

1 A bill to be entitled

2 An act relating to possession of firearms, electric  
3 weapons or devices, or concealed weapons by persons found  
4 to have committed certain delinquent acts; amending s.  
5 790.23, F.S.; extending the restriction against possessing  
6 firearms, electric weapons or devices, or concealed  
7 weapons for certain persons found to have committed  
8 delinquent acts involving forcible felony offenses;  
9 providing criminal penalties; amending s. 790.06, F.S.;  
10 revising cross references specifying circumstances  
11 relating to issuance and revocation of license to carry  
12 concealed weapon or firearm, to conform; amending s.  
13 790.065, F.S.; revising a cross reference specifying  
14 circumstances relating to the sale and delivery of  
15 firearms, to conform; amending s. 943.0515, F.S.;  
16 expanding the circumstances in which the criminal history  
17 records of certain minors must be retained as part of the  
18 adult record; reenacting ss. 790.01(5) and 921.0022(3)(e),  
19 F.S., relating to the use of an electric weapon or device  
20 or remote stun gun or self-defense chemical spray during  
21 the commission of any criminal offense and to the offense  
22 severity ranking chart, respectively, to incorporate the  
23 amendment to s. 790.23, F.S., in references thereto;  
24 providing applicability; providing an effective date.

25  
26 Be It Enacted by the Legislature of the State of Florida:  
27

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

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)1. Found, in the courts of this state, to have  
 39 committed a delinquent act classified as ~~that would be~~ a felony  
 40 offense if committed by an adult and such person is under 24  
 41 years of age; or

42 2. Found, in the courts of this state, to have committed a  
 43 delinquent act classified as a forcible felony, as defined in s.  
 44 776.08, and such person is under 34 years of age;--

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

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

52 2. Found to have committed a delinquent act in another  
 53 state, territory, or country that would be classified, if  
 54 committed in this state, as a forcible felony, as defined in s.

55 | 776.08, and which was punishable by imprisonment for a term  
 56 | exceeding 1 year and such person is under 34 years of age; or  
 57 | (e) Found guilty of an offense that is a felony in another  
 58 | state, territory, or country and which was punishable by  
 59 | imprisonment for a term exceeding 1 year.

60 | (2) This section shall not apply to a person convicted of  
 61 | a felony whose civil rights and firearm authority have been  
 62 | restored.

63 | (3) Any person who violates this section commits a felony  
 64 | of the second degree, punishable as provided in s. 775.082, s.  
 65 | 775.083, or s. 775.084.

66 | Section 2. Paragraph (d) of subsection (2) and paragraph  
 67 | (c) of subsection (10) of section 790.06, Florida Statutes, are  
 68 | amended to read:

69 | 790.06 License to carry concealed weapon or firearm.--

70 | (2) The Department of Agriculture and Consumer Services  
 71 | shall issue a license if the applicant:

72 | (d) Is not ineligible to possess a firearm pursuant to s.  
 73 | ~~790.23 by virtue of having been convicted of a felony;~~

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

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

78 | Section 3. Paragraph (a) of subsection (2) of section  
 79 | 790.065, Florida Statutes, is amended to read:

80 | 790.065 Sale and delivery of firearms.--

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

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

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

88 2. Has been convicted of a misdemeanor crime of domestic  
 89 violence, and therefore is prohibited from purchasing a firearm;  
 90 or

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

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

98 943.0515 Retention of criminal history records of  
 99 minors.--

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

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

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

118 (c) If a minor is found to have committed a delinquent act  
119 for any of the following forcible felonies enumerated in s.  
120 776.08, the minor's criminal history record for such act must be  
121 retained as part of his or her adult record: treason; murder;  
122 manslaughter; sexual battery; carjacking; robbery; arson;  
123 kidnapping; aggravated battery; aggravated stalking; aircraft  
124 piracy; or unlawful throwing, placing, or discharging of a  
125 destructive device or bomb.

126 Section 5. For the purpose of incorporating the amendment  
127 to section 790.23, Florida Statutes, in a reference thereto,  
128 subsection (5) of section 790.01, Florida Statutes, is reenacted  
129 to read:

130 790.01 Carrying concealed weapons.--

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

136 Section 6. For the purpose of incorporating the amendment  
 137 to section 790.23, Florida Statutes, in a reference thereto,  
 138 paragraph (e) of subsection (3) of section 921.0022, Florida  
 139 Statutes, is reenacted to read:

140 921.0022 Criminal Punishment Code; offense severity  
 141 ranking chart.--

142 (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.
381.0041(11)(b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
440.10(1)(g)	2nd	Failure to obtain workers' compensation coverage.

150

151	440.105(5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
152	440.381(2)	2nd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
153	624.401(4)(b)2.	2nd	Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.
154	626.902(1)(c)	2nd	Representing an unauthorized insurer; repeat offender.
155	790.01(2)	3rd	Carrying a concealed firearm.
156	790.162	2nd	Threat to throw or discharge destructive device.
157	790.163(1)	2nd	False report of deadly explosive or weapon of mass destruction.
158	790.221(1)	2nd	Possession of short-barreled shotgun or machine gun.
159	790.23	2nd	Felons in possession of firearms or electronic weapons or devices.
	800.04(6)(c)	3rd	Lewd or lascivious conduct; offender

less than 18 years.

160 800.04(7)(c) 2nd Lewd or lascivious exhibition; offender  
18 years or older.

161 806.111(1) 3rd Possess, manufacture, or dispense fire  
bomb with intent to damage any  
structure or property.

162 812.0145(2)(b) 2nd Theft from person 65 years of age or  
older; \$10,000 or more but less than  
\$50,000.

163 812.015(8) 3rd Retail theft; property stolen is valued  
at \$300 or more and one or more  
specified acts.

164 812.019(1) 2nd Stolen property; dealing in or  
trafficking in.

165 812.131(2)(b) 3rd Robbery by sudden snatching.

166 812.16(2) 3rd Owning, operating, or conducting a chop  
shop.

167 817.034(4)(a)2. 2nd Communications fraud, value \$20,000 to  
\$50,000.

168 817.234(11)(b) 2nd Insurance fraud; property value \$20,000  
or more but less than \$100,000.

169



	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.
170	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.
171	817.625(2)(b)	2nd	Second or subsequent fraudulent use of scanning device or reencoder.
172	825.1025(4)	3rd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
173	827.071(4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.
174	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.

175

176	843.01	3rd	Resist officer with violence to person; resist arrest with violence.
177	874.05(2)	2nd	Encouraging or recruiting another to join a criminal street gang; second or subsequent offense.
178	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).
179	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.
180	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.
	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.

181 893.13(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.

182 893.13(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).

183  
 184 Section 7. This act shall take effect October 1, 2004, and  
 185 shall apply to offenses committed on or after that date.