

1 A bill to be entitled
2 An act relating to punishment of felons;
3 amending s. 775.087, F.S., relating to felony
4 reclassification and minimum sentence and other
5 penalties for offenders who committed
6 aggravated battery or committed certain acts
7 involving a weapon, firearm, or destructive
8 device during the commission of a felony;
9 conforming terminology to changes made by the
10 act; increasing from 3 to 10 years the minimum
11 prison term for certain felonies or attempted
12 felonies under specified circumstances when the
13 offender possessed a firearm or destructive
14 device during the commission of the offense or
15 flight therefrom; providing exceptions;
16 revising the category of such offenses to
17 include murder, sexual battery, robbery,
18 burglary, arson, aggravated assault or
19 aggravated battery, kidnapping, escape,
20 aircraft piracy, aggravated child abuse,
21 aggravated abuse of an elderly person or
22 disabled adult, unlawful throwing, placing, or
23 discharging of a destructive device or bomb,
24 carjacking, home-invasion robbery, aggravated
25 stalking, and trafficking in cannabis,
26 trafficking in cocaine, capital importation of
27 cocaine, trafficking in illegal drugs, capital
28 importation of illegal drugs, trafficking in
29 phencyclidine, capital importation of
30 phencyclidine, trafficking in methaqualone,
31 capital importation of methaqualone,

1 trafficking in amphetamine, capital importation
2 of amphetamine, trafficking in flunitrazepam,
3 or other specified violation of s. 893.135(1),
4 F.S.; providing for imposition of a 20-year
5 minimum term of imprisonment when, in addition
6 to such circumstances, the firearm or
7 destructive device was discharged while the
8 person was carrying, displaying, using, or
9 threatening or attempting to use the firearm or
10 destructive device; providing for imposition of
11 a minimum term of imprisonment of not less than
12 25 years and not more than a term of
13 imprisonment of life in prison when, in further
14 addition to such circumstances, the discharging
15 of the firearm or destructive device resulted
16 in infliction of death or great bodily harm
17 upon any person; providing for construction;
18 providing legislative intent with respect to
19 punishment of offenders who possess, carry,
20 display, use, or threaten or attempt to use
21 firearms or destructive devices; providing
22 imposition of the minimum term of imprisonment
23 consecutive to any other term of imprisonment
24 imposed; providing that the minimum term of
25 imprisonment imposed is authorized by law
26 regardless of the maximum sentence that may be
27 imposed for the underlying felony; increasing
28 from 8 to 15 years the minimum prison term for
29 certain felonies or attempted felonies under
30 specified circumstances when, during the
31 commission of the offense, the offender

1 possessed a semiautomatic firearm and its
2 high-capacity detachable box magazine or a
3 machine gun; providing for the category of such
4 offenses to include murder, sexual battery,
5 robbery, burglary, arson, aggravated assault,
6 aggravated battery, kidnapping, escape,
7 aircraft piracy, aggravated child abuse,
8 aggravated abuse of an elderly person or
9 disabled adult, unlawful throwing, placing, or
10 discharging of a destructive device or bomb,
11 carjacking, home-invasion robbery, aggravated
12 stalking, and trafficking in cannabis,
13 trafficking in cocaine, capital importation of
14 cocaine, trafficking in illegal drugs, capital
15 importation of illegal drugs, trafficking in
16 phencyclidine, capital importation of
17 phencyclidine, trafficking in methaqualone,
18 capital importation of methaqualone,
19 trafficking in amphetamine, capital importation
20 of amphetamine, trafficking in flunitrazepam,
21 or other specified violation of s. 893.135(1);
22 providing for imposition of a 20-year minimum
23 term of imprisonment when, in addition to such
24 circumstances, the semiautomatic firearm and
25 its high-capacity detachable box magazine or a
26 machine gun was discharged while the person was
27 carrying, displaying, using, or threatening or
28 attempting to use the semiautomatic firearm and
29 its high-capacity detachable box magazine or a
30 machine gun; providing for imposition of a
31 minimum term of imprisonment of not less than

