

1 A bill to be entitled
 2 An act relating to weapons and firearms; amending s.
 3 775.087, F.S.; increasing the minimum terms of
 4 imprisonment for possessing, discharging, or seriously
 5 harming another with a semiautomatic firearm and its high-
 6 capacity detachable box magazine or with a machine gun;
 7 amending s. 790.065, F.S.; prohibiting any potential buyer
 8 or transferee of a firearm from willfully and knowingly
 9 providing false information or false or fraudulent
 10 identification by using the identity of a victim of
 11 identity theft; providing criminal penalties; authorizing
 12 the court to impose an additional fine against a person
 13 using the identity of a victim of identity theft; amending
 14 s. 790.07, F.S.; prohibiting specified actions involving a
 15 semiautomatic firearm and its high-capacity detachable box
 16 magazine or a machine gun or a concealed semiautomatic
 17 firearm while attempting to commit a felony; providing
 18 penalties; amending s. 921.0022, F.S., conforming a cross-
 19 reference; providing an effective date.

20
 21 Be It Enacted by the Legislature of the State of Florida:

22
 23 Section 1. Subsection (3) of section 775.087, Florida
 24 Statutes, is amended to read:

25 775.087 Possession or use of weapon; aggravated battery;
 26 felony reclassification; minimum sentence.--

27 | (3)(a)1. Any person who is convicted of a felony or an
 28 | attempt to commit a felony, regardless of whether the use of a
 29 | firearm is an element of the felony, and the conviction was for:
 30 | a. Murder;
 31 | b. Sexual battery;
 32 | c. Robbery;
 33 | d. Burglary;
 34 | e. Arson;
 35 | f. Aggravated assault;
 36 | g. Aggravated battery;
 37 | h. Kidnapping;
 38 | i. Escape;
 39 | j. Sale, manufacture, delivery, or intent to sell,
 40 | manufacture, or deliver any controlled substance;
 41 | k. Aircraft piracy;
 42 | l. Aggravated child abuse;
 43 | m. Aggravated abuse of an elderly person or disabled
 44 | adult;
 45 | n. Unlawful throwing, placing, or discharging of a
 46 | destructive device or bomb;
 47 | o. Carjacking;
 48 | p. Home-invasion robbery;
 49 | q. Aggravated stalking; or
 50 | r. Trafficking in cannabis, trafficking in cocaine,
 51 | capital importation of cocaine, trafficking in illegal drugs,
 52 | capital importation of illegal drugs, trafficking in
 53 | phencyclidine, capital importation of phencyclidine, trafficking
 54 | in methaqualone, capital importation of methaqualone,

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55 trafficking in amphetamine, capital importation of amphetamine,
56 trafficking in flunitrazepam, trafficking in gamma-
57 hydroxybutyric acid (GHB), trafficking in 1,4-Butanediol,
58 trafficking in Phenethylamines, or other violation of s.
59 893.135(1);

60

61 and during the commission of the offense, the ~~such~~ person
62 possessed a semiautomatic firearm and its high-capacity
63 detachable box magazine or a machine gun as defined in s.
64 790.001, shall be sentenced to a minimum term of imprisonment of
65 20 ~~15~~ years.

66 2. Any person who is convicted of a felony or an attempt
67 to commit a felony listed in subparagraph (a)1., regardless of
68 whether the use of a weapon is an element of the felony, and
69 during the course of the commission of the felony the ~~such~~
70 person discharged a semiautomatic firearm and its high-capacity
71 box magazine or a "machine gun" as defined in s. 790.001 shall
72 be sentenced to a minimum term of imprisonment of 25 ~~20~~ years.

73 3. Any person who is convicted of a felony or an attempt
74 to commit a felony listed in subparagraph (a)1., regardless of
75 whether the use of a weapon is an element of the felony, and
76 during the course of the commission of the felony the ~~such~~
77 person discharged a semiautomatic firearm and its high-capacity
78 box magazine or a "machine gun" as defined in s. 790.001 and, as
79 the result of the discharge, death or great bodily harm was
80 inflicted upon any person, the convicted person shall be
81 sentenced to a minimum term of imprisonment of ~~not less than 25~~

82 ~~years and not more than a term of imprisonment of~~ life in
83 prison.

84 (b) Subparagraph (a)1., subparagraph (a)2., or
85 subparagraph (a)3. does not prevent a court from imposing a
86 longer sentence of incarceration as authorized by law in
87 addition to the minimum mandatory sentence, or from imposing a
88 sentence of death pursuant to other applicable law. Subparagraph
89 (a)1., subparagraph (a)2., or subparagraph (a)3. does not
90 authorize a court to impose a lesser sentence than otherwise
91 required by law.

