

CHAMBER ACTION

1 The Committee on Public Safety & Crime Prevention recommends the
2 following:

3
4 **Committee Substitute**

5 Remove the entire bill and insert:

6 A bill to be entitled

7 An act relating to possession of firearms, electric
8 weapons or devices, or concealed weapons by persons found
9 to have committed certain delinquent acts; amending s.
10 790.23, F.S.; extending the restriction against possessing
11 firearms, electric weapons or devices, or concealed
12 weapons for certain persons found to have committed
13 delinquent acts involving forcible felony offenses;
14 providing criminal penalties; amending s. 790.06, F.S.;
15 revising cross references specifying circumstances
16 relating to issuance and revocation of license to carry
17 concealed weapon or firearm, to conform; amending s.
18 790.065, F.S.; revising a cross reference specifying
19 circumstances relating to the sale and delivery of
20 firearms, to conform; amending s. 943.0515, F.S.;
21 expanding the circumstances in which the criminal history
22 records of certain minors must be retained as part of the
23 adult record; reenacting ss. 790.01(5) and 921.0022(3)(e),

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24 F.S., relating to the use of an electric weapon or device
 25 or remote stun gun or self-defense chemical spray during
 26 the commission of any criminal offense and to the offense
 27 severity ranking chart, respectively, to incorporate the
 28 amendment to s. 790.23, F.S., in references thereto;
 29 providing applicability; providing an effective date.

30
 31 Be It Enacted by the Legislature of the State of Florida:

32
 33 Section 1. Section 790.23, Florida Statutes, is amended to
 34 read:

35 790.23 Felons and delinquents; possession of firearms or
 36 electric weapons or devices unlawful.--

37 (1) It is unlawful for any person to own or to have in his
 38 or her care, custody, possession, or control any firearm or
 39 electric weapon or device, or to carry a concealed weapon,
 40 including a tear gas gun or chemical weapon or device, if that
 41 person has been:

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

43 (b)1. Found, in the courts of this state, to have
 44 committed a delinquent act classified as that would be a felony
 45 offense if committed by an adult and such person is under 24
 46 years of age; or

47 2. Found, in the courts of this state, to have committed a
 48 delinquent act classified as a forcible felony, as defined in s.
 49 776.08, and such person is under 34 years of age;-

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

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52 (d)1. Found to have committed a delinquent act in another
 53 state, territory, or country classified as ~~that would be a~~
 54 felony offense ~~if committed by an adult~~ and which was punishable
 55 by imprisonment for a term exceeding 1 year and such person is
 56 under 24 years of age; or

57 2. Found to have committed a delinquent act in another
 58 state, territory, or country that would be classified, if
 59 committed in this state, as a forcible felony, as defined in s.
 60 776.08, and which was punishable by imprisonment for a term
 61 exceeding 1 year and such person is under 34 years of age; or

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

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

68 (3) Any person who violates this section commits a felony
 69 of the second degree, punishable as provided in s. 775.082, s.
 70 775.083, or s. 775.084.

71 Section 2. Paragraph (d) of subsection (2) and paragraph
 72 (c) of subsection (10) of section 790.06, Florida Statutes, are
 73 amended to read:

74 790.06 License to carry concealed weapon or firearm.--

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

77 (d) Is not ineligible to possess a firearm pursuant to s.
 78 790.23 ~~by virtue of having been convicted of a felony;~~

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

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

83 Section 3. Paragraph (a) of subsection (2) of section
84 790.065, Florida Statutes, is amended to read:

85 790.065 Sale and delivery of firearms.--

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

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

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

93 2. Has been convicted of a misdemeanor crime of domestic
94 violence, and therefore is prohibited from purchasing a firearm;
95 or

96 3. Has had adjudication of guilt withheld or imposition of
97 sentence suspended on any felony or misdemeanor crime of
98 domestic violence unless 3 years have elapsed since probation or
99 any other conditions set by the court have been fulfilled or
100 expunction has occurred.

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

103 943.0515 Retention of criminal history records of
104 minors.--

105 (1)(a) The Criminal Justice Information Program shall
106 retain the criminal history record of a minor who is classified

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107 as a serious or habitual juvenile offender or committed to a
 108 juvenile correctional facility or juvenile prison under chapter
 109 985 for 5 years after the date the offender reaches 21 years of
 110 age, at which time the record shall be expunged unless any of it
 111 ~~meets~~ the criteria specified in subsection (2) applies of
 112 ~~paragraph (2)(a) or paragraph (2)(b).~~

113 (2)(a) If a person 18 years of age or older is charged
 114 with or convicted of a forcible felony and the person's criminal
 115 history record as a minor has not yet been destroyed, the
 116 person's record as a minor must be merged with the person's
 117 adult criminal history record and must be retained as a part of
 118 the person's adult record.

