies enumerated in sub-subparagraphs 1.a.-q.
- 190 and was committed:
- 191 a. While the defendant was serving a prison sentence or
- 192 other sentence imposed as a result of a prior conviction for any
- 193 offense enumerated in sub-subparagraphs 1.a.-r.; or
- 194 b. Within 5 years after the date of the conviction of the
- 195 last prior offense enumerated in sub-subparagraphs 1.a.-r., or
- 196 within 5 years after the defendant's release from a prison

197 sentence, probation, community control, or other sentence
 198 imposed as a result of a prior conviction for any offense
 199 enumerated in sub-subparagraphs 1.a.-r., whichever is later.

200 3. The defendant has not received a pardon on the ground
 201 of innocence for any crime that is necessary for the operation
 202 of this paragraph.

203 4. A conviction of a crime necessary to the operation of
 204 this paragraph has not been set aside in any postconviction
 205 proceeding.

206 Section 3. For the purpose of incorporating the amendment
 207 made by this act to sections 775.082 and 775.084, Florida
 208 Statutes, in references thereto, paragraph (a) of subsection (2)
 209 of section 775.261, Florida Statutes, is reenacted to read:

210 775.261 The Florida Career Offender Registration Act.--

211 (2) DEFINITIONS.--As used in this section, the term:

212 (a) "Career offender" means any person who is designated
 213 as a habitual violent felony offender, a violent career
 214 criminal, or a three-time violent felony offender under s.
 215 775.084 or as a prison releasee reoffender under s. 775.082(9).

216 Section 4. For the purpose of incorporating the amendment
 217 made by this act to sections 775.082 and 775.084, Florida
 218 Statutes, in references thereto, subsection (1) of section
 219 944.608, Florida Statutes, is reenacted to read:

220 944.608 Notification to Department of Law Enforcement of
 221 information on career offenders.--

222 (1) As used in this section, the term "career offender"
 223 means a person who is in the custody or control of, or under the
 224 supervision of, the department or is in the custody or control

225 of, or under the supervision of, a private correctional
 226 facility, and who is designated as a habitual violent felony
 227 offender, a violent career criminal, or a three-time violent
 228 felony offender under s. 775.084 or as a prison releasee
 229 reoffender under s. 775.082(9).

230 Section 5. For the purpose of incorporating the amendment
 231 made by this act to sections 775.082 and 775.084, Florida
 232 Statutes, in references thereto, subsection (1) of section
 233 944.609, Florida Statutes, is reenacted to read:

234 944.609 Career offenders; notification upon release.--

235 (1) As used in this section, the term "career offender"
 236 means a person who is in the custody or control of, or under the
 237 supervision of, the department or is in the custody or control
 238 of, or under the supervision of a private correctional facility,
 239 who is designated as a habitual violent felony offender, a
 240 violent career criminal, or a three-time violent felony offender
 241 under s. 775.084 or as a prison releasee reoffender under s.
 242 775.082(9).

243 Section 6. For the purpose of incorporating the amendment
 244 made by this act to section 775.082, Florida Statutes, in
 245 references thereto, subsection (6) of section 944.705, Florida
 246 Statutes, is reenacted to read:

247 944.705 Release orientation program.--

248 (6)(a) The department shall notify every inmate, in no
 249 less than 18-point type in the inmate's release documents, that
 250 the inmate may be sentenced pursuant to s. 775.082(9) if the
 251 inmate commits any felony offense described in s. 775.082(9)
 252 within 3 years after the inmate's release. This notice must be

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253 prefaced by the word "WARNING" in boldfaced type.

254 (b) Nothing in this section precludes the sentencing of a
255 person pursuant to s. 775.082(9), nor shall evidence that the
256 department failed to provide this notice prohibit a person from
257 being sentenced pursuant to s. 775.082(9). The state shall not
258 be required to demonstrate that a person received any notice
259 from the department in order for the court to impose a sentence
260 pursuant to s. 775.082(9).

261 Section 7. This act shall take effect July 1, 2008.