Florida Senate - 1999

CS for SB's 54 & 902

 $\mathbf{B}\mathbf{y}$ the Committee on Criminal Justice and Senators Lee and Silver

| | 307-1695-99 |
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| 1 | A bill to be entitled |
| 2 | An act relating to criminal law; creating s. |
| 3 | 90.4051, F.S.; prohibiting consideration of |
| 4 | evidence of a defendant's voluntary |
| 5 | intoxication to determine the existence of a |
| 6 | mental state that is an element of a crime; |
| 7 | creating s. 775.0852, F.S.; requiring that an |
| 8 | enhanced penalty be imposed if the victim of a |
| 9 | felony is related by lineal consanguinity to |
| 10 | the defendant or is the defendant's legal |
| 11 | guardian; providing an effective date. |
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| 13 | WHEREAS, in Montana v. Egelhoff, 116 S.Ct. 2013 (1996), |
| 14 | the United States Supreme Court held that the Due Process |
| 15 | Clause of the Fourteenth Amendment was not violated by a |
| 16 | Montana law barring a jury in a criminal proceeding from |
| 17 | considering evidence of a defendant's voluntary intoxication |
| 18 | in determining the existence of a mental state that is an |
| 19 | element of a crime, and |
| 20 | WHEREAS, the court stated that a prohibition on such |
| 21 | evidence: accords with studies indicating that as many as half |
| 22 | of all homicides are committed by intoxicated offenders and |
| 23 | suggesting that drunks behave in accord with learned beliefs |
| 24 | that drunks are violent; deters drunkenness or irresponsible |
| 25 | behavior while drunk; ensures that persons incapable of |
| 26 | controlling violent impulses while intoxicated will go to |
| 27 | prison; and comports with and implements society's moral |
| 28 | perception that those who are voluntarily impaired shall be |
| 29 | responsible for the consequences of their impairment, and |
| 30 | WHEREAS, the Legislature finds that a prohibition on |
| 31 | such evidence advances the public interest in holding a |
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1 defendant accountable for his or her criminal behavior, while 2 also comporting with the defendant's right to due process of 3 law, and WHEREAS, it is the intent of the Legislature to 4 5 prohibit a jury from considering evidence of a defendant's б voluntary intoxicated condition in determining whether he or 7 she possesses the requisite mental state to commit the crime for which he or she is charged, NOW, THEREFORE, 8 9 10 Be It Enacted by the Legislature of the State of Florida: 11 Section 1. Section 90.4051, Florida Statutes, is 12 13 created to read: 90.4051 Responsibility; intoxication.--14 (1) Notwithstanding s. 90.803 or any other law, a 15 person who is voluntarily in an intoxicated condition is 16 17 criminally responsible for his conduct. Voluntary intoxication is not a defense to any offense and may not be taken into 18 19 consideration in determining the existence of a mental state that is an element of the offense. If the defendant, outside 20 the presence of the jury, proves to the court by a 21 preponderance of the evidence that he or she did not know that 22 a substance was an intoxicating substance when he or she 23 24 consumed, smoked, inhaled, injected, or otherwise ingested the 25 intoxicating substance, the court may allow the evidence to be submitted to the jury or considered by the court. 26 27 (2) As used in this section, the term "intoxicating 28 substance" means a substance capable of producing 29 intoxication, and the term "intoxication" means a disturbance of physical or mental capacities resulting from the 30 31 introduction of a substance into the body.

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| 1 | Section 2. Section 775.0852, Florida Statutes, is |
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| 2 | created to read: |
| 3 | 775.0852 Felony committed against a family member; |
| 4 | enhanced penaltiesThe penalty for any felony shall be |
| 5 | reclassified as provided in this section if the victim of the |
| 6 | felony is related by lineal consanguinity to the defendant or |
| 7 | if the victim is the defendant's legal guardian. |
| 8 | (1) A felony of the third degree shall be punishable |
| 9 | as if it were a felony of the second degree. |
| 10 | (2) A felony of the second degree shall be punishable |
| 11 | as if it were a felony of the first degree. |
| 12 | (3) A felony of the first degree shall be punishable |
| 13 | <u>as if it were a life felony.</u> |
| 14 | Section 3. This act shall take effect July 1, 1999. |
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| 16 | STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN COMMITTEE SUBSTITUTE FOR |
| 17 | Senate Bills 54 and 902 |
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| 19 | Combines SB 54 and SB 902, as amended to make SB 902 consistent with SB 54. |
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| 21 | Bans voluntary intoxication defense consistent with SB 54 and SB 902, as amended. |
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