

By Senator Aronberg

27-00386-08

2008552__

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

27-00386-08

2008552__

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.

33

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

35

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

27-00386-08

2008552__

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 correctional
70 institution of another state, the District of Columbia, the
71 United States, any possession or territory of the United States,
72 or any foreign jurisdiction, following incarceration for an
73 offense for which the sentence is punishable by more than 1 year
74 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 prison
78 sentence or on escape status from a state correctional facility
79 operated by the Department of Corrections or a private vendor or
80 while the defendant was on escape status from a correctional
81 institution of another state, the District of Columbia, the
82 United States, any possession or territory of the United States,
83 or any foreign jurisdiction, following incarceration for an
84 offense for which the sentence is punishable by more than 1 year
85 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

27-00386-08

2008552__

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 that
91 a defendant is a prison releasee reoffender as defined in this
92 section, such defendant is not eligible for sentencing under the
93 sentencing guidelines and must be sentenced as follows:

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

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

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

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

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

104 775.084 Violent career criminals; habitual felony offenders
105 and habitual violent felony offenders; three-time violent felony
106 offenders; definitions; procedure; enhanced penalties or
107 mandatory minimum prison terms.--

108 (1) As used in this act:

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

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

115 a. Arson;

116 b. Sexual battery;

27-00386-08

2008552__

- 117 c. Robbery;
- 118 d. Kidnapping;
- 119 e. Aggravated child abuse;
- 120 f. Aggravated abuse of an elderly person or disabled adult;
- 121 g. Aggravated assault with a deadly weapon;
- 122 h. Murder;
- 123 i. Manslaughter;
- 124 j. Aggravated manslaughter of an elderly person or disabled
125 adult;
- 126 k. Aggravated manslaughter of a child;
- 127 l. Unlawful throwing, placing, or discharging of a
128 destructive device or bomb;
- 129 m. Armed burglary;
- 130 n. Aggravated battery; ~~or~~
- 131 o. Any felony violation of s. 784.07; or
- 132 p. ~~or~~ Aggravated stalking.
- 133 2. The felony for which the defendant is to be sentenced
134 was committed:
- 135 a. While the defendant was serving a prison sentence or
136 other sentence, or court-ordered or lawfully imposed supervision
137 that is imposed as a result of a prior conviction for an
138 enumerated felony; or
- 139 b. Within 5 years of the date of the conviction of the last
140 prior enumerated felony, or within 5 years of the defendant's
141 release from a prison sentence, probation, community control,
142 control release, conditional release, parole, or court-ordered or
143 lawfully imposed supervision or other sentence that is imposed as
144 a result of a prior conviction for an enumerated felony,
145 whichever is later.

27-00386-08

2008552__

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

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

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

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

160 a. Arson;

161 b. Sexual battery;

162 c. Robbery;

163 d. Kidnapping;

164 e. Aggravated child abuse;

165 f. Aggravated abuse of an elderly person or disabled adult;

166 g. Aggravated assault with a deadly weapon;

167 h. Murder;

168 i. Manslaughter;

169 j. Aggravated manslaughter of an elderly person or disabled
170 adult;

171 k. Aggravated manslaughter of a child;

172 l. Unlawful throwing, placing, or discharging of a
173 destructive device or bomb;

174 m. Armed burglary;

27-00386-08

2008552__

175 n. Aggravated battery;
176 o. Aggravated stalking;
177 p. Home invasion/robbery;
178 q. Carjacking; ~~or~~
179 r. Any felony violation of s. 784.07; or
180 s.~~r.~~ An offense that ~~which~~ is in violation of a law of any
181 other jurisdiction if the elements of the offense are
182 substantially similar to the elements of any felony offense
183 enumerated in sub-subparagraphs a.-q., or an attempt to commit
184 any such felony offense.

185 2. The felony for which the defendant is to be sentenced is
186 one of the felonies enumerated in sub-subparagraphs 1.a.-q. and
187 was committed:

188 a. While the defendant was serving a prison sentence or
189 other sentence imposed as a result of a prior conviction for any
190 offense enumerated in sub-subparagraphs 1.a.-r.; or

191 b. Within 5 years after the date of the conviction of the
192 last prior offense enumerated in sub-subparagraphs 1.a.-r., or
193 within 5 years after the defendant's release from a prison
194 sentence, probation, community control, or other sentence imposed
195 as a result of a prior conviction for any offense enumerated in
196 sub-subparagraphs 1.a.-r., whichever is later.

197 3. The defendant has not received a pardon on the ground of
198 innocence for any crime that is necessary for the operation of
199 this paragraph.

200 4. A conviction of a crime necessary to the operation of
201 this paragraph has not been set aside in any postconviction
202 proceeding.

203 Section 3. For the purpose of incorporating the amendment

27-00386-08

2008552__

204 made by this act to sections 775.082 and 775.084, Florida
205 Statutes, in references thereto, paragraph (a) of subsection (2)
206 of section 775.261, Florida Statutes, is reenacted to read:

207 775.261 The Florida Career Offender Registration Act.--

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

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

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

217 944.608 Notification to Department of Law Enforcement of
218 information on career offenders.--

219 (1) As used in this section, the term "career offender"
220 means a person who is in the custody or control of, or under the
221 supervision of, the department or is in the custody or control
222 of, or under the supervision of, a private correctional facility,
223 and who is designated as a habitual violent felony offender, a
224 violent career criminal, or a three-time violent felony offender
225 under s. 775.084 or as a prison releasee reoffender under s.
226 775.082(9).

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

231 944.609 Career offenders; notification upon release.--

232 (1) As used in this section, the term "career offender"

27-00386-08

2008552__

233 means a person who is in the custody or control of, or under the
234 supervision of, the department or is in the custody or control
235 of, or under the supervision of a private correctional facility,
236 who is designated as a habitual violent felony offender, a
237 violent career criminal, or a three-time violent felony offender
238 under s. 775.084 or as a prison releasee reoffender under s.
239 775.082(9).

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

244 944.705 Release orientation program.--

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

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

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