1 25 years and not more than a term of
2 imprisonment of life in prison when, in further
3 addition to such circumstances, the discharging
4 of the semiautomatic firearm and its
5 high-capacity detachable box magazine or a
6 machine gun resulted in infliction of death or
7 great bodily harm upon any person; providing
8 for construction; providing legislative intent
9 with respect to punishment of offenders who
10 possess, carry, display, use, or threaten or
11 attempt to use a semiautomatic firearm and its
12 high-capacity detachable box magazine or a
13 machine gun; providing for imposition of the
14 minimum term of imprisonment consecutive to any
15 other term of imprisonment imposed; providing
16 that the minimum term of imprisonment imposed
17 is authorized by law regardless of the maximum
18 sentence that may be imposed for the underlying
19 felony; providing for legislative policy and
20 intent; providing for a report; requiring the
21 state attorney to explain mandatory sentence
22 deviations in writing; requiring state
23 attorneys to submit such writings to its
24 association where it must remain available to
25 the public for at least 10 years; reenacting s.
26 921.0022(2), F.S., relating to the Criminal
27 Punishment Code offense severity ranking chart,
28 s. 921.0024(1)(b), F.S., relating to Florida
29 Criminal Punishment Code worksheet computations
30 and key, and s. 947.146(3)(b), F.S., relating
31 to Control Release Authority, to incorporate

1 said amendment in references; providing for
2 public service announcements with respect to
3 the penalties provided in the act; providing an
4 effective date.

5
6 WHEREAS, Florida ranks among the most violent states in
7 the nation, and

8 WHEREAS, in 1975 the Florida Legislature enacted
9 legislation requiring a minimum mandatory sentence of three
10 years in prison for possessing a gun during the commission or
11 attempted commission of a violent felony, and

12 WHEREAS, the Legislature enacted this mandatory penalty
13 in order to protect citizens from criminals who are known to
14 use guns during the commission of violent crimes, and

15 WHEREAS, the FBI reports that among persons identified
16 in the felonious killings of law enforcement officers in 1997,
17 71% had prior criminal convictions, and one of every four were
18 on probation or parole for other crimes when they killed the
19 officers, and

20 WHEREAS, criminals who use guns during the commission
21 of violent crimes pose an increased danger to the lives,
22 health, and safety of Florida's citizens and to Florida's law
23 enforcement officers who daily put their lives on the line to
24 protect citizens from violent criminals, and

25 WHEREAS, the Legislature intends to hold criminals more
26 accountable for their crimes, and intends for criminals who
27 use guns to commit violent crimes to receive greater criminal
28 penalties than they do today, and

29 WHEREAS, the Legislature intends that when law
30 enforcement officers put themselves in harm's way to apprehend
31 and arrest these gun-wielding criminals who terrorize the

1 streets and neighborhoods of Florida, that these criminals be
2 sentenced to longer mandatory prison terms than provided in
3 current law, so that these offenders cannot again endanger law
4 enforcement officers and the public, and

5 WHEREAS, there is a critical need for effective
6 criminal justice measures that will ensure that violent
7 criminals are sentenced to prison terms that will effectively
8 incapacitate the offender, prevent future crimes, and reduce
9 violent crime rates, and

10 WHEREAS, it is the intent of the Legislature that
11 criminals who use guns to commit violent crimes be vigorously
12 prosecuted and that the state demand that minimum mandatory
13 terms of imprisonment be imposed pursuant to this act, NOW,
14 THEREFORE,

15
16 Be It Enacted by the Legislature of the State of Florida:

17
18 Section 1. Section 775.087, Florida Statutes, is
19 amended to read:

20 775.087 Possession or use of weapon; aggravated
21 battery; felony reclassification; minimum sentence.--

22 (1) Unless otherwise provided by law, whenever a
23 person is charged with a felony, except a felony in which the
24 use of a weapon or firearm is an essential element, and during
25 the commission of such felony the defendant carries, displays,
26 uses, threatens to use, or attempts to use any weapon or
27 firearm, or during the commission of such felony the defendant
28 commits an aggravated battery, the felony for which the person
29 is charged shall be reclassified as follows:

30 (a) In the case of a felony of the first degree, to a
31 life felony.

