

By the Council for Healthy Communities and Representatives
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1 A bill to be entitled
2 An act relating to sentencing; reenacting
3 sections 4 and 12 of chapter 99-188, Laws of
4 Florida; amending s. 784.07, F.S.; providing
5 minimum terms of imprisonment for persons
6 convicted of aggravated assault or aggravated
7 battery of a law enforcement officer; requiring
8 the Governor to place public service
9 announcements explaining the provisions of this
10 act; provides for retroactive application of
11 the reenacted provisions; further amending s.
12 784.07, F.S., to incorporate amendments
13 contained in chapters 99-3 and 99-248, Laws of
14 Florida, to correct a cross reference;
15 providing an effective date.

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

26 WHEREAS, a three-judge panel of the District Court of
27 Appeal of Florida, Second District, has issued a nonfinal
28 opinion declaring chapter 99-188, Laws of Florida,
29 unconstitutional as a violation of the requirement in Section
30 6, Article III of the Florida Constitution that "every law
31 shall embrace but one subject and matter properly connected

1 therewith. . .", finding that the addition of two minor
2 provisions relating to burglary of railroad vehicles and the
3 provision of sentencing documents relative to aliens to the
4 Immigration and Naturalization Service were not matters
5 properly connected with the subject of the 1999 act, which was
6 "sentencing," and

7 WHEREAS, the nonfinal ruling on this matter was issued
8 while the Legislature was in session, and

9 WHEREAS, the Attorney General, on behalf of the people
10 of the State of Florida, has indicated a determination to seek
11 rehearing, en banc, of this matter, and

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

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

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

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

1 WHEREAS, the Legislature, only out of an abundance of
2 caution due to tentative posture of the law while it awaits
3 final resolution by the District Court of Appeal and the
4 Florida Supreme Court, has prepared five separate bills to
5 reenact selected provisions of chapter 99-188, Laws of
6 Florida, all of which relate to the single general issue of
7 sentencing in criminal cases, and

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

14
15 Be It Enacted by the Legislature of the State of Florida:

16
17 Section 1. Sections 4 and 12 of chapter 99-188, Laws
18 of Florida, are reenacted to read:

19 Section 4. Paragraphs (c) and (d) of subsection (2) of
20 section 784.07, Florida Statutes, 1998 Supplement, are amended
21 to read:

22 784.07 Assault or battery of law enforcement officers,
23 firefighters, emergency medical care providers, public transit
24 employees or agents, or other specified officers;
25 reclassification of offenses; minimum sentences.--

26 (2) Whenever any person is charged with knowingly
27 committing an assault or battery upon a law enforcement
28 officer, a firefighter, an emergency medical care provider, a
29 traffic accident investigation officer as described in s.
30 316.640, a traffic infraction enforcement officer as described
31 in s. 318.141, a parking enforcement specialist as defined in

1 s. 316.640, or a security officer employed by the board of
2 trustees of a community college, while the officer,
3 firefighter, emergency medical care provider, intake officer,
4 traffic accident investigation officer, traffic infraction
5 enforcement officer, parking enforcement specialist, public
6 transit employee or agent, or security officer is engaged in
7 the lawful performance of his or her duties, the offense for
8 which the person is charged shall be reclassified as follows:

9 (c) In the case of aggravated assault, from a felony
10 of the third degree to a felony of the second degree.

11 Notwithstanding any other provision of law, any person
12 convicted of aggravated assault upon a law enforcement officer
13 shall be sentenced to a minimum term of imprisonment of 3
14 years.

15 (d) In the case of aggravated battery, from a felony
16 of the second degree to a felony of the first degree.

17 Notwithstanding any other provision of law, any person
18 convicted of aggravated battery of a law enforcement officer
19 shall be sentenced to a minimum term of imprisonment of 5
20 years.

21 Section 12. In order to inform the public and to deter
22 and prevent crime in the state, the Executive Office of the
23 Governor shall place public service announcements in visible
24 local media throughout the state explaining the penalties
25 provided in this act.

26 Section 2. Subsection (2) of section 784.07, Florida
27 Statutes, as amended by section 4 of chapter 99-188, Laws of
28 Florida, and as reenacted by section 1 of this act, is further
29 amended to read:

30 784.07 Assault or battery of law enforcement officers,
31 firefighters, emergency medical care providers, public transit

1 employees or agents, or other specified officers;
2 reclassification of offenses; minimum sentences.--
3 (2) Whenever any person is charged with knowingly
4 committing an assault or battery upon a law enforcement
5 officer, a firefighter, an emergency medical care provider, a
6 traffic accident investigation officer as described in s.
7 316.640, a traffic infraction enforcement officer as described
8 in s. 316.640 ~~s. 318.141~~, a parking enforcement specialist as
9 defined in s. 316.640, or a security officer employed by the
10 board of trustees of a community college, while the officer,
11 firefighter, emergency medical care provider, intake officer,
12 traffic accident investigation officer, traffic infraction
13 enforcement officer, parking enforcement specialist, public
14 transit employee or agent, or security officer is engaged in
15 the lawful performance of his or her duties, the offense for
16 which the person is charged shall be reclassified as follows:
17 (a) In the case of assault, from a misdemeanor of the
18 second degree to a misdemeanor of the first degree.
19 (b) In the case of battery, from a misdemeanor of the
20 first degree to a felony of the third degree.
21 (c) In the case of aggravated assault, from a felony
22 of the third degree to a felony of the second degree.
23 Notwithstanding any other provision of law, any person
24 convicted of aggravated assault upon a law enforcement officer
25 shall be sentenced to a minimum term of imprisonment of 3
26 years.
27 (d) In the case of aggravated battery, from a felony
28 of the second degree to a felony of the first degree.
29 Notwithstanding any other provision of law, any person
30 convicted of aggravated battery of a law enforcement officer
31

