

By Senator Martin

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A bill to be entitled
An act relating to habitual felony offenders, habitual
violent felony offenders, three-time violent felony
offenders, and violent career criminals; amending s.
775.084, F.S.; revising the definitions of the terms
"habitual felony offender," "habitual violent felony
offender," "three-time violent felony offender," and
"violent career criminal"; revising the procedures
that a court must follow in separate proceedings to
determine whether a defendant is a habitual felony
offender, a habitual violent felony offender, a three-
time violent felony offender, or a violent career
criminal; providing construction; providing an
effective date.

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

Section 1. Paragraphs (a) through (d) of subsection (1),
subsection (2), and paragraphs (a), (b), and (c) of subsection
(3) of section 775.084, Florida Statutes, are amended to read:

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

(1) As used in this act:

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

1. The defendant has previously been convicted of any

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30 combination of two or more felonies in this state or other
31 qualified offenses.

32 2. The felony for which the defendant is to be sentenced
33 was committed:

34 a. While the defendant was serving a prison sentence or
35 other sentence, or court-ordered or lawfully imposed supervision
36 that is imposed as a result of a prior conviction for a felony
37 or other qualified offense; or

38 b. Within 5 years of the date of the conviction of the
39 defendant's last prior felony or other qualified offense, or
40 within 5 years of the defendant's release from a prison
41 sentence, probation, community control, control release,
42 conditional release, parole or court-ordered or lawfully imposed
43 supervision or other sentence that is imposed as a result of a
44 prior conviction for a felony or other qualified offense,
45 whichever is later.

46 3. The felony for which the defendant is to be sentenced,
47 and one of the two prior felony convictions, is not a violation
48 of s. 893.13 relating to the purchase or the possession of a
49 controlled substance.

50 ~~4. The defendant has not received a pardon for any felony~~
51 ~~or other qualified offense that is necessary for the operation~~
52 ~~of this paragraph.~~

53 ~~5. A conviction of a felony or other qualified offense~~
54 ~~necessary to the operation of this paragraph has not been set~~
55 ~~aside in any postconviction proceeding.~~

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

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

- a. Arson;
- b. Sexual battery;
- c. Robbery;
- d. Kidnapping;
- e. Aggravated child abuse;
- f. Aggravated abuse of an elderly person or disabled adult;
- g. Aggravated assault with a deadly weapon;
- h. Murder;
- i. Manslaughter;
- j. Aggravated manslaughter of an elderly person or disabled adult;
- k. Aggravated manslaughter of a child;
- l. Unlawful throwing, placing, or discharging of a destructive device or bomb;
- m. Armed burglary;
- n. Aggravated battery; or
- o. Aggravated stalking.

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

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

b. Within 5 years of the date of the conviction of the last prior enumerated felony, or within 5 years of the defendant's release from a prison sentence, probation, community control,

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control release, conditional release, parole, or court-ordered or lawfully imposed supervision or other sentence that is imposed as a result of a prior conviction for an enumerated felony, whichever is later.

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

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

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

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

- a. Arson;
- b. Sexual battery;
- c. Robbery;
- d. Kidnapping;
- e. Aggravated child abuse;
- f. Aggravated abuse of an elderly person or disabled adult;
- g. Aggravated assault with a deadly weapon;
- h. Murder;
- i. Manslaughter;
- j. Aggravated manslaughter of an elderly person or disabled adult;

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117 k. Aggravated manslaughter of a child;

118 1. Unlawful throwing, placing, or discharging of a
119 destructive device or bomb;

120 m. Armed burglary;

121 n. Aggravated battery;

122 o. Aggravated stalking;

123 p. Home invasion/robbery;

124 q. Carjacking; or

125 r. An offense which is in violation of a law of any other
126 jurisdiction if the elements of the offense are substantially
127 similar to the elements of any felony offense enumerated in sub-
128 subparagraphs a.-q., or an attempt to commit any such felony
129 offense.

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

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

136 b. Within 5 years after the date of the conviction of the
137 last prior offense enumerated in sub-subparagraphs 1.a.-r., or
138 within 5 years after the defendant's release from a prison
139 sentence, probation, community control, or other sentence
140 imposed as a result of a prior conviction for any offense
141 enumerated in sub-subparagraphs 1.a.-r., whichever is later.

142 ~~3. The defendant has not received a pardon on the ground of~~
143 ~~innocence for any crime that is necessary for the operation of~~
144 ~~this paragraph.~~

145 ~~4. A conviction of a crime necessary to the operation of~~

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~~this paragraph has not been set aside in any postconviction proceeding.~~

(d) "Violent career criminal" means a defendant for whom the court must impose imprisonment pursuant to paragraph (4) (d), if it finds that:

1. The defendant has previously been convicted as an adult three or more times for an offense in this state or other qualified offense that is:

a. Any forcible felony, as described in s. 776.08;

b. Aggravated stalking, as described in s. 784.048(3) and (4);

c. Aggravated child abuse, as described in s. 827.03(2) (a);

d. Aggravated abuse of an elderly person or disabled adult, as described in s. 825.102(2);

e. Lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition, as described in s. 800.04 or s. 847.0135(5);

f. Escape, as described in s. 944.40; or

g. A felony violation of chapter 790 involving the use or possession of a firearm.