1 (b) In the case of a felony of the second degree, to a
2 felony of the first degree.

3 (c) In the case of a felony of the third degree, to a
4 felony of the second degree.

5
6 For purposes of sentencing under chapter 921 and determining
7 incentive gain-time eligibility under chapter 944, a felony
8 offense which is reclassified under this section is ranked one
9 level above the ranking under s. 921.0022 or s. 921.0023 of
10 the felony offense committed.

11 (2)(a)1. Any person who is convicted of a felony or an
12 attempt to commit a felony regardless of whether the use of a
13 weapon is an element of the felony and the conviction was for:

14 a.(a) Murder;

15 b.(b) Sexual battery;

16 c.(c) Robbery;

17 d.(d) Burglary;

18 e.(e) Arson;

19 f.(f) Aggravated assault;

20 g.(g) Aggravated battery;

21 h.(h) Kidnapping;

22 i.(i) Escape;

23 j.(j) Aircraft piracy;

24 k.(k) Aggravated child abuse;

25 l.(l) Aggravated abuse of an elderly person or
26 disabled adult;

27 m.(m) Unlawful throwing, placing, or discharging of a
28 destructive device or bomb;

29 n.(n) Carjacking;

30 o.(o) Home-invasion robbery; ~~or~~

31 p.(p) Aggravated stalking;

1 q. Trafficking in cannabis, trafficking in cocaine,
2 capital importation of cocaine, trafficking in illegal drugs,
3 capital importation of illegal drugs, trafficking in
4 phencyclidine, capital importation of phencyclidine,
5 trafficking in methaqualone, capital importation of
6 methaqualone, trafficking in amphetamine, capital importation
7 of amphetamine, trafficking in flunitrazepam, or other
8 violation of s. 893.135(1); or

9 r. Possession of a firearm by a felon

10
11 and during the commission of the offense, such person actually
12 possessed a "firearm" or "destructive device" as those terms
13 are defined in s. 790.001, shall be sentenced to a minimum
14 term of imprisonment of 10 3 years, except that a person who
15 is convicted for aggravated assault, possession of a firearm
16 by a felon, or burglary of a conveyance shall be sentenced to
17 a minimum term of imprisonment of 3 years if such person
18 possessed a "firearm" or "destructive device" during the
19 commission of the offense.

20 2. Any person who is convicted of a felony or an
21 attempt to commit a felony listed in sub-subparagraphs
22 (a)1.a.-q., regardless of whether the use of a weapon is an
23 element of the felony, and during the course of the commission
24 of the felony such person discharged a "firearm" or
25 "destructive device" as defined in s. 790.001 shall be
26 sentenced to a minimum term of imprisonment of 20 years.

27 3. Any person who is convicted of a felony or an
28 attempt to commit a felony listed in sub-subparagraphs
29 (a)1.a.-q., regardless of whether the use of a weapon is an
30 element of the felony, and during the course of the commission
31 of the felony such person discharged a "firearm" or

1 "destructive device" as defined in s. 790.001 and, as the
2 result of the discharge, death or great bodily harm was
3 inflicted upon any person, the convicted person shall be
4 sentenced to a minimum term of imprisonment of not less than
5 25 years and not more than a term of imprisonment of life in
6 prison.

7 (b) Subparagraph (a)1., subparagraph (a)2., or
8 subparagraph (a)3. does not prevent a court from imposing a
9 longer sentence of incarceration as authorized by law in
10 addition to the minimum mandatory sentence, or from imposing a
11 sentence of death pursuant to other applicable law.
12 Subparagraph (a)1., subparagraph (a)2., or subparagraph (a)3.
13 does not authorize a court to impose a lesser sentence than
14 otherwise required by law.

15
16 Notwithstanding s. 948.01, adjudication of guilt or imposition
17 of sentence shall not be suspended, deferred, or withheld, and
18 the defendant is not eligible for statutory gain-time under s.
19 944.275 or any form of discretionary early release, other than
20 pardon or executive clemency, or conditional medical release
21 under s. 947.149, prior to serving the minimum sentence.

