

By Representative Kelly

1 A bill to be entitled
2 An act relating to home-invasion robbery;
3 amending s. 812.135, F.S.; providing additional
4 offense classifications and revising the
5 penalties for home-invasion robbery; providing
6 that it is a life felony to commit a
7 home-invasion robbery in the course of which a
8 firearm or other deadly weapon is carried;
9 providing that it is a first degree felony
10 punishable for a term of imprisonment not
11 exceeding life to commit a home-invasion
12 robbery in the course of which a weapon is
13 carried; providing that it is a first degree
14 felony to commit a home-invasion robbery in the
15 course of which no firearm, deadly weapon, or
16 other weapon is carried; providing penalties;
17 specifying a minimum term of imprisonment;
18 amending s. 775.087, F.S., to conform;
19 reenacting s. 943.325(1)(a), F.S., relating to
20 blood specimen testing for DNA analysis, to
21 incorporate said amendment in a reference;
22 amending s. 921.0022, F.S., relating to the
23 Criminal Punishment Code offense severity
24 ranking chart, to conform; providing an
25 effective date.

26

27 Be It Enacted by the Legislature of the State of Florida:

28

29 Section 1. Section 812.135, Florida Statutes, is
30 amended to read:

31 812.135 Home-invasion robbery.--

1 (1) "Home-invasion robbery" means any robbery that
2 occurs when the offender enters a dwelling with the intent to
3 commit a robbery, and does commit a robbery of the occupants
4 therein.

5 (2)(a) If in the course of committing the
6 home-invasion robbery the person carried a firearm or other
7 deadly weapon, the person commits a life felony, punishable as
8 provided in s. 775.082, s. 775.083, or s. 775.084.

9 (b) If in the course of committing the home-invasion
10 robbery the person carried a weapon, the person commits a
11 felony of the first degree, punishable by imprisonment for a
12 term of years not exceeding life imprisonment or as provided
13 in s. 775.082, s. 775.083, or s. 775.084.

14 (c) If in the course of committing the home-invasion
15 robbery the person carried no firearm, deadly weapon, or other
16 weapon, the person commits a felony of the first degree,
17 punishable as provided in s. 775.082, s. 775.083, or s.
18 775.084

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20 The minimum term of imprisonment for any conviction of
21 home-invasion robbery shall be 10 years.~~A person who commits~~
22 ~~a home-invasion robbery is guilty of a felony of the first~~
23 ~~degree, punishable as provided in s. 775.082, s. 775.083, or~~
24 ~~s. 775.084.~~

25 Section 2. Paragraphs (n), (o), and (p) of subsection
26 (2) and paragraph (a) of subsection (3) of section 775.087,
27 Florida Statutes, are amended to read:

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

30 (2) Any person who is convicted of a felony or an
31 attempt to commit a felony and the conviction was for:

- 1 (n) Carjacking; or
2 ~~(o) Home invasion robbery; or~~
3 (o)~~(p)~~ Aggravated stalking
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5 and during the commission of the offense, such person
6 possessed a "firearm" or "destructive device" as those terms
7 are defined in s. 790.001, shall be sentenced to a minimum
8 term of imprisonment of 3 years. Notwithstanding s. 948.01,
9 adjudication of guilt or imposition of sentence shall not be
10 suspended, deferred, or withheld, and the defendant is not
11 eligible for statutory gain-time under s. 944.275 or any form
12 of discretionary early release, other than pardon or executive
13 clemency, or conditional medical release under s. 947.149,
14 prior to serving the minimum sentence.

15 (3)(a) Any person who is convicted of a felony or an
16 attempt to commit a felony and the conviction was for:

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

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

3 15. Carjacking; or

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

5 16.17. Aggravated stalking
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7 and during the commission of the offense, such person
8 possessed a semiautomatic firearm and its high-capacity
9 detachable box magazine or a machine gun as defined in s.
10 790.001, shall be sentenced to a minimum term of imprisonment
11 of 8 years. Notwithstanding s. 948.01, adjudication of guilt
12 or imposition of sentence shall not be suspended, deferred, or
13 withheld, and the defendant is not eligible for statutory
14 gain-time under s. 944.275 or any form of discretionary early
15 release, other than pardon or executive clemency, or
16 conditional medical release under s. 947.149, prior to serving
17 the minimum sentence.

18 Section 3. For the purpose of incorporating the
19 amendment to section 812.135, Florida Statutes, in a reference
20 thereto, paragraph (a) of subsection (1) of section 943.325,
21 Florida Statutes, 1998 Supplement, is reenacted to read:

22 943.325 Blood specimen testing for DNA analysis.--

23 (1)(a) Any person convicted, or who was previously
24 convicted and is still incarcerated, in this state for any
25 offense or attempted offense defined in chapter 794, chapter
26 800, s. 782.04, s. 784.045, s. 812.133, or s. 812.135, and who
27 is within the confines of the legal state boundaries, shall be
28 required to submit two specimens of blood to a Department of
29 Law Enforcement designated testing facility as directed by the
30 department.
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1 Section 4. Paragraph (h) of subsection (3) of section
2 921.0022, Florida Statutes, 1998 Supplement, is amended to
3 read:

