

## ENROLLED

CS/CS/HB 947, Engrossed 1

2012 Legislature

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2 An act relating to possession of a firearm or  
3 destructive device during the commission of an  
4 offense; amending s. 775.087, F.S.; providing that an  
5 exception to the 10-year minimum term for persons  
6 convicted of certain offenses during which the person  
7 actually possessed a firearm or destructive device  
8 does not to apply to offenders convicted for  
9 possession of a firearm by a felon who have certain  
10 prior convictions and actually possessed a firearm or  
11 destructive device during the commission of the prior  
12 felony; providing an effective date.

13  
14 WHEREAS, this act honors the heroic actions of law  
15 enforcement officers killed by felons who have prior felony  
16 convictions for offenses listed in s. 775.084(1)(b)1., Florida  
17 Statutes, and

18 WHEREAS, those officers killed in 2011 and 2012 and honored  
19 herein are Detective Roger Castillo of the Miami-Dade Police  
20 Department, Detective Amanda Haworth of the Miami-Dade Police  
21 Department, Police Officer Jeffrey Yaslowitz of the St.  
22 Petersburg Police Department, Sergeant Tom Baitinger of the St.  
23 Petersburg Police Department, and Detective David White of the  
24 Clay County Sheriff's Office, and

25 WHEREAS, law enforcement officers are society's first line  
26 of defense against crime, and

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27 WHEREAS, we commend the brave actions of these officers who  
 28 play an essential role in safeguarding the rights and freedoms  
 29 of our citizens, NOW, THEREFORE,

30

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

32

33 Section 1. Paragraph (a) of subsection (2) of section  
 34 775.087, Florida Statutes, is amended to read:

35 775.087 Possession or use of weapon; aggravated battery;  
 36 felony reclassification; minimum sentence.—

37 (2) (a) 1. Any person who is convicted of a felony or an  
 38 attempt to commit a felony, regardless of whether the use of a  
 39 weapon is an element of the felony, and the conviction was for:

- 40 a. Murder;
- 41 b. Sexual battery;
- 42 c. Robbery;
- 43 d. Burglary;
- 44 e. Arson;
- 45 f. Aggravated assault;
- 46 g. Aggravated battery;
- 47 h. Kidnapping;
- 48 i. Escape;
- 49 j. Aircraft piracy;
- 50 k. Aggravated child abuse;
- 51 l. Aggravated abuse of an elderly person or disabled  
 52 adult;
- 53 m. Unlawful throwing, placing, or discharging of a  
 54 destructive device or bomb;

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- 55 n. Carjacking;
- 56 o. Home-invasion robbery;
- 57 p. Aggravated stalking;
- 58 q. Trafficking in cannabis, trafficking in cocaine,
- 59 capital importation of cocaine, trafficking in illegal drugs,
- 60 capital importation of illegal drugs, trafficking in
- 61 phencyclidine, capital importation of phencyclidine, trafficking
- 62 in methaqualone, capital importation of methaqualone,
- 63 trafficking in amphetamine, capital importation of amphetamine,
- 64 trafficking in flunitrazepam, trafficking in gamma-
- 65 hydroxybutyric acid (GHB), trafficking in 1,4-Butanediol,
- 66 trafficking in Phenethylamines, or other violation of s.
- 67 893.135(1); or

68 r. Possession of a firearm by a felon

69

70 and during the commission of the offense, such person actually

71 possessed a "firearm" or "destructive device" as those terms are

72 defined in s. 790.001, shall be sentenced to a minimum term of

73 imprisonment of 10 years, except that a person who is convicted

74 for aggravated assault, possession of a firearm by a felon, or

75 burglary of a conveyance shall be sentenced to a minimum term of

76 imprisonment of 3 years if such person possessed a "firearm" or

77 "destructive device" during the commission of the offense.

78 However, if an offender who is convicted of the offense of

79 possession of a firearm by a felon has a previous conviction of

80 committing or attempting to commit a felony listed in s.

81 775.084(1)(b)1. and actually possessed a firearm or destructive

82 device during the commission of the prior felony, the offender

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83 shall be sentenced to a minimum term of imprisonment of 10  
84 years.

85 2. Any person who is convicted of a felony or an attempt  
86 to commit a felony listed in sub-subparagraphs (a)1.a.-q.,  
87 regardless of whether the use of a weapon is an element of the  
88 felony, and during the course of the commission of the felony  
89 such person discharged a "firearm" or "destructive device" as  
90 defined in s. 790.001 shall be sentenced to a minimum term of  
91 imprisonment of 20 years.

92 3. Any person who is convicted of a felony or an attempt  
93 to commit a felony listed in sub-subparagraphs (a)1.a.-q.,  
94 regardless of whether the use of a weapon is an element of the  
95 felony, and during the course of the commission of the felony  
96 such person discharged a "firearm" or "destructive device" as  
97 defined in s. 790.001 and, as the result of the discharge, death  
98 or great bodily harm was inflicted upon any person, the  
99 convicted person shall be sentenced to a minimum term of  
100 imprisonment of not less than 25 years and not more than a term  
101 of imprisonment of life in prison.

102 Section 2. This act shall take effect July 1, 2012.