

By Senator Bullard

39-00235-09

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

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

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

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

19           784.05 Culpable negligence.—

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

22           (2)~~(1)~~ Whoever, through culpable negligence, exposes  
23 another person to personal injury commits a misdemeanor of the  
24 second degree, punishable as provided in s. 775.082 or s.  
25 775.083.

26           (3)~~(2)~~ Whoever, through culpable negligence, inflicts  
27 actual personal injury on another commits a misdemeanor of the  
28 first degree, punishable as provided in s. 775.082 or s.  
29 775.083.

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

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

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

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

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

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

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59 circumstances and may file an information against the  
60 appropriate parties.

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

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

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

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

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

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

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

86 (I) A folding or telescoping stock;

87 (II) A pistol grip that protrudes conspicuously beneath the

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

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- 117 caliber, known as:
- 118 (I) Norinco, Mitchell, and Poly Technologies Avtomat
- 119 Kalashnikovs (all models);
- 120 (II) Action Arms Israeli Military Industries UZI and 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 detachable
- 137 magazine that holds more than five rounds of ammunition;
- 138 e. Is a semiautomatic shotgun that cannot hold more than
- 139 five rounds of ammunition in a fixed or detachable magazine;
- 140 f. Is a rifle, shotgun, or pistol, or a replica or a
- 141 duplicate thereof, specified in Appendix A to 18 U.S.C. s. 922
- 142 as such weapon was manufactured on October 1, 1993. The mere
- 143 fact that a weapon is not listed in Appendix A does not mean
- 144 that such weapon is an assault weapon; or
- 145 g. Is a semiautomatic rifle, a semiautomatic shotgun, or a

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146 semiautomatic pistol or any of the weapons defined in sub-  
 147 subparagraph 1.d. lawfully possessed prior to September 14,  
 148 1994.

149 ~~(4) As used in this act, the term "minor" means any person~~  
 150 ~~under the age of 16.~~

151 Section 3. Paragraph (b) of subsection (3) of section  
 152 921.0022, Florida Statutes, is amended to read:

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

155 (3) OFFENSE SEVERITY RANKING CHART

156 (b) LEVEL 2

Florida Felony

Statute Degree

Description

157 379.2431(1)(e)3. 3rd Possession of 11 or fewer marine turtle  
 eggs in violation of the Marine Turtle  
 Protection Act.

158 379.2431(1)(e)4. 3rd Possession of more than 11 marine turtle  
 eggs in violation of the Marine Turtle  
 Protection Act.

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.

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590.28(1) 3rd Willful, malicious, or intentional burning.

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784.05 (4) ~~(3)~~ 3rd Storing or leaving a loaded firearm within reach of minor who uses it to inflict injury or death.

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784.05(5) 3rd Storing or leaving an assault weapon within reach of another who uses it to inflict injury or death.

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.

166

810.061(2) 3rd Impairing or impeding telephone or power to a dwelling; facilitating or furthering burglary.

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810.09(2)(e) 3rd Trespassing on posted commercial horticulture property.

168

812.014(2)(c)1. 3rd Grand theft, 3rd degree; \$300 or more but less than \$5,000.

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|-----|-----------------|-----|--|
| 170 | 812.014(2)(d)   | 3rd | Grand theft, 3rd degree; \$100 or more but less than \$300, taken from unenclosed curtilage of dwelling. |
| 171 | 812.015(7)      | 3rd | Possession, use, or attempted use of an antishoplifting or inventory control device countermeasure.      |
| 172 | 817.234(1)(a)2. | 3rd | False statement in support of insurance claim.   |
| 173 | 817.481(3)(a)   | 3rd | Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over \$300.         |
| 174 | 817.52(3)       | 3rd | Failure to redeliver hired vehicle.  |
| 175 | 817.54          | 3rd | With intent to defraud, obtain mortgage note, etc., by false representation.                             |
| 176 | 817.60(5)       | 3rd | Dealing in credit cards of another.  |
| 177 | 817.60(6)(a)    | 3rd | Forgery; purchase goods, services with false card.   |
| 178 | 817.61          | 3rd | Fraudulent use of credit cards over \$100 or more within 6 months.                                       |
|     | 826.04          | 3rd | Knowingly marries or has sexual  |



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intercourse with person to whom related.

831.01 3rd

Forgery.

831.02 3rd

Uttering forged instrument; utters or publishes alteration with intent to defraud.

831.07 3rd

Forging bank bills, checks, drafts, or promissory notes.

831.08 3rd

Possessing 10 or more forged notes, bills, checks, or drafts.

831.09 3rd

Uttering forged notes, bills, checks, drafts, or promissory notes.

831.11 3rd

Bringing into the state forged bank bills, checks, drafts, or notes.

832.05(3)(a) 3rd

Cashing or depositing item with intent to defraud.

843.08 3rd

Falsely impersonating an officer.

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.

