

1
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 application of the
20 definition of the term "possession"; requiring
21 the state attorney to place in court files
22 certain memoranda; providing an exception;
23 authorizing the Department of Corrections to
24 expend funds for public service announcements;
25 providing for legislative policy and intent;
26 providing for a report; requiring the state
27 attorney to explain mandatory sentence
28 deviations in writing; requiring state
29 attorneys to submit such writings to its
30 association where it must remain available to
31 the public for at least 10 years; reenacting s.

1 921.0022(2), F.S., relating to the Criminal
2 Punishment Code offense severity ranking chart,
3 s. 921.0024(1)(b), F.S., relating to Florida
4 Criminal Punishment Code worksheet computations
5 and key, and s. 947.146(3)(b), F.S., relating
6 to Control Release Authority, to incorporate
7 said amendment in references; providing for
8 public service announcements with respect to
9 the penalties provided in the act; providing an
10 effective date.

11
12 WHEREAS, Florida ranks among the most violent states in
13 the nation, and

14 WHEREAS, in 1975 the Florida Legislature enacted
15 legislation requiring a minimum mandatory sentence of three
16 years in prison for possessing a gun during the commission or
17 attempted commission of a violent felony, and

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

21 WHEREAS, the FBI reports that among persons identified
22 in the felonious killings of law enforcement officers in 1997,
23 71% had prior criminal convictions, and one of every four were
24 on probation or parole for other crimes when they killed the
25 officers, and

26 WHEREAS, criminals who use guns during the commission
27 of violent crimes pose an increased danger to the lives,
28 health, and safety of Florida's citizens and to Florida's law
29 enforcement officers who daily put their lives on the line to
30 protect citizens from violent criminals, and

31

1 WHEREAS, the Legislature intends to hold criminals more
2 accountable for their crimes, and intends for criminals who
3 use guns to commit violent crimes to receive greater criminal
4 penalties than they do today, and

5 WHEREAS, the Legislature intends that when law
6 enforcement officers put themselves in harm's way to apprehend
7 and arrest these gun-wielding criminals who terrorize the
8 streets and neighborhoods of Florida, that these criminals be
9 sentenced to longer mandatory prison terms than provided in
10 current law, so that these offenders cannot again endanger law
11 enforcement officers and the public, and

12 WHEREAS, there is a critical need for effective
13 criminal justice measures that will ensure that violent
14 criminals are sentenced to prison terms that will effectively
15 incapacitate the offender, prevent future crimes, and reduce
16 violent crime rates, and

17 WHEREAS, it is the intent of the Legislature that
18 criminals who use guns to commit violent crimes be vigorously
19 prosecuted and that the state demand that minimum mandatory
20 terms of imprisonment be imposed pursuant to this act, NOW,
21 THEREFORE,

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Section 775.087, Florida Statutes, is
26 amended to read:

27 775.087 Possession or use of weapon; aggravated
28 battery; felony reclassification; minimum sentence.--

29 (1) Unless otherwise provided by law, whenever a
30 person is charged with a felony, except a felony in which the
31 use of a weapon or firearm is an essential element, and during

1 the commission of such felony the defendant carries, displays,
2 uses, threatens to use, or attempts to use any weapon or
3 firearm, or during the commission of such felony the defendant
4 commits an aggravated battery, the felony for which the person
5 is charged shall be reclassified as follows:

6 (a) In the case of a felony of the first degree, to a
7 life felony.

8 (b) In the case of a felony of the second degree, to a
9 felony of the first degree.

10 (c) In the case of a felony of the third degree, to a
11 felony of the second degree.

12

13 For purposes of sentencing under chapter 921 and determining
14 incentive gain-time eligibility under chapter 944, a felony
15 offense which is reclassified under this section is ranked one
16 level above the ranking under s. 921.0022 or s. 921.0023 of
17 the felony offense committed.

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

21 a.~~(a)~~ Murder;

22 b.~~(b)~~ Sexual battery;

23 c.~~(c)~~ Robbery;

24 d.~~(d)~~ Burglary;

25 e.~~(e)~~ Arson;

26 f.~~(f)~~ Aggravated assault;

27 g.~~(g)~~ Aggravated battery;

28 h.~~(h)~~ Kidnapping;

29 i.~~(i)~~ Escape;

30 j.~~(j)~~ Aircraft piracy;

31 k.~~(k)~~ Aggravated child abuse;

