

Bill No. CS/HB 3713

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 5, between lines 17 and 18,

insert:

Section 4. Section 790.22, Florida Statutes, is 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.--

(1) The use for any purpose whatsoever of BB guns, air or gas-operated guns, or electric weapons or devices, by any minor under the age of 16 years is prohibited unless such use is under the supervision and in the presence of an adult who is acting with the consent of the minor's parent.

(2) Any adult responsible for the welfare of any child under the age of 16 years who knowingly permits such child to use or have in his or her possession any BB gun, air or gas-operated gun, electric weapon or device, or firearm in

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1 violation of the provisions of subsection (1) of this section
2 commits a misdemeanor of the second degree, punishable as
3 provided in s. 775.082 or s. 775.083.

4 (3) A minor under 18 years of age may not possess a
5 firearm, other than an unloaded firearm at his or her home,
6 unless:

7 (a) The minor is engaged in a lawful hunting activity
8 and is:

- 9 1. At least 16 years of age; or
10 2. Under 16 years of age and supervised by an adult.

11 (b) The minor is engaged in a lawful marksmanship
12 competition or practice or other lawful recreational shooting
13 activity and is:

- 14 1. At least 16 years of age; or
15 2. Under 16 years of age and supervised by an adult
16 who is acting with the consent of the minor's parent or
17 guardian.

18 (c) The firearm is unloaded and is being transported
19 by the minor directly to or from an event authorized in
20 paragraph (a) or paragraph (b).

21 (4)(a) Any parent or guardian of a minor, or other
22 adult responsible for the welfare of a minor, who knowingly
23 and willfully permits the minor to possess a firearm in
24 violation of subsection (3) commits a felony of the third
25 degree, punishable as provided in s. 775.082, s. 775.083, or
26 s. 775.084.

27 (b) Any natural parent or adoptive parent, whether
28 custodial or noncustodial, or any legal guardian or legal
29 custodian of a minor, if that minor possesses a firearm in
30 violation of subsection (3) may, if the court finds it
31 appropriate, be required to participate in classes on

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1 parenting education which are approved by the Department of
2 Juvenile Justice, upon the first conviction of the minor. Upon
3 any subsequent conviction of the minor, the court may, if the
4 court finds it appropriate, require the parent to attend
5 further parent education classes or render community service
6 hours together with the child.

7 (c) ~~No later than July 1, 1994,~~The district juvenile
8 justice boards or county juvenile justice councils or the
9 Department of Juvenile Justice shall establish appropriate
10 community service programs to be available to the alternative
11 sanctions coordinators of the circuit courts in implementing
12 this subsection. The boards or councils or department shall
13 propose the implementation of a community service program in
14 each circuit, and may submit a circuit plan, to be implemented
15 upon approval of the circuit alternative sanctions
16 coordinator.

17 (d) For the purposes of this section, community
18 service may be provided on public property as well as on
19 private property with the expressed permission of the property
20 owner. Any community service provided on private property is
21 limited to such things as removal of graffiti and restoration
22 of vandalized property.

23 (5)(a) A minor who violates subsection (3) commits a
24 felony of the third misdemeanor of the first degree, and, for
25 a first offense, shall serve a mandatory period of detention
26 of 5 days in a secure detention facility in addition to any
27 other penalty provided by law, shall be required to perform
28 100 hours of community service, and:

29 1. If the minor is eligible by reason of age for a
30 driver license or driving privilege, the court shall direct
31 the Department of Highway Safety and Motor Vehicles to revoke

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1 or to withhold issuance of the minor's driver license or
2 driving privilege for up to 1 year.

3 2. If the minor's driver license or driving privilege
4 is under suspension or revocation for any reason, the court
5 shall direct the Department of Highway Safety and Motor
6 Vehicles to extend the period of suspension or revocation by
7 an additional period of up to 1 year.

8 3. If the minor is ineligible by reason of age for a
9 driver license or driving privilege, the court shall direct
10 the Department of Highway Safety and Motor Vehicles to
11 withhold issuance of the minor's driver license or driving
12 privilege for up to 1 year after the date on which the minor
13 would otherwise have become eligible.

14 (b) For a second or subsequent offense, the minor
15 shall serve a mandatory period of detention of at least 10
16 days but not more than 30 days in a secure detention facility,
17 shall be required to perform at least not less than 100 hours
18 but not ~~nor~~ more than 250 hours of community service, and:

19 1. If the minor is eligible by reason of age for a
20 driver license or driving privilege, the court shall direct
21 the Department of Highway Safety and Motor Vehicles to revoke
22 or to withhold issuance of the minor's driver license or
23 driving privilege for up to 2 years.

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

29 3. If the minor is ineligible by reason of age for a
30 driver license or driving privilege, the court shall direct
31 the Department of Highway Safety and Motor Vehicles to

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

4
5 Any community service ordered under this subsection shall, if
6 possible, be performed in conjunction with a hospital
7 emergency room or other medical facility that regularly treats
8 trauma patients and gunshot wounds.

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

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

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

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

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

31 (a) For a first offense, that the minor serve a

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1 mandatory period of detention of 15 5 days in a secure
2 detention facility and perform 100 hours of community service.

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

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

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

18 (a) For a first offense:

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

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

29 3. If the minor is ineligible by reason of age for a
30 driver license or driving privilege, the court shall direct
31 the Department of Highway Safety and Motor Vehicles to

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

4 (b) For a second or subsequent offense:

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

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

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

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22 (Redesignate subsequent sections.)

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

26 And the title is amended as follows:

27 On page 1, line 2, delete that line

28

29 and insert:

30 An act relating to firearms; amending s.

31 790.22, F.S.; providing an enhanced penalty for

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

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