22 (c) If the minimum mandatory terms of imprisonment
23 imposed pursuant to this section exceed the maximum sentences
24 authorized by s. 775.082, s. 775.084, or the Criminal
25 Punishment Code under chapter 921, then the mandatory minimum
26 sentence must be imposed. If the mandatory minimum terms of
27 imprisonment pursuant to this section are less than the
28 sentences that could be imposed as authorized by s. 775.082,
29 s. 775.084, or the Criminal Punishment Code under chapter 921,
30 then the sentence imposed by the court must include the

31

1 mandatory minimum term of imprisonment as required in this
2 section.

3 (d) It is the intent of the Legislature that offenders
4 who actually possess, carry, display, use, threaten to use, or
5 attempt to use firearms or destructive devices be punished to
6 the fullest extent of the law, and the minimum terms of
7 imprisonment imposed pursuant to this subsection shall be
8 imposed for each qualifying felony count for which the person
9 is convicted. The court shall impose any term of imprisonment
10 provided for in this subsection consecutively to any other
11 term of imprisonment imposed for any other felony offense.

12 (3)(a)1. Any person who is convicted of a felony or an
13 attempt to commit a felony, regardless of whether the use of a
14 firearm is an element of the felony,and the conviction was
15 for:

- 16 a.1. Murder;
- 17 b.2. Sexual battery;
- 18 c.3. Robbery;
- 19 d.4. Burglary;
- 20 e.5. Arson;
- 21 f.6. Aggravated assault;
- 22 g.7. Aggravated battery;
- 23 h.8. Kidnapping;
- 24 i.9. Escape;
- 25 j.10. Sale, manufacture, delivery, or intent to sell,
26 manufacture, or deliver any controlled substance;
- 27 k.11. Aircraft piracy;
- 28 l.12. Aggravated child abuse;
- 29 m.13. Aggravated abuse of an elderly person or
30 disabled adult;

31

1 ~~n.14.~~ Unlawful throwing, placing, or discharging of a
2 destructive device or bomb;

3 ~~o.15.~~ Carjacking;

4 ~~p.16.~~ Home-invasion robbery; ~~or~~

5 ~~q.17.~~ Aggravated stalking; ~~or~~

6 r. Trafficking in cannabis, trafficking in cocaine,
7 capital importation of cocaine, trafficking in illegal drugs,
8 capital importation of illegal drugs, trafficking in
9 phencyclidine, capital importation of phencyclidine,
10 trafficking in methaqualone, capital importation of
11 methaqualone, trafficking in amphetamine, capital importation
12 of amphetamine, trafficking in flunitrazepam, or other
13 violation of s. 893.135(1);

14
15 and during the commission of the offense, or the flight
16 therefrom, such person possessed a semiautomatic firearm and
17 its high-capacity detachable box magazine or a machine gun as
18 defined in s. 790.001, shall be sentenced to a minimum term of
19 imprisonment of 15 & years.

20 2. Any person who is convicted of a felony or an
21 attempt to commit a felony listed in subparagraph (a)1.,
22 regardless of whether the use of a weapon is an element of the
23 felony, and during the course of the commission of the felony
24 or the flight therefrom, such person discharged a
25 semiautomatic firearm and its high-capacity box magazine or a
26 "machine gun" as defined in s. 790.001 shall be sentenced to a
27 minimum term of imprisonment of 20 years.

28 3. Any person who is convicted of a felony or an
29 attempt to commit a felony listed in subparagraphs (a)1.,
30 regardless of whether the use of a weapon is an element of the
31 felony, and during the course of the commission of the felony

1 or the flight therefrom, such person discharged a
2 semiautomatic firearm and its high-capacity box magazine or a
3 "machine gun" as defined in s. 790.001 and, as the result of
4 the discharge, death or great bodily harm was inflicted upon
5 any person, the convicted person shall be sentenced to a
6 minimum term of imprisonment of not less than 25 years and not
7 more than a term of imprisonment of life in prison.

8 (b) Subparagraph (a)1., subparagraph (a)2., or
9 subparagraph (a)3. does not prevent a court from imposing a
10 longer sentence of incarceration as authorized by law in
11 addition to the minimum mandatory sentence, or from imposing a
12 sentence of death pursuant to other applicable law.