119 (b) If, at any time, a minor is adjudicated as an adult
 120 for a forcible felony, the minor's criminal history record prior
 121 to the time of the minor's adjudication as an adult must be
 122 merged with his or her record as an adjudicated adult.

123 (c) If a minor is found to have committed a delinquent act
 124 for any of the following forcible felonies enumerated in s.
 125 776.08, the minor's criminal history record for such act must be
 126 retained as part of his or her adult record: treason; murder;
 127 manslaughter; sexual battery; carjacking; robbery; arson;
 128 kidnapping; aggravated battery; aggravated stalking; aircraft
 129 piracy; or unlawful throwing, placing, or discharging of a
 130 destructive device or bomb.

131 Section 5. For the purpose of incorporating the amendment
 132 to section 790.23, Florida Statutes, in a reference thereto,
 133 subsection (5) of section 790.01, Florida Statutes, is reenacted
 134 to read:

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135 | 790.01 Carrying concealed weapons.--

136 | (5) This section does not preclude any prosecution for the
137 | use of an electric weapon or device or remote stun gun or self-
138 | defense chemical spray during the commission of any criminal
139 | offense under s. 790.07, s. 790.10, s. 790.23, or s. 790.235, or
140 | for any other criminal offense.

141 | Section 6. For the purpose of incorporating the amendment
142 | to section 790.23, Florida Statutes, in a reference thereto,
143 | paragraph (e) of subsection (3) of section 921.0022, Florida
144 | Statutes, is reenacted to read:

145 | 921.0022 Criminal Punishment Code; offense severity
146 | ranking chart.--

147 | (3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
		(e) LEVEL 5
316.027(1)(a)	3rd	Accidents involving personal injuries, failure to stop; leaving scene.
316.1935(4)	2nd	Aggravated fleeing or eluding.
322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
327.30(5)	3rd	Vessel accidents involving personal injury; leaving scene.

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154	381.0041(11)(b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
155	440.10(1)(g)	2nd	Failure to obtain workers' compensation coverage.
156	440.105(5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
157	440.381(2)	2nd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
158	624.401(4)(b)2.	2nd	Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.
159	626.902(1)(c)	2nd	Representing an unauthorized insurer; repeat offender.
160	790.01(2)	3rd	Carrying a concealed firearm.
161	790.162	2nd	Threat to throw or discharge destructive device.
162	790.163(1)	2nd	False report of deadly explosive or weapon of mass destruction.
	790.221(1)	2nd	Possession of short-barreled shotgun or

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machine gun.

163	790.23	2nd	Felons in possession of firearms or electronic weapons or devices.
164	800.04(6)(c)	3rd	Lewd or lascivious conduct; offender less than 18 years.
165	800.04(7)(c)	2nd	Lewd or lascivious exhibition; offender 18 years or older.
166	806.111(1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
167	812.0145(2)(b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.
168	812.015(8)	3rd	Retail theft; property stolen is valued at \$300 or more and one or more specified acts.
169	812.019(1)	2nd	Stolen property; dealing in or trafficking in.
170	812.131(2)(b)	3rd	Robbery by sudden snatching.
171	812.16(2)	3rd	Owning, operating, or conducting a chop shop.
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173	817.034(4)(a)2.	2nd	Communications fraud, value \$20,000 to \$50,000.
174	817.234(11)(b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
175	817.2341(1),(2)(a)&(3)(a)	3rd	Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.
176	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.
177	817.625(2)(b)	2nd	Second or subsequent fraudulent use of scanning device or reencoder.
178	825.1025(4)	3rd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
	827.071(4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by

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a child.

179

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.

180

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

181

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

182

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).

183

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 (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.

184

893.13(1)(d)1. 1st Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b),

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(1)(d), (2)(a), (2)(b), or (2)(c)4.
drugs) within 1,000 feet of university.

185 893.13(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.

186 893.13(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.

187 893.13(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).

188
189 Section 7. This act shall take effect October 1, 2004, and
190 shall apply to offenses committed on or after that date.