1 ~~l.(1)~~ Aggravated abuse of an elderly person or
2 disabled adult;
3 ~~m.(m)~~ Unlawful throwing, placing, or discharging of a
4 destructive device or bomb;
5 ~~n.(n)~~ Carjacking;
6 ~~o.(o)~~ Home-invasion robbery; ~~or~~
7 ~~p.(p)~~ Aggravated stalking;
8 ~~q.~~ Trafficking in cannabis, trafficking in cocaine,
9 capital importation of cocaine, trafficking in illegal drugs,
10 capital importation of illegal drugs, trafficking in
11 phencyclidine, capital importation of phencyclidine,
12 trafficking in methaqualone, capital importation of
13 methaqualone, trafficking in amphetamine, capital importation
14 of amphetamine, trafficking in flunitrazepam, or other
15 violation of s. 893.135(1); or
16 ~~r.~~ Possession of a firearm by a felon
17
18 and during the commission of the offense, such person actually
19 possessed a "firearm" or "destructive device" as those terms
20 are defined in s. 790.001, shall be sentenced to a minimum
21 term of imprisonment of 10 3 years, except that a person who
22 is convicted for aggravated assault, possession of a firearm
23 by a felon, or burglary of a conveyance shall be sentenced to
24 a minimum term of imprisonment of 3 years if such person
25 possessed a "firearm" or "destructive device" during the
26 commission of the offense.
27 2. 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 shall be
2 sentenced to a minimum term of imprisonment of 20 years.
3 3. Any person who is convicted of a felony or an
4 attempt to commit a felony listed in sub-subparagraphs
5 (a)1.a.-g., regardless of whether the use of a weapon is an
6 element of the felony, and during the course of the commission
7 of the felony such person discharged a "firearm" or
8 "destructive device" as defined in s. 790.001 and, as the
9 result of the discharge, death or great bodily harm was
10 inflicted upon any person, the convicted person shall be
11 sentenced to a minimum term of imprisonment of not less than
12 25 years and not more than a term of imprisonment of life in
13 prison.
14 (b) Subparagraph (a)1., subparagraph (a)2., or
15 subparagraph (a)3. does not prevent a court from imposing a
16 longer sentence of incarceration as authorized by law in
17 addition to the minimum mandatory sentence, or from imposing a
18 sentence of death pursuant to other applicable law.
19 Subparagraph (a)1., subparagraph (a)2., or subparagraph (a)3.
20 does not authorize a court to impose a lesser sentence than
21 otherwise required by law.
22
23 Notwithstanding s. 948.01, adjudication of guilt or imposition
24 of sentence shall not be suspended, deferred, or withheld, and
25 the defendant is not eligible for statutory gain-time under s.
26 944.275 or any form of discretionary early release, other than
27 pardon or executive clemency, or conditional medical release
28 under s. 947.149, prior to serving the minimum sentence.
29 (c) If the minimum mandatory terms of imprisonment
30 imposed pursuant to this section exceed the maximum sentences
31 authorized by s. 775.082, s. 775.084, or the Criminal

1 Punishment Code under chapter 921, then the mandatory minimum
2 sentence must be imposed. If the mandatory minimum terms of
3 imprisonment pursuant to this section are less than the
4 sentences that could be imposed as authorized by s. 775.082,
5 s. 775.084, or the Criminal Punishment Code under chapter 921,
6 then the sentence imposed by the court must include the
7 mandatory minimum term of imprisonment as required in this
8 section.

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

18 (3)(a)1. Any person who is convicted of a felony or an
19 attempt to commit a felony, regardless of whether the use of a
20 firearm is an element of the felony, and the conviction was
21 for:

22 a.1. Murder;

23 b.2. Sexual battery;

24 c.3. Robbery;

25 d.4. Burglary;

26 e.5. Arson;

27 f.6. Aggravated assault;

28 g.7. Aggravated battery;

29 h.8. Kidnapping;

30 i.9. Escape;

31

1 ~~j.10.~~ Sale, manufacture, delivery, or intent to sell,
2 manufacture, or deliver any controlled substance;

3 ~~k.11.~~ Aircraft piracy;

4 ~~l.12.~~ Aggravated child abuse;

5 ~~m.13.~~ Aggravated abuse of an elderly person or
6 disabled adult;

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

9 ~~o.15.~~ Carjacking;

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

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

12 r. Trafficking in cannabis, trafficking in cocaine,
13 capital importation of cocaine, trafficking in illegal drugs,
14 capital importation of illegal drugs, trafficking in
15 phencyclidine, capital importation of phencyclidine,
16 trafficking in methaqualone, capital importation of
17 methaqualone, trafficking in amphetamine, capital importation
18 of amphetamine, trafficking in flunitrazepam, or other
19 violation of s. 893.135(1);

20
21 and during the commission of the offense, such person
22 possessed a semiautomatic firearm and its high-capacity
23 detachable box magazine or a machine gun as defined in s.
24 790.001, shall be sentenced to a minimum term of imprisonment
25 of 15 * years.