13 Subparagraph (a)1., subparagraph (a)2., or subparagraph (a)3.
14 does not authorize a court to impose a lesser sentence than
15 otherwise required by law.

16
17 Notwithstanding s. 948.01, adjudication of guilt or imposition
18 of sentence shall not be suspended, deferred, or withheld, and
19 the defendant is not eligible for statutory gain-time under s.
20 944.275 or any form of discretionary early release, other than
21 pardon or executive clemency, or conditional medical release
22 under s. 947.149, prior to serving the minimum sentence.

23 (c) If the minimum mandatory terms of imprisonment
24 imposed pursuant to this section exceed the maximum sentences
25 authorized by s. 775.082, s. 775.084, or the Criminal
26 Punishment Code under chapter 921, then the mandatory minimum
27 sentence must be imposed. If the mandatory minimum terms of
28 imprisonment pursuant to this section are less than the
29 sentences that could be imposed as authorized by s. 775.082,
30 s. 775.084, or the Criminal Punishment Code under chapter 921,
31 then the sentence imposed by the court must include the

1 mandatory minimum term of imprisonment as required in this
2 section.

3 (d) It is the intent of the Legislature that offenders
4 who possess, carry, display, use, threaten to use, or attempt
5 to use a semiautomatic firearm and its high-capacity
6 detachable box magazine or a machine gun as defined in s.
7 790.001 be punished to the fullest extent of the law, and the
8 minimum terms of imprisonment imposed pursuant to this
9 subsection shall be imposed for each qualifying felony count
10 for which the person is convicted. The court shall impose any
11 term of imprisonment provided for in this subsection
12 consecutively to any other term of imprisonment imposed for
13 any other felony offense.

14 (e)(b) As used in this subsection, the term:

15 1. "High-capacity detachable box magazine" means any
16 detachable box magazine, for use in a semiautomatic firearm,
17 which is capable of being loaded with more than 20 centerfire
18 cartridges.

19 2. "Semiautomatic firearm" means a firearm which is
20 capable of firing a series of rounds by separate successive
21 depressions of the trigger and which uses the energy of
22 discharge to perform a portion of the operating cycle.

23 Section 2. Legislative intent and policy; report.--

24 (1) It is the intent of the Legislature that convicted
25 criminal offenders who meet the criteria in s. 775.087(2) and
26 (3), Florida Statutes, be sentenced to the minimum mandatory
27 prison terms provided herein. For every case in which the
28 offender meets the criteria in this act and does not receive
29 the mandatory minimum prison sentence, the state attorney must
30 explain the sentencing deviation in writing and place such
31 explanation in the case file maintained by the state attorney.

1 On a quarterly basis, each state attorney shall submit copies
2 of deviation memoranda regarding offenses committed on or
3 after the effective date of this act to the President of the
4 Florida Prosecuting Attorneys Association, Inc. The
5 association must maintain such information and make such
6 information available to the public upon request for at least
7 a 10-year period.

8 (2) Effective July 1, 2000, each state attorney shall
9 annually report to the Speaker of the House, the President of
10 the Senate, and the Executive Office of the Governor regarding
11 the prosecution and sentencing of offenders who met the
12 criteria in s. 775.087(2)(a)3. and (3)(a)3., Florida Statutes.
13 The report shall include the number of charges received in
14 each circuit during the previous fiscal year by law
15 enforcement agencies which based a criminal charge on facts
16 demonstrating that the defendant met the criteria in s.
17 775.087(2)(a)3. and (3)(a)3., Florida Statutes, the case
18 number of the state attorney's office involving such criminal
19 charges, the final disposition, if any, of such cases, whether
20 the minimum mandatory prison terms authorized herein were
21 imposed in such cases, and a copy of each deviation memorandum
22 that state a written basis in those cases in which the state
23 attorney's office did not seek that the minimum mandatory
24 prison term be imposed. Cases in which a final disposition has
25 not yet been reached shall be reported in a subsequent annual
26 report. Copies of each report shall be maintained by the
27 Florida Prosecuting Attorneys Association or each elected
28 state attorney. By July 1, 2001, each elected state attorney
29 shall make each annual report available to the public on the
30 Internet.

