

1 A bill to be entitled
 2 An act relating to culpable negligence; providing a short
 3 title; amending s. 784.05, F.S.; prohibiting storing or
 4 leaving an assault weapon within the reach or easy access
 5 of another person if the person obtains the weapon and
 6 uses it to inflict injury or death; providing criminal
 7 penalties; defining the term "assault weapon"; amending s.
 8 921.0022, F.S.; conforming provisions of the offense
 9 severity ranking chart of the Criminal Punishment Code;
 10 providing an effective date.

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

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 14 Section 1. This act may be cited as the "Officer Jose
 15 Somohano Assault Weapons Act."

16 Section 2. Section 784.05, Florida Statutes, is amended to
 17 read:

18 784.05 Culpable negligence.--

19 (1)~~(4)~~ As used in this section ~~act~~, the term "minor" means
 20 any person under the age of 16.

21 (2)~~(1)~~ Whoever, through culpable negligence, exposes
 22 another person to personal injury commits a misdemeanor of the
 23 second degree, punishable as provided in s. 775.082 or s.
 24 775.083.

25 (3)~~(2)~~ Whoever, through culpable negligence, inflicts
 26 actual personal injury on another commits a misdemeanor of the
 27 first degree, punishable as provided in s. 775.082 or s.
 28 775.083.

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29 (4)~~(3)~~ Whoever violates subsection (2) ~~(1)~~ by storing or
30 leaving a loaded firearm within the reach or easy access of a
31 minor commits, if the minor obtains the firearm and uses it to
32 inflict injury or death upon himself or herself or any other
33 person, a felony of the third degree, punishable as provided in
34 s. 775.082, s. 775.083, or s. 775.084. However, this subsection
35 does not apply:

36 (a) If the firearm was stored or left in a securely locked
37 box or container or in a location which a reasonable person
38 would have believed to be secure, or was securely locked with a
39 trigger lock;

40 (b) If the minor obtains the firearm as a result of an
41 unlawful entry by any person;

42 (c) To injuries resulting from target or sport shooting
43 accidents or hunting accidents; or

44 (d) To members of the Armed Forces, National Guard, or
45 State Militia, or to police or other law enforcement officers,
46 with respect to firearm possession by a minor which occurs
47 during or incidental to the performance of their official
48 duties.

49
50 When any minor child is accidentally shot by another family
51 member, no arrest shall be made pursuant to this subsection
52 prior to 7 days after the date of the shooting. With respect to
53 any parent or guardian of any deceased minor, the investigating
54 officers shall file all findings and evidence with the state
55 attorney's office with respect to violations of this subsection.
56 The state attorney shall evaluate such evidence and shall take

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57 such action as he or she deems appropriate under the
58 circumstances and may file an information against the
59 appropriate parties.

60 (5) (a) Whoever violates subsection (2) by storing or
61 leaving an assault weapon within the reach or easy access of
62 another person commits, if the person obtains the assault weapon
63 and uses it to inflict injury or death upon himself or herself
64 or any other person, a felony of the third degree, punishable as
65 provided in s. 775.082, s. 775.083, or s. 775.084. However, this
66 subsection does not apply:

67 1. If the assault weapon was stored or left in a securely
68 locked box or container or in a location which a reasonable
69 person would have believed to be secure, or was securely locked
70 with a trigger lock;

71 2. If the assault weapon was stolen and the owner reported
72 the theft of the assault weapon to law enforcement authorities
73 within 24 hours of the owner's knowledge of the theft;

74 3. To injuries resulting from target or sport shooting
75 accidents or hunting accidents; or

76 4. To members of the Armed Forces, National Guard, or
77 State Militia, or to police or other law enforcement officers,
78 with respect to assault firearm possession which occurs during
79 or incidental to the performance of their official duties.

80 (b)1. For purposes of this subsection, the term "assault
81 weapon" means:

82 a. A semiautomatic rifle that has an ability to accept a
83 detachable magazine and has at least two of the following
84 characteristics:

- 85 (I) A folding or telescoping stock;
- 86 (II) A pistol grip that protrudes conspicuously beneath
- 87 the action of the weapon;
- 88 (III) A bayonet mount;
- 89 (IV) A flash suppressor or threaded barrel designed to
- 90 accommodate a flash suppressor; or
- 91 (V) A grenade launcher; or
- 92 b. A semiautomatic shotgun that has at least two of the
- 93 following characteristics:
- 94 (I) A folding or telescoping stock;
- 95 (II) A pistol grip that protrudes conspicuously beneath
- 96 the action of the weapon;
- 97 (III) A fixed magazine capacity in excess of five rounds;
- 98 or
- 99 (IV) An ability to accept a detachable magazine; or
- 100 c. A semiautomatic pistol that has an ability to accept a
- 101 detachable magazine and has at least two of the following
- 102 characteristics:
- 103 (I) An ammunition magazine that attaches to the pistol
- 104 outside of the pistol grip;
- 105 (II) A threaded barrel capable of accepting a barrel
- 106 extender, flash suppressor, forward handgrip, or silencer;
- 107 (III) A shroud that is attached to, or partially or
- 108 completely encircles, the barrel and that permits the shooter to
- 109 hold the firearm with the nontrigger hand without being burned;
- 110 (IV) A manufactured weight of 50 ounces or more when the
- 111 pistol is unloaded; or