26 2. Any person who is convicted of a felony or an
27 attempt to commit a felony listed in subparagraph (a)1.,
28 regardless of whether the use of a weapon is an element of the
29 felony, and during the course of the commission of the felony
30 such person discharged a semiautomatic firearm and its
31 high-capacity box magazine or a "machine gun" as defined in s.

1 790.001 shall be sentenced to a minimum term of imprisonment
2 of 20 years.

3 3. Any person who is convicted of a felony or an
4 attempt to commit a felony listed in subparagraphs (a)1.,
5 regardless of whether the use of a weapon is an element of the
6 felony, and during the course of the commission of the felony
7 such person discharged a semiautomatic firearm and its
8 high-capacity box magazine or a "machine gun" as defined in s.
9 790.001 and, as the result of the discharge, death or great
10 bodily harm was inflicted upon any person, the convicted
11 person shall be sentenced to a minimum term of imprisonment of
12 not less than 25 years and not more than a term of
13 imprisonment of life in prison.

14 (b) Subparagraph (a)1., subparagraph (a)2., or
15 subparagraph (a)3. does not prevent a court from imposing a
16 longer sentence of incarceration as authorized by law in
17 addition to the minimum mandatory sentence, or from imposing a
18 sentence of death pursuant to other applicable law.
19 Subparagraph (a)1., subparagraph (a)2., or subparagraph (a)3.
20 does not authorize a court to impose a lesser sentence than
21 otherwise required by law.

22
23 Notwithstanding s. 948.01, adjudication of guilt or imposition
24 of sentence shall not be suspended, deferred, or withheld, and
25 the defendant is not eligible for statutory gain-time under s.
26 944.275 or any form of discretionary early release, other than
27 pardon or executive clemency, or conditional medical release
28 under s. 947.149, prior to serving the minimum sentence.

29 (c) If the minimum mandatory terms of imprisonment
30 imposed pursuant to this section exceed the maximum sentences
31 authorized by s. 775.082, s. 775.084, or the Criminal

1 Punishment Code under chapter 921, then the mandatory minimum
2 sentence must be imposed. If the mandatory minimum terms of
3 imprisonment pursuant to this section are less than the
4 sentences that could be imposed as authorized by s. 775.082,
5 s. 775.084, or the Criminal Punishment Code under chapter 921,
6 then the sentence imposed by the court must include the
7 mandatory minimum term of imprisonment as required in this
8 section.

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

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

21 1. "High-capacity detachable box magazine" means any
22 detachable box magazine, for use in a semiautomatic firearm,
23 which is capable of being loaded with more than 20 centerfire
24 cartridges.

25 2. "Semiautomatic firearm" means a firearm which is
26 capable of firing a series of rounds by separate successive
27 depressions of the trigger and which uses the energy of
28 discharge to perform a portion of the operating cycle.

29 (4) For purposes of imposition of minimum mandatory
30 sentencing provisions of this section, with respect to a
31 firearm, the term "possession" is defined as carrying it on

1 the person. Possession may also be proven by demonstrating
2 that the defendant had the firearm within immediate physical
3 reach with ready access with the intent to use the firearm
4 during the commission of the offense, if proven beyond a
5 reasonable doubt.

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

13 (6) This section does not apply to law enforcement
14 officers or to United States Military personnel who are
15 performing their lawful duties or who are traveling to or from
16 their places of employment or assignment to perform their
17 lawful duties.

18 (7) The Department of Corrections may spend up to
19 \$500,000 from resources available from the department's
20 appropriation for the 1998-1999 fiscal year to provide public
21 service announcements to advertise the minimum mandatory
22 penalties provided in this section. Notwithstanding any
23 provision to the contrary, this subsection shall take effect
24 upon becoming law.