92
93 Notwithstanding s. 948.01, adjudication of guilt or imposition
94 of sentence shall not be suspended, deferred, or withheld, and
95 the defendant is not eligible for statutory gain-time under s.
96 944.275 or any form of discretionary early release, other than
97 pardon or executive clemency, or conditional medical release
98 under s. 947.149, prior to serving the minimum sentence.

99 (c) If the minimum mandatory terms of imprisonment imposed
100 pursuant to this section exceed the maximum sentences authorized
101 by s. 775.082, s. 775.084, or the Criminal Punishment Code under
102 chapter 921, then the mandatory minimum sentence must be
103 imposed. If the mandatory minimum terms of imprisonment pursuant
104 to this section are less than the sentences that could be
105 imposed as authorized by s. 775.082, s. 775.084, or the Criminal
106 Punishment Code under chapter 921, then the sentence imposed by
107 the court must include the mandatory minimum term of
108 imprisonment as required in this section.

109 (d) It is the intent of the Legislature that offenders who
 110 possess, carry, display, use, threaten to use, or attempt to use
 111 a semiautomatic firearm and its high-capacity detachable box
 112 magazine or a machine gun as defined in s. 790.001 be punished
 113 to the fullest extent of the law, and the minimum terms of
 114 imprisonment imposed pursuant to this subsection shall be
 115 imposed for each qualifying felony count for which the person is
 116 convicted. The court shall impose any term of imprisonment
 117 provided for in this subsection consecutively to any other term
 118 of imprisonment imposed for any other felony offense.

119 (e) As used in this subsection, the term:

120 1. "High-capacity detachable box magazine" means any
 121 detachable box magazine, for use in a semiautomatic firearm,
 122 which is capable of being loaded with more than 20 centerfire
 123 cartridges.

124 2. "Semiautomatic firearm" means a firearm which is
 125 capable of firing a series of rounds by separate successive
 126 depressions of the trigger and which uses the energy of
 127 discharge to perform a portion of the operating cycle.

128 Section 2. Subsection (12) of section 790.065, Florida
 129 Statutes, is amended to read:

130 790.065 Sale and delivery of firearms.--

131 (12) (a) 1. Any potential buyer or transferee who willfully
 132 and knowingly provides false information or false or fraudulent
 133 identification commits a felony of the third degree, punishable
 134 as provided in s. 775.082 or s. 775.083.

135 2. Any potential buyer or transferee who willfully and
 136 knowingly provides false information or false or fraudulent

137 identification in violation of s. 817.568 commits a felony of
 138 the second degree, punishable as provided in s. 775.082 or by a
 139 fine of up to \$25,000, or both.

140 (b) Any licensed importer, licensed manufacturer, or
 141 licensed dealer who violates the provisions of subsection (1)
 142 commits a felony of the third degree, punishable as provided in
 143 s. 775.082 or s. 775.083.

144 (c) Any employee or agency of a licensed importer,
 145 licensed manufacturer, or licensed dealer who violates the
 146 provisions of subsection (1) commits a felony of the third
 147 degree, punishable as provided in s. 775.082 or s. 775.083.

148 (d) Any person who knowingly acquires a firearm through
 149 purchase or transfer intended for the use of a person who is
 150 prohibited by state or federal law from possessing or receiving
 151 a firearm commits a felony of the third degree, punishable as
 152 provided in s. 775.082 or s. 775.083.

153 Section 3. Section 790.07, Florida Statutes, is amended to
 154 read:

155 790.07 Persons engaged in criminal offense, having
 156 weapons.--

157 (1) Whoever, while committing or attempting to commit any
 158 felony or while under indictment, displays, uses, threatens, or
 159 attempts to use any weapon or electric weapon or device or
 160 carries a concealed weapon commits ~~is guilty of~~ a felony of the
 161 third degree, punishable as provided in s. 775.082, s. 775.083,
 162 or s. 775.084.

163 (2) Whoever, while committing or attempting to commit any
 164 felony, displays, uses, threatens, or attempts to use any

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165 | firearm or carries a concealed firearm commits ~~is guilty of~~ a
 166 | felony of the second degree, punishable as provided in s.
 167 | 775.082, s. 775.083, or ~~and~~ s. 775.084.

168 | (3) Whoever, while committing or attempting to commit any
 169 | felony, displays, uses, threatens, or attempts to use any
 170 | semiautomatic firearm and its high-capacity detachable box
 171 | magazine, as defined in s. 775.087(3), or a machine gun, as
 172 | defined in s. 790.001, or carries a concealed semiautomatic
 173 | firearm and its high-capacity detachable box magazine or machine
 174 | gun commits a felony of the first degree, punishable as provided
 175 | in s. 775.082, s. 775.083, or s. 775.084.