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

6 (3) OFFENSE SEVERITY RANKING CHART

7	8 Florida	9 Felony	
10	11 Statute	12 Degree	13 Description
14			15 (h) LEVEL 8
16	17 316.193		
18	19 (3)(c)3.a.	20 2nd	21 DUI manslaughter.
22	23 327.35(3)(c)3.	24 2nd	25 Vessel BUI manslaughter.
26	27 777.03(2)(a)	28 1st	29 Accessory after the fact, capital 30 felony.
31	782.04(4)	2nd	Killing of human without design when engaged in act or attempt of any felony other than arson, sexual battery, robbery, burglary, kidnapping, aircraft piracy, or unlawfully discharging bomb.
	782.051(2)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony not enumerated in s. 782.04(3).
	782.071(2)	2nd	Committing vehicular homicide and failing to render aid or give information.

1	782.072(2)	2nd	Committing vessel homicide and
2			failing to render aid or give
3			information.
4	790.161(3)	1st	Discharging a destructive device
5			which results in bodily harm or
6			property damage.
7	794.011(5)	2nd	Sexual battery, victim 12 years
8			or over, offender does not use
9			physical force likely to cause
10			serious injury.
11	806.01(1)	1st	Maliciously damage dwelling or
12			structure by fire or explosive,
13			believing person in structure.
14	810.02(2)(a)	1st,PBL	Burglary with assault or battery.
15	810.02(2)(b)	1st,PBL	Burglary; armed with explosives
16			or dangerous weapon.
17	810.02(2)(c)	1st	Burglary of a dwelling or
18			structure causing structural
19			damage or \$1,000 or more property
20			damage.
21	812.13(2)(b)	1st	Robbery with a weapon.
22	812.135(2)(c)	1st	Home-invasion robbery, <u>no</u>
23			<u>firearm, deadly weapon, or other</u>
24			<u>weapon.</u>
25	825.102(2)	2nd	Aggravated abuse of an elderly
26			person or disabled adult.
27	825.103(2)(a)	1st	Exploiting an elderly person or
28			disabled adult and property is
29			valued at \$100,000 or more.
30	827.03(2)	2nd	Aggravated child abuse.
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1	837.02(2)	2nd	Perjury in official proceedings
2			relating to prosecution of a
3			capital felony.
4	837.021(2)	2nd	Making contradictory statements
5			in official proceedings relating
6			to prosecution of a capital
7			felony.
8	860.121(2)(c)	1st	Shooting at or throwing any
9			object in path of railroad
10			vehicle resulting in great bodily
11			harm.
12	860.16	1st	Aircraft piracy.
13	893.13(1)(b)	1st	Sell or deliver in excess of 10
14			grams of any substance specified
15			in s. 893.03(1)(a) or (b).
16	893.13(2)(b)	1st	Purchase in excess of 10 grams of
17			any substance specified in s.
18			893.03(1)(a) or (b).
19	893.13(6)(c)	1st	Possess in excess of 10 grams of
20			any substance specified in s.
21			893.03(1)(a) or (b).
22	893.135(1)(a)2.	1st	Trafficking in cannabis, more
23			than 2,000 lbs., less than 10,000
24			lbs.
25	893.135		
26	(1)(b)1.b.	1st	Trafficking in cocaine, more than
27			200 grams, less than 400 grams.
28	893.135		
29	(1)(c)1.b.	1st	Trafficking in illegal drugs,
30			more than 14 grams, less than 28
31			grams.

1	893.135		
2	(1)(d)1.b.	1st	Trafficking in phencyclidine,
3			more than 200 grams, less than
4			400 grams.
5	893.135		
6	(1)(e)1.b.	1st	Trafficking in methaqualone, more
7			than 5 kilograms, less than 25
8			kilograms.
9	893.135		
10	(1)(f)1.b.	1st	Trafficking in amphetamine, more
11			than 28 grams, less than 200
12			grams.
13	893.135		
14	(1)(g)1.b.	1st	Trafficking in flunitrazepam, 14
15			grams or more, less than 28
16			grams.
17	895.03(1)	1st	Use or invest proceeds derived
18			from pattern of racketeering
19			activity.
20	895.03(2)	1st	Acquire or maintain through
21			racketeering activity any
22			interest in or control of any
23			enterprise or real property.
24	895.03(3)	1st	Conduct or participate in any
25			enterprise through pattern of
26			racketeering activity.
27	Section 5.		This act shall take effect October 1, 1999.
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HOUSE SUMMARY

Provides additional offense classifications and revises the penalties for home-invasion robbery. Provides that it is a life felony to commit a home-invasion robbery in the course of which a firearm or other deadly weapon is carried. Provides that it is a first degree felony punishable for a term of imprisonment not exceeding life to commit a home-invasion robbery in the course of which a weapon is carried. Provides that it is a first degree felony to commit a home-invasion robbery in the course of which no firearm, deadly weapon, or other weapon is carried. Provides penalties. Specifies a minimum 10-year term of imprisonment for conviction of home-invasion robbery. Revises the Criminal Punishment Code offense severity ranking chart, to conform.