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

26 (1) It is the intent of the Legislature that convicted
27 criminal offenders who meet the criteria in s. 775.087(2) and
28 (3), Florida Statutes, be sentenced to the minimum mandatory
29 prison terms provided herein. It is the intent of the
30 Legislature to establish zero tolerance of criminals who use,
31 threaten to use, or avail themselves of firearms in order to

1 commit crimes and thereby demonstrate their lack of value for
2 human life. It is also the intent of the Legislature that
3 prosecutors should appropriately exercise their discretion in
4 those cases in which the offenders' possession of the firearm
5 is incidental to the commission of a crime and not used in
6 furtherance of the crime, used in order to commit the crime,
7 or used in preparation to commit the crime. For every case in
8 which the offender meets the criteria in this act and does not
9 receive the mandatory minimum prison sentence, the state
10 attorney must explain the sentencing deviation in writing and
11 place such explanation in the case file maintained by the
12 state attorney. On a quarterly basis, each state attorney
13 shall submit copies of deviation memoranda regarding offenses
14 committed on or after the effective date of this act to the
15 President of the Florida Prosecuting Attorneys Association,
16 Inc. The association must maintain such information and make
17 such information available to the public upon request for at
18 least a 10-year period.

19 (2) Effective July 1, 2000, each state attorney shall
20 annually report to the Speaker of the House of
21 Representatives, the President of the Senate, and the
22 Executive Office of the Governor regarding the prosecution and
23 sentencing of offenders who met the criteria in section
24 775.087(2) and (3), Florida Statutes. The report must
25 categorize the defendants by age, gender, race, and ethnicity.
26 Cases in which a final disposition has not yet been reached
27 shall be reported in a subsequent annual report.

28 Section 3. For the purpose of incorporating the
29 amendment to section 775.087, Florida Statutes, in references
30 thereto, the following sections or subdivisions of Florida
31

1 Statutes, or Florida Statutes, 1998 Supplement, are reenacted
2 to read:

3 921.0022 Criminal Punishment Code; offense severity
4 ranking chart.--

5 (2) The offense severity ranking chart has 10 offense
6 levels, ranked from least severe, which are level 1 offenses,
7 to most severe, which are level 10 offenses, and each felony
8 offense is assigned to a level according to the severity of
9 the offense. For purposes of determining which felony offenses
10 are specifically listed in the offense severity ranking chart
11 and which severity level has been assigned to each of these
12 offenses, the numerical statutory references in the left
13 column of the chart and the felony degree designations in the
14 middle column of the chart are controlling; the language in
15 the right column of the chart is provided solely for
16 descriptive purposes. Reclassification of the degree of the
17 felony through the application of s. 775.0845, s. 775.087, s.
18 775.0875, s. 794.023, or any other law that provides an
19 enhanced penalty for a felony offense, to any offense listed
20 in the offense severity ranking chart in this section shall
21 not cause the offense to become unlisted and is not subject to
22 the provisions of s. 921.0023.

23 921.0024 Criminal Punishment Code; worksheet
24 computations; scoresheets.--

25 (1)

26

27 (b) WORKSHEET KEY:

28

29 Legal status points are assessed when any form of legal status
30 existed at the time the offender committed an offense before

31

1 the court for sentencing. Four (4) sentence points are
2 assessed for an offender's legal status.

3
4 Community sanction violation points are assessed when a
5 community sanction violation is before the court for
6 sentencing. Six (6) sentence points are assessed for each
7 community sanction violation, and each successive community
8 sanction violation; however, if the community sanction
9 violation includes a new felony conviction before the
10 sentencing court, twelve (12) community sanction violation
11 points are assessed for such violation, and for each
12 successive community sanction violation involving a new felony
13 conviction. Multiple counts of community sanction violations
14 before the sentencing court shall not be a basis for
15 multiplying the assessment of community sanction violation
16 points.

17
18 Prior serious felony points: If the offender has a primary
19 offense or any additional offense ranked in level 8, level 9,
20 or level 10, and one or more prior serious felonies, a single
21 assessment of 30 points shall be added. For purposes of this
22 section, a prior serious felony is an offense in the
23 offender's prior record that is ranked in level 8, level 9, or
24 level 10 under s. 921.0022 or s. 921.0023 and for which the
25 offender is serving a sentence of confinement, supervision, or
26 other sanction or for which the offender's date of release
27 from confinement, supervision, or other sanction, whichever is
28 later, is within 3 years before the date the primary offense
29 or any additional offense was committed.

30
31

1 Prior capital felony points: If the offender has one or more
2 prior capital felonies in the offender's criminal record,
3 points shall be added to the subtotal sentence points of the
4 offender equal to twice the number of points the offender
5 receives for the primary offense and any additional offense.
6 A prior capital felony in the offender's criminal record is a
7 previous capital felony offense for which the offender has
8 entered a plea of nolo contendere or guilty or has been found
9 guilty; or a felony in another jurisdiction which is a capital
10 felony in that jurisdiction, or would be a capital felony if
11 the offense were committed in this state.

