

HB 0761

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A bill to be entitled

An act relating to possession of firearms, electric weapons or devices, or concealed weapons by persons found to have committed certain delinquent acts; amending s. 790.23, F.S.; prohibiting persons found to have committed certain delinquent acts involving firearms, electric weapons or devices, or destructive devices from possessing firearms, electric weapons or devices, or concealed weapons; providing criminal penalties; amending s. 790.06, F.S.; revising cross references specifying circumstances relating to issuance and revocation of license to carry concealed weapon or firearm, to conform; amending s. 790.065, F.S.; revising a cross reference specifying circumstances relating to the sale and delivery of firearms, to conform; amending s. 943.0515, F.S.; expanding the circumstances in which the criminal history records of certain minors must be retained as part of the adult record; reenacting ss. 790.01(5) and 921.0022(3)(e), F.S., relating to the use of an electric weapon or device or remote stun gun or self-defense chemical spray during the commission of any criminal offense and to the offense severity ranking chart, respectively, to incorporate the amendment to s. 790.23, F.S., in references thereto; providing an effective date.

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

Section 1. Section 790.23, Florida Statutes, is amended to read:

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30 790.23 Felons and delinquents; possession of firearms or
 31 electric weapons or devices unlawful.--

32 (1) It is unlawful for any person to own or to have in his
 33 or her care, custody, possession, or control any firearm or
 34 electric weapon or device, or to carry a concealed weapon,
 35 including a tear gas gun or chemical weapon or device, if that
 36 person has been:

37 (a) Convicted of a felony in the courts of this state;

38 (b) Found, in the courts of this state, to have committed
 39 a delinquent act that would be a felony if committed by an
 40 adult. However, the prohibition created by this paragraph shall
 41 only extend until and such person is under 24 years of age,
 42 unless the delinquent act involved the use of a firearm, an
 43 electric weapon or device, or a destructive device;-

44 (c) Convicted of or found to have committed a crime
 45 against the United States which is designated as a felony;

46 (d) Found to have committed a delinquent act in another
 47 state, territory, or country that would be a felony if committed
 48 by an adult and which was punishable by imprisonment for a term
 49 exceeding 1 year. However, the prohibition created by this
 50 paragraph shall only extend until and such person is under 24
 51 years of age, unless the delinquent act involved the use of a
 52 firearm, an electric weapon or device, or a destructive device;

53 or

54 (e) Found guilty of an offense that is a felony in another
 55 state, territory, or country and which was punishable by
 56 imprisonment for a term exceeding 1 year.

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57 (2) This section shall not apply to a person convicted of
 58 a felony whose civil rights and firearm authority have been
 59 restored.

60 (3) Any person who violates this section commits a felony
 61 of the second degree, punishable as provided in s. 775.082, s.
 62 775.083, or s. 775.084.

63 Section 2. Paragraph (d) of subsection (2) and paragraph
 64 (c) of subsection (10) of section 790.06, Florida Statutes, are
 65 amended to read:

66 790.06 License to carry concealed weapon or firearm.--

67 (2) The Department of Agriculture and Consumer Services
 68 shall issue a license if the applicant:

69 (d) Is not ineligible to possess a firearm pursuant to s.
 70 790.23 ~~by virtue of having been convicted of a felony;~~

71 (10) A license issued under this section shall be
 72 suspended or revoked pursuant to chapter 120 if the licensee:

73 (c) ~~Is convicted of a felony which would make the licensee~~
 74 ineligible to possess a firearm pursuant to s. 790.23;

75 Section 3. Paragraph (a) of subsection (2) of section
 76 790.065, Florida Statutes, is amended to read:

77 790.065 Sale and delivery of firearms.--

78 (2) Upon receipt of a request for a criminal history
 79 record check, the Department of Law Enforcement shall, during
 80 the licensee's call or by return call, forthwith:

81 (a) Review criminal history records to determine if the
 82 potential buyer or transferee:

83 1. ~~Has been convicted of a felony and~~ Is prohibited from
 84 receipt or possession of a firearm pursuant to s. 790.23;

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85 2. Has been convicted of a misdemeanor crime of domestic
86 violence, and therefore is prohibited from purchasing a firearm;
87 or

88 3. Has had adjudication of guilt withheld or imposition of
89 sentence suspended on any felony or misdemeanor crime of
90 domestic violence unless 3 years have elapsed since probation or
91 any other conditions set by the court have been fulfilled or
92 expunction has occurred.

93 Section 4. Paragraph (a) of subsection (1) and subsection
94 (2) of section 943.0515, Florida Statutes, are amended to read:

95 943.0515 Retention of criminal history records of
96 minors.--

97 (1)(a) The Criminal Justice Information Program shall
98 retain the criminal history record of a minor who is classified
99 as a serious or habitual juvenile offender or committed to a
100 juvenile correctional facility or juvenile prison under chapter
101 985 for 5 years after the date the offender reaches 21 years of
102 age, at which time the record shall be expunged unless any of it
103 ~~meets~~ the criteria specified in subsection (2) applies of
104 ~~paragraph (2)(a) or paragraph (2)(b).~~

105 (2)(a) If a person 18 years of age or older is charged
106 with or convicted of a forcible felony and the person's criminal
107 history record as a minor has not yet been destroyed, the
108 person's record as a minor must be merged with the person's
109 adult criminal history record and must be retained as a part of
110 the person's adult record.