176 | (4)~~(3)~~ The following crimes are excluded from application
 177 | of this section: Antitrust violations, unfair trade practices,
 178 | restraints of trade, nonsupport of dependents, bigamy, or other
 179 | similar offenses.

180 | (5)~~(4)~~ Whoever, having previously been convicted of a
 181 | violation of subsection (1) or subsection (2) and, subsequent to
 182 | such conviction, displays, uses, threatens, or attempts to use
 183 | any weapon, firearm, or electric weapon or device, carries a
 184 | concealed weapon, or carries a concealed firearm while
 185 | committing or attempting to commit any felony or while under
 186 | indictment commits ~~is guilty of~~ a felony of the first degree,
 187 | punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
 188 | Sentence may ~~shall~~ not be suspended or deferred under the
 189 | provisions of this subsection.

190 | Section 4. Paragraph (g) of subsection (3) of section
 191 | 921.0022, Florida Statutes, is amended to read:

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192	921.0022	Criminal Punishment Code; offense severity
193	ranking chart.--	
194	(3)	OFFENSE SEVERITY RANKING CHART
195	(g)	LEVEL 7
	Florida	Felony Description
	Statute	Degree
196	316.027(1)(b)	1st Accident involving death, failure to stop; leaving scene.
197	316.193(3)(c)2.	3rd DUI resulting in serious bodily injury.
198	316.1935(3)(b)	1st Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
199	327.35(3)(c)2.	3rd Vessel BUI resulting in serious bodily injury.
200	402.319(2)	2nd Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfigurement, permanent disability, or death.
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202	409.920 (2)	3rd	Medicaid provider fraud.
203	456.065 (2)	3rd	Practicing a health care profession without a license.
204	456.065 (2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
205	458.327 (1)	3rd	Practicing medicine without a license.
206	459.013 (1)	3rd	Practicing osteopathic medicine without a license.
207	460.411 (1)	3rd	Practicing chiropractic medicine without a license.
208	461.012 (1)	3rd	Practicing podiatric medicine without a license.
209	462.17	3rd	Practicing naturopathy without a license.
210	463.015 (1)	3rd	Practicing optometry without a license.
211	464.016 (1)	3rd	Practicing nursing without a license.

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212	465.015 (2)	3rd	Practicing pharmacy without a license.
213	466.026 (1)	3rd	Practicing dentistry or dental hygiene without a license.
214	467.201	3rd	Practicing midwifery without a license.
215	468.366	3rd	Delivering respiratory care services without a license.
216	483.828 (1)	3rd	Practicing as clinical laboratory personnel without a license.
217	483.901 (9)	3rd	Practicing medical physics without a license.
218	484.013 (1) (c)	3rd	Preparing or dispensing optical devices without a prescription.
219	484.053	3rd	Dispensing hearing aids without a license.
220	494.0018 (2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.

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221	560.123 (8) (b) 1.	3rd	Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by money transmitter.
222	560.125 (5) (a)	3rd	Money transmitter business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
223	655.50 (10) (b) 1.	3rd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.
224	775.21 (10) (a)	3rd	Sexual predator; failure to register; failure to renew driver's license or identification card; other registration violations.
225	775.21 (10) (b)	3rd	Sexual predator working where children regularly congregate.
226	775.21 (10) (g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
	782.051 (3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or

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the perpetrator of an attempted felony.

227

782.07(1) 2nd Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).

228

782.071 2nd Killing of a human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide).

229

782.072 2nd Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).

230

784.045(1)(a)1. 2nd Aggravated battery; intentionally causing great bodily harm or disfigurement.

231

784.045(1)(a)2. 2nd Aggravated battery; using deadly weapon.

232

784.045(1)(b) 2nd Aggravated battery; perpetrator aware victim pregnant.

233

784.048(4) 3rd Aggravated stalking; violation of injunction or court order.

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235	784.048 (7)	3rd	Aggravated stalking; violation of court order.
236	784.07 (2) (d)	1st	Aggravated battery on law enforcement officer.
237	784.074 (1) (a)	1st	Aggravated battery on sexually violent predators facility staff.
238	784.08 (2) (a)	1st	Aggravated battery on a person 65 years of age or older.
239	784.081 (1)	1st	Aggravated battery on specified official or employee.
240	784.082 (1)	1st	Aggravated battery by detained person on visitor or other detainee.
241	784.083 (1)	1st	Aggravated battery on code inspector.
242	790.07 <u>(5)</u> (4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
243	790.16 (1)	1st	Discharge of a machine gun under specified circumstances.

