

Bill No. SB 2090

Amendment No.

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Silver moved the following amendment:

Senate Amendment (with title amendment)

On page 2, between lines 9 and 10,

insert:

Section 2. Subsections (5), (6), (7), (8), (9), and (10) of section 790.22, Florida Statutes, are amended to read:

790.22 Use of BB guns, air or gas-operated guns, or electric weapons or devices by minor under 16; limitation; possession of firearms by minor under 18 prohibited; penalties.--

(5)(a) A minor who possesses a firearm on school property or at a school-sponsored event ~~violates subsection (3)~~ commits a felony of the third ~~misdemeanor of the first~~ degree, and, for a first offense, shall serve a mandatory period of detention of 5 days in a secure detention facility ~~in addition to any other penalty provided by law~~, shall be required to perform 100 hours of community service, and:

1. If the minor is eligible by reason of age for a driver license or driving privilege, the court shall direct

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1 the Department of Highway Safety and Motor Vehicles to
2 withhold issuance of the minor's driver license or driving
3 privilege for up to 2 years after the date on which the minor
4 would otherwise have become eligible.

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6 Any community service ordered under this subsection shall, if
7 possible, be performed in conjunction with a hospital
8 emergency room or other medical facility that regularly treats
9 trauma patients and gunshot wounds.

10 (6) Any firearm that is possessed or used by a minor
11 in violation of this section shall be promptly seized by a law
12 enforcement officer and disposed of in accordance with s.
13 790.08(1)-(6).

14 (7) The provisions of this section are supplemental to
15 all other provisions of law relating to the possession, use,
16 or exhibition of a firearm.

17 (8) Notwithstanding s. 985.213 ~~s. 39.042~~ or s.
18 985.215(1) ~~s. 39.044(1)~~, if a minor under 18 years of age is
19 charged with an offense that involves the use or possession of
20 a firearm, as defined in s. 790.001, including ~~other than~~ a
21 violation of subsection (3), or is charged for any offense
22 during the commission of which the minor possessed a firearm,
23 the minor shall be detained in secure detention, unless the
24 state attorney authorizes the release of the minor, and shall
25 be given a hearing within 24 hours after being taken into
26 custody. ~~Effective April 15, 1994,~~ At the hearing, the court
27 may order that the minor continue to be held in secure
28 detention in accordance with the applicable time periods
29 specified in s. 985.215(5) ~~s. 39.044(5)~~, if the court finds
30 that the minor meets the criteria specified in s. 985.215(2)
31 ~~s. 39.044(2)~~, or if the court finds by clear and convincing

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1 evidence that the minor is a clear and present danger to
 2 himself or herself or the community. The Department of
 3 Juvenile Justice shall prepare a form for all minors charged
 4 under this subsection that states the period of detention and
 5 the relevant demographic information, including, but not
 6 limited to, the sex, age, and race of the minor; whether or
 7 not the minor was represented by private counsel or a public
 8 defender; the current offense; and the minor's complete prior
 9 record, including any pending cases. The form shall be
 10 provided to the judge to be considered when determining
 11 whether the minor should be continued in secure detention
 12 under this subsection. An order placing a minor in secure
 13 detention because the minor is a clear and present danger to
 14 himself or herself or the community must be in writing, must
 15 specify the need for detention and the benefits derived by the
 16 minor or the community by placing the minor in secure
 17 detention, and must include a copy of the form provided by the
 18 department. The Department of Juvenile Justice must send the
 19 form, including a copy of any order, without
 20 client-identifying information, to the Division of Economic
 21 and Demographic Research of the Joint Legislative Management
 22 Committee.

23 (9) Notwithstanding s. 985.214 ~~s. 39.043~~, if the minor
 24 is found to have committed an offense that involves the use or
 25 possession of a firearm, as defined in s. 790.001, other than
 26 a violation of subsection (3), or an offense during the
 27 commission of which the minor possessed a firearm, and the
 28 minor is not committed to a residential commitment program of
 29 the Department of Juvenile Justice ~~Health and Rehabilitative~~
 30 ~~Services~~, in addition to any other punishment provided by law,
 31 the court shall order:

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1 (a) For a first offense, that the minor serve a
2 mandatory period of detention of 15 5 days in a secure
3 detention facility and perform 100 hours of community service.

4 (b) For a second or subsequent offense, that the minor
5 serve a mandatory period of detention of at least 21 ~~10~~ days
6 but not more than 3 months in a secure detention facility and
7 perform at least ~~not less than~~ 100 hours but not ~~nor~~ more than
8 250 hours of community service.

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10 The minor may not ~~shall~~ receive credit for time served before
11 adjudication. Any community service ordered under this
12 subsection shall, if possible, be performed in conjunction
13 with a hospital emergency room or other medical facility that
14 regularly treats trauma patients and gunshot wounds.

15 (10) If a minor is found to have committed an offense
16 under subsection (9), the court shall impose the following
17 penalties in addition to any penalty imposed under paragraph
18 (9)(a) or paragraph (9)(b):

19 (a) For a first offense:

20 1. If the minor is eligible by reason of age for a
21 driver license or driving privilege, the court shall direct
22 the Department of Highway Safety and Motor Vehicles to revoke
23 or to withhold issuance of the minor's driver license or
24 driving privilege for up to 1 year.

25 2. If the minor's driver license or driving privilege
26 is under suspension or revocation for any reason, the court
27 shall direct the Department of Highway Safety and Motor
28 Vehicles to extend the period of suspension or revocation by
29 an additional period for up to 1 year.

30 3. If the minor is ineligible by reason of age for a
31 driver license or driving privilege, the court shall direct

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1 the Department of Highway Safety and Motor Vehicles to
2 withhold issuance of the minor's driver license or driving
3 privilege for up to 1 year after the date on which the minor
4 would otherwise have become eligible.

5 (b) For a second or subsequent offense:

6 1. If the minor is eligible by reason of age for a
7 driver license or driving privilege, the court shall direct
8 the Department of Highway Safety and Motor Vehicles to revoke
9 or to withhold issuance of the minor's driver license or
10 driving privilege for up to 2 years.

11 2. If the minor's driver license or driving privilege
12 is under suspension or revocation for any reason, the court
13 shall direct the Department of Highway Safety and Motor
14 Vehicles to extend the period of suspension or revocation by
15 an additional period for up to 2 years.

16 3. If the minor is ineligible by reason of age for a
17 driver license or driving privilege, the court shall direct
18 the Department of Highway Safety and Motor Vehicles to
19 withhold issuance of the minor's driver license or driving
20 privilege for up to 2 years after the date on which the minor
21 would otherwise have become eligible.

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23 (Redesignate subsequent sections.)

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26 ===== T I T L E A M E N D M E N T =====

27 And the title is amended as follows:

28 On page 1, line 7, after the semicolon

29
30 and insert:

31 amending s. 790.22, F.S.; providing an enhanced

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1 penalty for the unlawful possession of a
2 firearm by a minor; requiring that a minor who
3 commits such offense serve a mandatory period
4 of detention in a secure detention facility in
5 addition to certain other sanctions; providing
6 requirements for the community service that a
7 court orders a minor to perform as a sanction
8 for unlawfully possessing a firearm or for
9 committing an offense that involves the use or
10 possession of a firearm;

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