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112 (V) A semiautomatic version of an automatic rifle,
 113 shotgun, or firearm; or
 114 d. Any of the weapons, or functioning frames or receivers
 115 of such weapons, or copies or duplicates of such weapons, in any
 116 caliber, known as:
 117 (I) Norinco, Mitchell, and Poly Technologies Avtomat
 118 Kalashnikovs (all models);
 119 (II) Action Arms Israeli Military Industries UZI and
 120 Galil;
 121 (III) Beretta Ar70 (SC-70);
 122 (IV) Colt AR-15;
 123 (V) Fabrique National FN/FAL, FN/LAR, and FNC;
 124 (VI) SWD M-10, M-11, M-11/9, and M-12;
 125 (VII) Steyr AUG;
 126 (VIII) INTRATEC TEC-9, TEC-DC9, and TEC-22; or
 127 (IX) Revolving cylinder shotguns, such as, or similar to,
 128 the Street Sweeper and Striker 12.
 129 2. The term does not include any rifle, shotgun, or pistol
 130 that:
 131 a. Is manually operated by bolt, pump, lever, or slide
 132 action;
 133 b. Has been rendered permanently inoperable;
 134 c. Is an antique firearm as defined in 18 U.S.C. s.
 135 921(a)(16);
 136 d. Is a semiautomatic rifle that cannot accept a
 137 detachable magazine that holds more than five rounds of
 138 ammunition;

139 e. Is a semiautomatic shotgun that cannot hold more than
 140 five rounds of ammunition in a fixed or detachable magazine;

141 f. Is a rifle, shotgun, or pistol, or a replica or a
 142 duplicate thereof, specified in Appendix A to 18 U.S.C. s. 922
 143 as such weapon was manufactured on October 1, 1993. The mere
 144 fact that a weapon is not listed in Appendix A shall not be
 145 construed to mean that such weapon is an assault weapon; or

146 g. Is a semiautomatic rifle, a semiautomatic shotgun, or a
 147 semiautomatic pistol or any of the weapons defined in sub-
 148 paragraph 1.d. lawfully possessed prior to September 14,
 149 1994.

150 Section 3. Paragraph (b) of subsection (3) of section
 151 921.0022, Florida Statutes, is amended to read:

152 921.0022 Criminal Punishment Code; offense severity
 153 ranking chart.--

154 (3) OFFENSE SEVERITY RANKING CHART

155 (b) LEVEL 2

Florida	Felony	Description
Statute	Degree	

156 370.12(1)(e)3. 3rd Possession of 11 or fewer marine turtle
 eggs in violation of the Marine Turtle
 Protection Act.

157 370.12(1)(e)4. 3rd Possession of more than 11 marine turtle
 eggs in violation of the Marine Turtle
 Protection Act.

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159	403.413 (5) (c)	3rd	Dumps waste litter exceeding 500 lbs. in weight or 100 cubic feet in volume or any quantity for commercial purposes, or hazardous waste.
160	517.07	3rd	Registration of securities and furnishing of prospectus required.
161	590.28 (1)	3rd	Willful, malicious, or intentional burning.
162	784.05 <u>(4)</u> (3)	3rd	Storing or leaving a loaded firearm within reach of minor who uses it to inflict injury or death.
163	<u>784.05 (5)</u>	<u>3rd</u>	<u>Storing or leaving an assault weapon within reach of another who uses it to inflict injury or death.</u>
164	787.04 (1)	3rd	In violation of court order, take, entice, etc., minor beyond state limits.
165	806.13 (1) (b) 3.	3rd	Criminal mischief; damage \$1,000 or more to public communication or any other public service.
	810.061 (2)	3rd	Impairing or impeding telephone or power

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			to a dwelling; facilitating or furthering burglary.
166	810.09(2)(e)	3rd	Trespassing on posted commercial horticulture property.
167	812.014(2)(c)1.	3rd	Grand theft, 3rd degree; \$300 or more but less than \$5,000.
168	812.014(2)(d)	3rd	Grand theft, 3rd degree; \$100 or more but less than \$300, taken from unenclosed curtilage of dwelling.
169	812.015(7)	3rd	Possession, use, or attempted use of an antishoplifting or inventory control device countermeasure.
170	817.234(1)(a)2.	3rd	False statement in support of insurance claim.
171	817.481(3)(a)	3rd	Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over \$300.
172	817.52(3)	3rd	Failure to redeliver hired vehicle.
173	817.54	3rd	With intent to defraud, obtain mortgage

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174			note, etc., by false representation.
175	817.60 (5)	3rd	Dealing in credit cards of another.
176	817.60 (6) (a)	3rd	Forgery; purchase goods, services with false card.
177	817.61	3rd	Fraudulent use of credit cards over \$100 or more within 6 months.
178	826.04	3rd	Knowingly marries or has sexual intercourse with person to whom related.
179	831.01	3rd	Forgery.
180	831.02	3rd	Uttering forged instrument; utters or publishes alteration with intent to defraud.
181	831.07	3rd	Forging bank bills, checks, drafts, or promissory notes.
182	831.08	3rd	Possessing 10 or more forged notes, bills, checks, or drafts.
183	831.09	3rd	Uttering forged notes, bills, checks, drafts, or promissory notes.

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184 831.11 3rd Bringing into the state forged bank
bills, checks, drafts, or notes.

185 832.05(3)(a) 3rd Cashing or depositing item with intent
to defraud.

186 843.08 3rd Falsely impersonating an officer.

187 893.13(2)(a)2. 3rd Purchase of any 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 other than cannabis.

188 893.147(2) 3rd Manufacture or delivery of drug
paraphernalia.

189 Section 4. This act shall take effect October 1, 2008.