2. The defendant has been incarcerated in a state prison or a federal prison.

3. The primary felony offense for which the defendant is to be sentenced is a felony enumerated in subparagraph 1. and was committed on or after October 1, 1995, and:

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

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

~~4. The defendant has not received a pardon for any felony or other qualified offense that is necessary for the operation of this paragraph.~~

~~5. A conviction of a felony or other qualified offense necessary to the operation of this paragraph has not been set aside in any postconviction proceeding.~~

(2) For the purposes of this section, the placing of a person on probation or community control without an adjudication of guilt shall be treated as a prior conviction. A conviction for which the defendant has been pardoned or which has been reversed on appeal or set aside in a postconviction proceeding is not a conviction for purposes of this section.

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

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

2. Written notice must ~~shall~~ be served on the defendant or ~~and~~ the defendant's attorney before the commencement of trial or entry of a plea of guilty or nolo contendere ~~a sufficient time~~

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~~prior to the entry of a plea or prior to the imposition of sentence in order to allow the preparation of a submission on behalf of the defendant.~~

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

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

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

~~5.6.~~ For an offense committed on or after October 1, 1995, if the state attorney pursues a habitual felony offender sanction or a habitual violent felony offender sanction against the defendant and the court, in a separate proceeding pursuant to this paragraph, determines that the defendant meets the criteria under subsection (1) for imposing such sanction, the court must sentence the defendant as a habitual felony offender or a habitual violent felony offender, subject to imprisonment pursuant to this section unless the court finds that such sentence is not necessary for the protection of the public. If the court finds that it is not necessary for the protection of the public to sentence the defendant as a habitual felony offender or a habitual violent felony offender, the court must ~~shall~~ provide written reasons; a written transcript of orally stated reasons is permissible, if filed by the court within 7

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233 days after the date of sentencing. Each month, the court shall
234 submit to the Office of Economic and Demographic Research of the
235 Legislature the written reasons or transcripts in each case in
236 which the court determines not to sentence a defendant as a
237 habitual felony offender or a habitual violent felony offender
238 as provided in this subparagraph.

239 (b) In a separate proceeding, the court shall determine
240 whether ~~if~~ the defendant is a three-time violent felony
241 offender. The procedure shall be as follows:

242 1. The court shall obtain and consider a presentence
243 investigation before ~~prior to~~ the imposition of a sentence as a
244 three-time violent felony offender.

245 2. Written notice must ~~shall~~ be served on the defendant or
246 ~~and~~ the defendant's attorney before the commencement of trial or
247 entry of a plea of guilty or nolo contendere ~~a sufficient time~~
248 ~~prior to the entry of a plea or prior to the imposition of~~
249 ~~sentence in order to allow the preparation of a submission on~~
250 ~~behalf of the defendant.~~

251 3. Except as provided in subparagraph 1., all evidence
252 presented must ~~shall~~ be presented in open court with full rights
253 of confrontation, cross-examination, and representation by
254 counsel.

255 4. ~~Each of the findings required as the basis for such~~
256 ~~sentence shall be found to exist by a preponderance of the~~
257 ~~evidence and shall be appealable to the extent normally~~
258 ~~applicable to similar findings.~~

259 5. For the purpose of identification of a three-time
260 violent felony offender, the court shall fingerprint the
261 defendant pursuant to s. 921.241.

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262 ~~5.6.~~ For an offense committed on or after the effective
263 date of this act, if the state attorney pursues a three-time
264 violent felony offender sanction against the defendant and the
265 court, in a separate proceeding pursuant to this paragraph,
266 determines that the defendant meets the criteria under
267 subsection (1) for imposing such sanction, the court must
268 sentence the defendant as a three-time violent felony offender,
269 subject to imprisonment pursuant to this section as provided in
270 paragraph (4) (c).

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

275 1. Written notice must ~~shall~~ be served on the defendant or
276 ~~and~~ the defendant's attorney before the commencement of trial or
277 entry of a plea of guilty or nolo contendere ~~a sufficient time~~
278 ~~prior to the entry of a plea or prior to the imposition of~~
279 ~~sentence in order to allow the preparation of a submission on~~
280 ~~behalf of the defendant.~~

281 2. All evidence presented must ~~shall~~ be presented in open
282 court with full rights of confrontation, cross-examination, and
283 representation by counsel.

284 3. ~~Each of the findings required as the basis for such~~
285 ~~sentence shall be found to exist by a preponderance of the~~
286 ~~evidence and shall be appealable only as provided in paragraph~~
287 ~~(d).~~

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

290 ~~4.5.~~ For an offense committed on or after October 1, 1995,

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if the state attorney pursues a violent career criminal sanction against the defendant and the court, in a separate proceeding pursuant to this paragraph, determines that the defendant meets the criteria under subsection (1) for imposing such sanction, the court must sentence the defendant as a violent career criminal, subject to imprisonment pursuant to this section unless the court finds that such sentence is not necessary for the protection of the public. If the court finds that it is not necessary for the protection of the public to sentence the defendant as a violent career criminal, the court must ~~shall~~ provide written reasons; a written transcript of orally stated reasons is permissible, if filed by the court within 7 days after the date of sentencing. Each month, the court shall submit to the Office of Economic and Demographic Research of the Legislature the written reasons or transcripts in each case in which the court determines not to sentence a defendant as a violent career criminal as provided in this subparagraph.

Section 2. This act shall take effect July 1, 2026.