

By Senators Crist, Smith, Burt, Cowin, Silver, Villalobos, Futch, Posey, Campbell, Brown-Waite, Sebesta, Sanderson, Sullivan, Garcia, Latvala, Pruitt and Lee

13-1770-02

See HB

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

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

WHEREAS, a three-judge panel of the District Court of Appeal of Florida, Second District, has issued a nonfinal opinion declaring chapter 99-188, Laws of Florida, unconstitutional as a violation of the requirement in Section 6, Article III of the Florida Constitution that "every law 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 the bills could not or should  
11 not be joined together in a single bill in full compliance  
12 with Section 6, Article III of the Florida Constitution, NOW  
13 THEREFORE,

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

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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  
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1 shall be sentenced to a minimum term of imprisonment of 5  
2 years.

3 Section 3. The provisions reenacted by this act shall  
4 be applied retroactively to July 1, 1999, or as soon  
5 thereafter as the Constitution of the State of Florida and the  
6 Constitution of the United States may permit.

7 Section 4. This act shall take effect upon becoming a  
8 law.

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LEGISLATIVE SUMMARY

Reenacts provisions of chapter 99-188, Laws of Florida,  
which provide for minimum mandatory terms of imprisonment  
for aggravated assault or aggravated battery against a  
law enforcement officer.