31

1 (3) In every case in which a law enforcement agency
2 based a criminal charge on facts demonstrating that the
3 defendant met the criteria in s.775.087(2)(a)1., 2. and 3. or
4 s.775.087(3)(a)1., 2., and 3. and in which the defendant did
5 not receive the mandatory penalty, the state attorney must
6 place in the court file a memorandum explaining why the
7 minimum mandatory penalty was not imposed.

8 Section 3. For the purpose of incorporating the
9 amendment to section 775.087, Florida Statutes, in references
10 thereto, the following sections or subdivisions of Florida
11 Statutes, or Florida Statutes, 1998 Supplement, are reenacted
12 to read:

13 921.0022 Criminal Punishment Code; offense severity
14 ranking chart.--

15 (2) The offense severity ranking chart has 10 offense
16 levels, ranked from least severe, which are level 1 offenses,
17 to most severe, which are level 10 offenses, and each felony
18 offense is assigned to a level according to the severity of
19 the offense. For purposes of determining which felony offenses
20 are specifically listed in the offense severity ranking chart
21 and which severity level has been assigned to each of these
22 offenses, the numerical statutory references in the left
23 column of the chart and the felony degree designations in the
24 middle column of the chart are controlling; the language in
25 the right column of the chart is provided solely for
26 descriptive purposes. Reclassification of the degree of the
27 felony through the application of s. 775.0845, s. 775.087, s.
28 775.0875, s. 794.023, or any other law that provides an
29 enhanced penalty for a felony offense, to any offense listed
30 in the offense severity ranking chart in this section shall
31

1 not cause the offense to become unlisted and is not subject to
2 the provisions of s. 921.0023.

3 921.0024 Criminal Punishment Code; worksheet
4 computations; scoresheets.--

5 (1)

6
7 (b) WORKSHEET KEY:

8
9 Legal status points are assessed when any form of legal status
10 existed at the time the offender committed an offense before
11 the court for sentencing. Four (4) sentence points are
12 assessed for an offender's legal status.

13
14 Community sanction violation points are assessed when a
15 community sanction violation is before the court for
16 sentencing. Six (6) sentence points are assessed for each
17 community sanction violation, and each successive community
18 sanction violation; however, if the community sanction
19 violation includes a new felony conviction before the
20 sentencing court, twelve (12) community sanction violation
21 points are assessed for such violation, and for each
22 successive community sanction violation involving a new felony
23 conviction. Multiple counts of community sanction violations
24 before the sentencing court shall not be a basis for
25 multiplying the assessment of community sanction violation
26 points.

27
28 Prior serious felony points: If the offender has a primary
29 offense or any additional offense ranked in level 8, level 9,
30 or level 10, and one or more prior serious felonies, a single
31 assessment of 30 points shall be added. For purposes of this

1 section, a prior serious felony is an offense in the
2 offender's prior record that is ranked in level 8, level 9, or
3 level 10 under s. 921.0022 or s. 921.0023 and for which the
4 offender is serving a sentence of confinement, supervision, or
5 other sanction or for which the offender's date of release
6 from confinement, supervision, or other sanction, whichever is
7 later, is within 3 years before the date the primary offense
8 or any additional offense was committed.

9
10 Prior capital felony points: If the offender has one or more
11 prior capital felonies in the offender's criminal record,
12 points shall be added to the subtotal sentence points of the
13 offender equal to twice the number of points the offender
14 receives for the primary offense and any additional offense.
15 A prior capital felony in the offender's criminal record is a
16 previous capital felony offense for which the offender has
17 entered a plea of nolo contendere or guilty or has been found
18 guilty; or a felony in another jurisdiction which is a capital
19 felony in that jurisdiction, or would be a capital felony if
20 the offense were committed in this state.

21
22 Possession of a firearm, semiautomatic firearm, or machine
23 gun: If the offender is convicted of committing or attempting
24 to commit any felony other than those enumerated in s.
25 775.087(2) while having in his possession: a firearm as
26 defined in s. 790.001(6), an additional 18 sentence points are
27 assessed; or if the offender is convicted of committing or
28 attempting to commit any felony other than those enumerated in
29 s. 775.087(3) while having in his possession a semiautomatic
30 firearm as defined in s. 775.087(3) or a machine gun as

31

1 defined in s. 790.001(9), an additional 25 sentence points are
2 assessed.

