

By the Council for Healthy Communities and Representatives
Fasano and Justice

1 A bill to be entitled
2 An act relating to sentencing; reenacting
3 sections 5 and 12 of chapter 99-188, Laws of
4 Florida; amending s. 784.08, F.S.; providing
5 minimum terms of imprisonment for persons
6 convicted of aggravated assault or aggravated
7 battery of a person 65 years of age or older;
8 requiring the Governor to place public service
9 announcements explaining the provisions of this
10 act; providing for retroactive application of
11 the reenacted provisions; providing an
12 effective date.

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14 WHEREAS, in 1999 the Legislature adopted chapter
15 99-188, Laws of Florida, with the primary motivation of
16 reducing crime in this state and to protect the public from
17 violent criminals through the adoption of enhanced and
18 mandatory sentences for violent and repeat offenders, for
19 persons involved in drug-related crimes, committing aggravated
20 battery or aggravated assault on law enforcement personnel or
21 the elderly, and for persons committing criminal acts while in
22 prison or while having escaped from prison, and

23 WHEREAS, a three-judge panel of the District Court of
24 Appeal of Florida, Second District, has issued a nonfinal
25 opinion declaring chapter 99-188, Laws of Florida,
26 unconstitutional as a violation of the requirement in Section
27 6, Article III of the Florida Constitution that "every law
28 shall embrace but one subject and matter properly connected
29 therewith. . .", finding that the addition of two minor
30 provisions relating to burglary of railroad vehicles and the
31 provision of sentencing documents relative to aliens to the

1 Immigration and Naturalization Service were not matters
2 properly connected with the subject of the 1999 act, which was
3 "sentencing," and

4 WHEREAS, the nonfinal ruling on this matter was issued
5 while the Legislature was in session, and

6 WHEREAS, the Attorney General, on behalf of the people
7 of the State of Florida, has indicated a determination to seek
8 rehearing, en banc, of this matter, and

9 WHEREAS, a final opinion by the District Court of
10 Appeal of Florida, Second District, declaring chapter 99-188,
11 Laws of Florida, to have been in violation of Section 6,
12 Article III of the Florida Constitution would be subject to
13 appeal by the state to the Florida Supreme Court, and

14 WHEREAS, in its nonfinal ruling, the panel of the
15 District Court of Appeal of Florida, Second District, has
16 certified its decision as passing on two questions of great
17 public importance with respect to chapter 99-188, Laws of
18 Florida, further invoking the jurisdiction of the Florida
19 Supreme Court, and

20 WHEREAS, the final resolution as to the
21 constitutionality of chapter 99-188, Laws of Florida, remains
22 uncertain, and is unlikely to be finally determined by the
23 judicial system, while the 2002 legislative session is in
24 progress, and

25 WHEREAS, the legislative action to correct the effect
26 of this ruling forthwith is essential to public safety and
27 cannot await a final resolution by the District Court of
28 Appeal and the Florida Supreme Court, and

29 WHEREAS, the Legislature, only out of an abundance of
30 caution due to tentative posture of the law while it awaits
31 final resolution by the District Court of Appeal and the

1 Florida Supreme Court, has prepared five separate bills to
2 reenact selected provisions of chapter 99-188, Laws of
3 Florida, all of which relate to the single general issue of
4 sentencing in criminal cases, and

5 WHEREAS, the Legislature does not intend the division
6 of these bills relating to sentencing as any kind of
7 legislative acknowledgement that said bills could not or
8 should not be joined together in a single bill in full
9 compliance with Section 6, Article III of the Florida
10 Constitution, NOW THEREFORE,

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

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14 Section 1. Sections 5 and 12 of chapter 99-188, Laws
15 of Florida, are reenacted to read:

16 Section 5. Subsection (1) of section 784.08, Florida
17 Statutes, is amended to read:

18 784.08 Assault or battery on persons 65 years of age
19 or older; reclassification of offenses; minimum sentence.--

20 (1) A person who is convicted of an aggravated assault
21 or aggravated battery upon a person 65 years of age or older
22 shall be sentenced to a minimum term of imprisonment of 3
23 years ~~pursuant to the Criminal Punishment Code~~ and fined not
24 more than \$10,000 and shall also be ordered by the sentencing
25 judge to make restitution to the victim of such offense and to
26 perform up to 500 hours of community service work.
27 Restitution and community service work shall be in addition to
28 any fine or sentence which may be imposed and shall not be in
29 lieu thereof.

30 Section 12. In order to inform the public and to deter
31 and prevent crime in the state, the Executive Office of the

1 Governor shall place public service announcements in visible
2 local media throughout the state explaining the penalties
3 provided in this act.

4 Section 2. The provisions reenacted by this act shall
5 be applied retroactively to July 1, 1999, or as soon
6 thereafter as the Constitution of the State of Florida and the
7 Constitution of the United States may permit.

8 Section 3. This act shall take effect upon becoming a
9 law.

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11 HOUSE SUMMARY

12 Reenacts provisions of chapter 99-188, Laws of Florida,
13 which provide for minimum mandatory terms of imprisonment
14 for aggravated assault or aggravated battery against an
15 elderly person.

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