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244	790.165 (2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
245	790.165 (3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
246	790.166 (3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
247	790.166 (4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
248	794.08 (4)	3rd	Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
249	796.03	2nd	Procuring any person under 16 years for prostitution.
250	800.04 (5) (c) 1.	2nd	Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years.

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251	800.04 (5) (c) 2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender 18 years or older.
252	806.01 (2)	2nd	Maliciously damage structure by fire or explosive.
253	810.02 (3) (a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
254	810.02 (3) (b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
255	810.02 (3) (d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
256	810.02 (3) (e)	2nd	Burglary of authorized emergency vehicle.
257	812.014 (2) (a) 1.	1st	Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.
	812.014 (2) (b) 2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd

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degree.

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812.014 (2) (b) 3. 2nd Property stolen, emergency medical equipment; 2nd degree grand theft.

259

812.014 (2) (b) 4. 2nd Property stolen, law enforcement equipment from authorized emergency vehicle.

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812.0145 (2) (a) 1st Theft from person 65 years of age or older; \$50,000 or more.

261

812.019 (2) 1st Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.

262

812.131 (2) (a) 2nd Robbery by sudden snatching.

263

812.133 (2) (b) 1st Carjacking; no firearm, deadly weapon, or other weapon.

264

817.234 (8) (a) 2nd Solicitation of motor vehicle accident victims with intent to defraud.

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817.234 (9) 2nd Organizing, planning, or participating in an intentional motor vehicle collision.

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267	817.234 (11) (c)	1st	Insurance fraud; property value \$100,000 or more.
268	817.2341 (2) (b) & (3) (b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
269	825.102 (3) (b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
270	825.103 (2) (b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000.
271	827.03 (3) (b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
272	827.04 (3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
	837.05 (2)	3rd	Giving false information about alleged capital felony to a law enforcement

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officer.

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838.015 2nd Bribery.

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838.016 2nd Unlawful compensation or reward for official behavior.

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838.021(3)(a) 2nd Unlawful harm to a public servant.

276

838.22 2nd Bid tampering.

277

847.0135(3) 3rd Solicitation of a child, via a computer service, to commit an unlawful sex act.

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847.0135(4) 2nd Traveling to meet a minor to commit an unlawful sex act.

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872.06 2nd Abuse of a dead human body.

280

893.13(1)(c)1. 1st Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.

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282	893.13(1)(e)1.	1st	Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., within 1,000 feet of property used for religious services or a specified business site.
283	893.13(4)(a)	1st	Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).
284	893.135(1)(a)1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
285	893.135(1)(b)1. a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
286	893.135(1)(c)1. a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
287	893.135(1)(d)1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
288	893.135(1)(e)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
	893.135(1)(f)1.	1st	Trafficking in amphetamine, more than

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14 grams, less than 28 grams.

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893.135 (1) (g) 1. 1st Trafficking in flunitrazepam, 4 grams
a. or more, less than 14 grams.

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893.135 (1) (h) 1. 1st Trafficking in gamma-hydroxybutyric
a. acid (GHB), 1 kilogram or more, less
than 5 kilograms.

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893.135 (1) (j) 1. 1st Trafficking in 1,4-Butanediol, 1
a. kilogram or more, less than 5
kilograms.

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893.135 (1) (k) 2. 1st Trafficking in Phenethylamines, 10
a. grams or more, less than 200 grams.

293

896.101 (5) (a) 3rd Money laundering, financial
transactions exceeding \$300 but less
than \$20,000.

294

896.104 (4) (a) 1. 3rd Structuring transactions to evade
reporting or registration requirements,
financial transactions exceeding \$300
but less than \$20,000.

295

943.0435 (4) (c) 2nd Sexual offender vacating permanent
residence; failure to comply with

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reporting requirements.

296

943.0435(8) 2nd Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.

297

943.0435(9)(a) 3rd Sexual offender; failure to comply with reporting requirements.

298

943.0435(13) 3rd Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.

299

943.0435(14) 3rd Sexual offender; failure to report and reregister; failure to respond to address verification.

300

944.607(9) 3rd Sexual offender; failure to comply with reporting requirements.

301

944.607(10)(a) 3rd Sexual offender; failure to submit to the taking of a digitized photograph.

302

944.607(12) 3rd Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.

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304

944.607(13) 3rd Sexual offender; failure to report and reregister; failure to respond to address verification.

305

985.4815(10) 3rd Sexual offender; failure to submit to the taking of a digitized photograph.

306

985.4815(12) 3rd Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.

307

985.4815(13) 3rd Sexual offender; failure to report and reregister; failure to respond to address verification.

308

Section 5. This act shall take effect July 1, 2008.