

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

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1 Committee/Subcommittee hearing bill: Judiciary Committee  
 2 Representative DiCeglie offered the following:

**Amendment (with title amendment)**

Between lines 426 and 427, insert:

6 Section 8. For the purpose of incorporating the amendment  
 7 made by this act to section 921.241, Florida Statutes, in a  
 8 reference thereto, paragraphs (a), (b), and (c) of subsection  
 9 (3) of section 775.084, Florida Statutes, are reenacted to read:

10 775.084 Violent career criminals; habitual felony  
 11 offenders and habitual violent felony offenders; three-time  
 12 violent felony offenders; definitions; procedure; enhanced  
 13 penalties or mandatory minimum prison terms.—

14 (3) (a) In a separate proceeding, the court shall determine  
 15 if the defendant is a habitual felony offender or a habitual  
 16 violent felony offender. The procedure shall be as follows:

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17           1. The court shall obtain and consider a presentence  
18 investigation prior to the imposition of a sentence as a  
19 habitual felony offender or a habitual violent felony offender.

20           2. Written notice shall be served on the defendant and the  
21 defendant's attorney a sufficient time prior to the entry of a  
22 plea or prior to the imposition of sentence in order to allow  
23 the preparation of a submission on behalf of the defendant.

24           3. Except as provided in subparagraph 1., all evidence  
25 presented shall be presented in open court with full rights of  
26 confrontation, cross-examination, and representation by counsel.

27           4. Each of the findings required as the basis for such  
28 sentence shall be found to exist by a preponderance of the  
29 evidence and shall be appealable to the extent normally  
30 applicable to similar findings.

31           5. For the purpose of identification of a habitual felony  
32 offender or a habitual violent felony offender, the court shall  
33 fingerprint the defendant pursuant to s. 921.241.

34           6. For an offense committed on or after October 1, 1995,  
35 if the state attorney pursues a habitual felony offender  
36 sanction or a habitual violent felony offender sanction against  
37 the defendant and the court, in a separate proceeding pursuant  
38 to this paragraph, determines that the defendant meets the  
39 criteria under subsection (1) for imposing such sanction, the  
40 court must sentence the defendant as a habitual felony offender  
41 or a habitual violent felony offender, subject to imprisonment

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42 pursuant to this section unless the court finds that such  
43 sentence is not necessary for the protection of the public. If  
44 the court finds that it is not necessary for the protection of  
45 the public to sentence the defendant as a habitual felony  
46 offender or a habitual violent felony offender, the court shall  
47 provide written reasons; a written transcript of orally stated  
48 reasons is permissible, if filed by the court within 7 days  
49 after the date of sentencing. Each month, the court shall submit  
50 to the Office of Economic and Demographic Research of the  
51 Legislature the written reasons or transcripts in each case in  
52 which the court determines not to sentence a defendant as a  
53 habitual felony offender or a habitual violent felony offender  
54 as provided in this subparagraph.

55 (b) In a separate proceeding, the court shall determine if  
56 the defendant is a three-time violent felony offender. The  
57 procedure shall be as follows:

58 1. The court shall obtain and consider a presentence  
59 investigation prior to the imposition of a sentence as a three-  
60 time violent felony offender.

61 2. Written notice shall be served on the defendant and the  
62 defendant's attorney a sufficient time prior to the entry of a  
63 plea or prior to the imposition of sentence in order to allow  
64 the preparation of a submission on behalf of the defendant.

65 3. Except as provided in subparagraph 1., all evidence  
66 presented shall be presented in open court with full rights of

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67 confrontation, cross-examination, and representation by counsel.

68 4. Each of the findings required as the basis for such  
69 sentence shall be found to exist by a preponderance of the  
70 evidence and shall be appealable to the extent normally  
71 applicable to similar findings.

72 5. For the purpose of identification of a three-time  
73 violent felony offender, the court shall fingerprint the  
74 defendant pursuant to s. 921.241.

75 6. For an offense committed on or after the effective date  
76 of this act, if the state attorney pursues a three-time violent  
77 felony offender sanction against the defendant and the court, in  
78 a separate proceeding pursuant to this paragraph, determines  
79 that the defendant meets the criteria under subsection (1) for  
80 imposing such sanction, the court must sentence the defendant as  
81 a three-time violent felony offender, subject to imprisonment  
82 pursuant to this section as provided in paragraph (4) (c).

83 (c) In a separate proceeding, the court shall determine  
84 whether the defendant is a violent career criminal with respect  
85 to a primary offense committed on or after October 1, 1995. The  
86 procedure shall be as follows:

87 1. Written notice shall be served on the defendant and the  
88 defendant's attorney a sufficient time prior to the entry of a  
89 plea or prior to the imposition of sentence in order to allow  
90 the preparation of a submission on behalf of the defendant.

91 2. All evidence presented shall be presented in open court

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92 with full rights of confrontation, cross-examination, and  
93 representation by counsel.

94 3. Each of the findings required as the basis for such  
95 sentence shall be found to exist by a preponderance of the  
96 evidence and shall be appealable only as provided in paragraph  
97 (d).

98 4. For the purpose of identification, the court shall  
99 fingerprint the defendant pursuant to s. 921.241.

100 5. For an offense committed on or after October 1, 1995,  
101 if the state attorney pursues a violent career criminal sanction  
102 against the defendant and the court, in a separate proceeding  
103 pursuant to this paragraph, determines that the defendant meets  
104 the criteria under subsection (1) for imposing such sanction,  
105 the court must sentence the defendant as a violent career  
106 criminal, subject to imprisonment pursuant to this section  
107 unless the court finds that such sentence is not necessary for  
108 the protection of the public. If the court finds that it is not  
109 necessary for the protection of the public to sentence the  
110 defendant as a violent career criminal, the court shall provide  
111 written reasons; a written transcript of orally stated reasons  
112 is permissible, if filed by the court within 7 days after the  
113 date of sentencing. Each month, the court shall submit to the  
114 Office of Economic and Demographic Research of the Legislature  
115 the written reasons or transcripts in each case in which the

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116 court determines not to sentence a defendant as a violent career  
117 criminal as provided in this subparagraph.

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**T I T L E   A M E N D M E N T**

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Remove line 21 and insert:

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reenacting s. 775.084(3)(a), (b), and (c), F.S.,

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relating to fingerprinting a defendant for the purpose

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of identification, to incorporate the amendment made

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to s. 921.241, F.S., in references thereto; providing

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an effective date.