12

13 Possession of a firearm, semiautomatic firearm, or machine
14 gun: If the offender is convicted of committing or attempting
15 to commit any felony other than those enumerated in s.
16 775.087(2) while having in his possession: a firearm as
17 defined in s. 790.001(6), an additional 18 sentence points are
18 assessed; or if the offender is convicted of committing or
19 attempting to commit any felony other than those enumerated in
20 s. 775.087(3) while having in his possession a semiautomatic
21 firearm as defined in s. 775.087(3) or a machine gun as
22 defined in s. 790.001(9), an additional 25 sentence points are
23 assessed.

24

25 Sentencing multipliers:

26

27 Drug trafficking: If the primary offense is drug trafficking
28 under s. 893.135, the subtotal sentence points are multiplied,
29 at the discretion of the court, for a level 7 or level 8
30 offense, by 1.5. The state attorney may move the sentencing
31 court to reduce or suspend the sentence of a person convicted

1 of a level 7 or level 8 offense, if the offender provides
2 substantial assistance as described in s. 893.135(4).

3
4 Law enforcement protection: If the primary offense is a
5 violation of the Law Enforcement Protection Act under s.
6 775.0823(2), the subtotal sentence points are multiplied by
7 2.5. If the primary offense is a violation of s. 775.0823(3),
8 (4), (5), (6), (7), or (8), the subtotal sentence points are
9 multiplied by 2.0. If the primary offense is a violation of s.
10 784.07(3) or s. 775.0875(1), or of the Law Enforcement
11 Protection Act under s. 775.0823(9) or (10), the subtotal
12 sentence points are multiplied by 1.5.

13
14 Grand theft of a motor vehicle: If the primary offense is
15 grand theft of the third degree involving a motor vehicle and
16 in the offender's prior record, there are three or more grand
17 thefts of the third degree involving a motor vehicle, the
18 subtotal sentence points are multiplied by 1.5.

19
20 Criminal street gang member: If the offender is convicted of
21 the primary offense and is found to have been a member of a
22 criminal street gang at the time of the commission of the
23 primary offense pursuant to s. 874.04, the subtotal sentence
24 points are multiplied by 1.5.

25
26 Domestic violence in the presence of a child: If the offender
27 is convicted of the primary offense and the primary offense is
28 a crime of domestic violence, as defined in s. 741.28, which
29 was committed in the presence of a child under 16 years of age
30 who is a family household member as defined in s. 741.28(2)

31

1 with the victim or perpetrator, the subtotal sentence points
2 are multiplied, at the discretion of the court, by 1.5.

3 947.146 Control Release Authority.--

4 (3) Within 120 days prior to the date the state
5 correctional system is projected pursuant to s. 216.136 to
6 exceed 99 percent of total capacity, the authority shall
7 determine eligibility for and establish a control release date
8 for an appropriate number of parole ineligible inmates
9 committed to the department and incarcerated within the state
10 who have been determined by the authority to be eligible for
11 discretionary early release pursuant to this section. In
12 establishing control release dates, it is the intent of the
13 Legislature that the authority prioritize consideration of
14 eligible inmates closest to their tentative release date. The
15 authority shall rely upon commitment data on the offender
16 information system maintained by the department to initially
17 identify inmates who are to be reviewed for control release
18 consideration. The authority may use a method of objective
19 risk assessment in determining if an eligible inmate should be
20 released. Such assessment shall be a part of the department's
21 management information system. However, the authority shall
22 have sole responsibility for determining control release
23 eligibility, establishing a control release date, and
24 effectuating the release of a sufficient number of inmates to
25 maintain the inmate population between 99 percent and 100
26 percent of total capacity. Inmates who are ineligible for
27 control release are inmates who are parole eligible or inmates
28 who:

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

31

1 In making control release eligibility determinations under
2 this subsection, the authority may rely on any document
3 leading to or generated during the course of the criminal
4 proceedings, including, but not limited to, any presentence or
5 postsentence investigation or any information contained in
6 arrest reports relating to circumstances of the offense.

7 Section 4. In order to inform the public and to deter
8 and prevent crime, the Office of the Governor shall place
9 public service announcements in areas having the highest
10 representation in the correctional system explaining the
11 penalties provided in this act. In addition, the Office of
12 the Governor shall place public service announcements directed
13 to areas of the state which have the highest rate of
14 firearms-related offenses to maximize the preventative aspects
15 of advertising the penalties imposed by this act.

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