3
4 Sentencing multipliers:

5
6 Drug trafficking: If the primary offense is drug trafficking
7 under s. 893.135, the subtotal sentence points are multiplied,
8 at the discretion of the court, for a level 7 or level 8
9 offense, by 1.5. The state attorney may move the sentencing
10 court to reduce or suspend the sentence of a person convicted
11 of a level 7 or level 8 offense, if the offender provides
12 substantial assistance as described in s. 893.135(4).

13
14 Law enforcement protection: If the primary offense is a
15 violation of the Law Enforcement Protection Act under s.
16 775.0823(2), the subtotal sentence points are multiplied by
17 2.5. If the primary offense is a violation of s. 775.0823(3),
18 (4), (5), (6), (7), or (8), the subtotal sentence points are
19 multiplied by 2.0. If the primary offense is a violation of s.
20 784.07(3) or s. 775.0875(1), or of the Law Enforcement
21 Protection Act under s. 775.0823(9) or (10), the subtotal
22 sentence points are multiplied by 1.5.

23
24 Grand theft of a motor vehicle: If the primary offense is
25 grand theft of the third degree involving a motor vehicle and
26 in the offender's prior record, there are three or more grand
27 thefts of the third degree involving a motor vehicle, the
28 subtotal sentence points are multiplied by 1.5.

29
30 Criminal street gang member: If the offender is convicted of
31 the primary offense and is found to have been a member of a

1 criminal street gang at the time of the commission of the
2 primary offense pursuant to s. 874.04, the subtotal sentence
3 points are multiplied by 1.5.

4
5 Domestic violence in the presence of a child: If the offender
6 is convicted of the primary offense and the primary offense is
7 a crime of domestic violence, as defined in s. 741.28, which
8 was committed in the presence of a child under 16 years of age
9 who is a family household member as defined in s. 741.28(2)
10 with the victim or perpetrator, the subtotal sentence points
11 are multiplied, at the discretion of the court, by 1.5.

12 947.146 Control Release Authority.--

13 (3) Within 120 days prior to the date the state
14 correctional system is projected pursuant to s. 216.136 to
15 exceed 99 percent of total capacity, the authority shall
16 determine eligibility for and establish a control release date
17 for an appropriate number of parole ineligible inmates
18 committed to the department and incarcerated within the state
19 who have been determined by the authority to be eligible for
20 discretionary early release pursuant to this section. In
21 establishing control release dates, it is the intent of the
22 Legislature that the authority prioritize consideration of
23 eligible inmates closest to their tentative release date. The
24 authority shall rely upon commitment data on the offender
25 information system maintained by the department to initially
26 identify inmates who are to be reviewed for control release
27 consideration. The authority may use a method of objective
28 risk assessment in determining if an eligible inmate should be
29 released. Such assessment shall be a part of the department's
30 management information system. However, the authority shall
31 have sole responsibility for determining control release

1 eligibility, establishing a control release date, and
2 effectuating the release of a sufficient number of inmates to
3 maintain the inmate population between 99 percent and 100
4 percent of total capacity. Inmates who are ineligible for
5 control release are inmates who are parole eligible or inmates
6 who:

7 (b) Are serving the mandatory minimum portion of a
8 sentence enhanced under s. 775.087(2) or (3), or s. 784.07(3);
9

10 In making control release eligibility determinations under
11 this subsection, the authority may rely on any document
12 leading to or generated during the course of the criminal
13 proceedings, including, but not limited to, any presentence or
14 postsentence investigation or any information contained in
15 arrest reports relating to circumstances of the offense.

16 Section 4. In order to inform the public and to deter
17 and prevent crime, the Office of the Governor shall place
18 public service announcements in areas having the highest
19 representation in the correctional system explaining the
20 penalties provided in this act.

21 Section 5. This act shall take effect July 1, 1999,
22 except that Section 4 shall take effect upon becoming a law.
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