

3.16 PRISON RELEASEE REOFFENDER FINDINGS

§ 775.082(9), Fla. Stat.

You have found (defendant) **guilty of** (crime listed in § 775.082(9), Fla. Stat.).
You must now determine whether the State proved beyond a reasonable doubt whether:

Give at least one of the following as applicable.

The (crime listed in § 775.082(9), Fla. Stat.) **was committed:**

- a. **within 3 years after being released from a state correctional facility operated by the Florida Department of Corrections.**
- b. **while the defendant was serving a prison sentence.**
- c. **within 3 years after being released from a county detention facility following incarceration for a crime for which the sentence pronounced was a prison sentence.**
- d. **within 3 years after being released from a correctional institution of [another state] [the District of Columbia] [the United States] [any possession or territory of the United States] [any foreign jurisdiction] following incarceration for a crime for which the sentence is punishable by more than 1 year in Florida.**
- e. **while the defendant was on escape status from a state correctional facility operated by the Florida Department of Corrections**
- f. **within 3 years after being released from a private vendor.**
- g. **while the defendant was on escape status from a private vendor.**
- h. **while the defendant was on escape status from a correctional institution of [another state] [the District of Columbia] [the United States] [any possession or territory of the United States] [any foreign jurisdiction] following incarceration for an offense for which the sentence is punishable by more than 1 year in Florida.**

Give if applicable.

The Court instructs you that the sentence for (name of crime) **is punishable by more than 1 year in Florida.**

Give as applicable.

“State correctional facility” means any prison.*

§951.23, Fla. Stat.

“County detention facility” means a [county jail] [county stockade] [county work camp] [county residential probation center] [and any other place except a municipal detention facility] used by a county or county officer for the detention

of persons charged with or convicted of a felony or a misdemeanor, regardless of whether such facility is operated by a board of county commissioners, a sheriff, or any other entity.

Comments

As of January 2025, the effect of *Erlinger v. United States*, 602 U.S. 821 (2024) on Florida's enhanced sentencing schemes was not fully developed. In an abundance of caution, the Committee on Standard Jury Instructions in Criminal Cases assumed the State must prove all the relevant criteria in § 775.082, Fla. Stat. to the jury.

*The PRR statute refers to a "state correctional facility." The term "state correctional institution" is defined in § 944.02, Fla. Stat., and includes a road camp, prison industry, prison forestry camp, or any prison camp or prison farm or other correctional facility, temporary or permanent, in which prisoners are housed, worked, or maintained, under the custody and jurisdiction of the Department of Corrections. It is likely that "state correctional facility" is synonymous with "state correctional institution" for purposes of § 775.082(9), Fla. Stat., since the terms are made synonymous in § 944.115, Fla. Stat. However, as of January 2025, in the absence of case law, the Committee on Standard Jury Instructions in Criminal Cases defined "state correctional facility" as meaning "prison."

This instruction was adopted on February 21, 2025.