111 (b) If, at any time, a minor is adjudicated as an adult
112 for a forcible felony, the minor's criminal history record prior

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113 to the time of the minor's adjudication as an adult must be
 114 merged with his or her record as an adjudicated adult.

115 (c) If a minor is found to have committed a delinquent act
 116 that would be a felony if committed by an adult and such act
 117 involved the use of a firearm, an electric weapon or device, or
 118 a destructive device, the minor's criminal history record for
 119 such act must be retained as part of his or her adult record.

120 Section 5. For the purpose of incorporating the amendment
 121 to section 790.23, Florida Statutes, in a reference thereto,
 122 subsection (5) of section 790.01, Florida Statutes, is reenacted
 123 to read:

124 790.01 Carrying concealed weapons.--

125 (5) This section does not preclude any prosecution for the
 126 use of an electric weapon or device or remote stun gun or self-
 127 defense chemical spray during the commission of any criminal
 128 offense under s. 790.07, s. 790.10, s. 790.23, or s. 790.235, or
 129 for any other criminal offense.

130 Section 6. For the purpose of incorporating the amendment
 131 to section 790.23, Florida Statutes, in a reference thereto,
 132 paragraph (e) of subsection (3) of section 921.0022, Florida
 133 Statutes, is reenacted to read:

134 921.0022 Criminal Punishment Code; offense severity
 135 ranking chart.--

136 (3) OFFENSE SEVERITY RANKING CHART

Florida	Felony	
Statute	Degree	Description

137 (e) LEVEL 5

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139	316.027(1)(a)	3rd	Accidents involving personal injuries, failure to stop; leaving scene.
140	316.1935(4)	2nd	Aggravated fleeing or eluding.
141	322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
142	327.30(5)	3rd	Vessel accidents involving personal injury; leaving scene.
143	381.0041(11)(b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
144	440.10(1)(g)	2nd	Failure to obtain workers' compensation coverage.
145	440.105(5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
146	440.381(2)	2nd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
147	624.401(4)(b)2.	2nd	Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.
	626.902(1)(c)	2nd	Representing an unauthorized insurer;

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repeat offender.

148	790.01(2)	3rd	Carrying a concealed firearm.
149	790.162	2nd	Threat to throw or discharge destructive device.
150	790.163(1)	2nd	False report of deadly explosive or weapon of mass destruction.
151	790.221(1)	2nd	Possession of short-barreled shotgun or machine gun.
152	790.23	2nd	Felons in possession of firearms or electronic weapons or devices.
153	800.04(6)(c)	3rd	Lewd or lascivious conduct; offender less than 18 years.
154	800.04(7)(c)	2nd	Lewd or lascivious exhibition; offender 18 years or older.
155	806.111(1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
156	812.0145(2)(b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.
157	812.015(8)	3rd	Retail theft; property stolen is valued at \$300 or more and one or more

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specified acts.

158

812.019(1) 2nd

Stolen property; dealing in or trafficking in.

159

812.131(2)(b) 3rd

Robbery by sudden snatching.

160

812.16(2) 3rd

Owning, operating, or conducting a chop shop.

161

817.034(4)(a)2. 2nd

Communications fraud, value \$20,000 to \$50,000.

162

817.234(11)(b) 2nd

Insurance fraud; property value \$20,000 or more but less than \$100,000.

163

817.2341(1),(2) 3rd
(a)&(3)(a)

Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.

164

817.568(2)(b) 2nd

Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, \$5,000 or more or use of personal identification information of 10 or more individuals.

165

817.625(2)(b) 2nd

Second or subsequent fraudulent use of

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scanning device or reencoder.

166

825.1025(4) 3rd Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.

167

827.071(4) 2nd Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.

168

839.13(2)(b) 2nd Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.

169

843.01 3rd Resist officer with violence to person; resist arrest with violence.

170

874.05(2) 2nd Encouraging or recruiting another to join a criminal street gang; second or subsequent offense.

171

893.13(1)(a)1. 2nd Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).

172

893.13(1)(c)2. 2nd Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or

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(4) drugs) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.

173

893.13(1)(d)1. 1st

Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs) within 1,000 feet of university.

174

893.13(1)(e)2. 2nd

Sell, manufacture, or deliver cannabis or other drug prohibited under s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) within 1,000 feet of property used for religious services or a specified business site.

175

893.13(1)(f)1. 1st

Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), or (2)(a), (2)(b), or (2)(c)4. drugs) within 1,000 feet of public housing facility.

176

893.13(4)(b) 2nd

Deliver to minor cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs).

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Section 7. This act shall take effect October 1, 2004, and shall apply to offenses committed on or after that date.