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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/12/2014	.	
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The Committee on Rules (Thrasher) recommended the following:

Senate Amendment (with title amendment)

Delete lines 74 - 199
and insert:

Section 2. Subsection (2) of section 775.087, Florida
Statutes, is amended to read:

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

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



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- 12 a. Murder;
- 13 b. Sexual battery;
- 14 c. Robbery;
- 15 d. Burglary;
- 16 e. Arson;
- 17 f. Aggravated assault;
- 18 g. Aggravated battery;
- 19 h. Kidnapping;
- 20 i. Escape;
- 21 j. Aircraft piracy;
- 22 k. Aggravated child abuse;
- 23 l. Aggravated abuse of an elderly person or disabled adult;
- 24 m. Unlawful throwing, placing, or discharging of a
- 25 destructive device or bomb;
- 26 n. Carjacking;
- 27 o. Home-invasion robbery;
- 28 p. Aggravated stalking;
- 29 q. Trafficking in cannabis, trafficking in cocaine, capital
- 30 importation of cocaine, trafficking in illegal drugs, capital
- 31 importation of illegal drugs, trafficking in phencyclidine,
- 32 capital importation of phencyclidine, trafficking in
- 33 methaqualone, capital importation of methaqualone, trafficking
- 34 in amphetamine, capital importation of amphetamine, trafficking
- 35 in flunitrazepam, trafficking in gamma-hydroxybutyric acid
- 36 (GHB), trafficking in 1,4-Butanediol, trafficking in
- 37 Phenethylamines, or other violation of s. 893.135(1); or
- 38 r. Possession of a firearm by a felon
- 39
- 40 and during the commission of the offense, such person actually



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41 possessed a "firearm" or "destructive device" as those terms are
42 defined in s. 790.001, shall be sentenced to a minimum term of
43 imprisonment of 10 years, except that a person who is convicted
44 for aggravated assault, possession of a firearm by a felon, or
45 burglary of a conveyance shall be sentenced to a minimum term of
46 imprisonment of 3 years if such person possessed a "firearm" or
47 "destructive device" during the commission of the offense.

48 However, if an offender who is convicted of the offense of
49 possession of a firearm by a felon has a previous conviction of
50 committing or attempting to commit a felony listed in s.

51 775.084(1)(b)1. and actually possessed a firearm or destructive
52 device during the commission of the prior felony, the offender
53 shall be sentenced to a minimum term of imprisonment of 10
54 years.

55 2. Any person who is convicted of a felony or an attempt to
56 commit a felony listed in sub-subparagraphs (a)1.a.-q.,
57 regardless of whether the use of a weapon is an element of the
58 felony, and during the course of the commission of the felony
59 such person discharged a "firearm" or "destructive device" as
60 defined in s. 790.001 shall be sentenced to a minimum term of
61 imprisonment of 20 years.

62 3. Any person who is convicted of a felony or an attempt to
63 commit a felony listed in sub-subparagraphs (a)1.a.-q.,
64 regardless of whether the use of a weapon is an element of the
65 felony, and during the course of the commission of the felony
66 such person discharged a "firearm" or "destructive device" as
67 defined in s. 790.001 and, as the result of the discharge, death
68 or great bodily harm was inflicted upon any person, the
69 convicted person shall be sentenced to a minimum term of



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70 imprisonment of not less than 25 years and not more than a term
71 of imprisonment of life in prison.

72 (b) Subparagraph (a)1., subparagraph (a)2., or subparagraph
73 (a)3. does not prevent a court from imposing a longer sentence
74 of incarceration as authorized by law in addition to the minimum
75 mandatory sentence, or from imposing a sentence of death
76 pursuant to other applicable law. Subparagraph (a)1.,
77 subparagraph (a)2., or subparagraph (a)3. does not authorize a
78 court to impose a lesser sentence than otherwise required by
79 law.

80
81 Notwithstanding s. 948.01, adjudication of guilt or imposition
82 of sentence shall not be suspended, deferred, or withheld, and
83 the defendant is not eligible for statutory gain-time under s.
84 944.275 or any form of discretionary early release, other than
85 pardon or executive clemency, or conditional medical release
86 under s. 947.149, prior to serving the minimum sentence.

87 (c) If the minimum mandatory terms of imprisonment imposed
88 pursuant to this section exceed the maximum sentences authorized
89 by s. 775.082, s. 775.084, or the Criminal Punishment Code under
90 chapter 921, then the mandatory minimum sentence must be
91 imposed. If the mandatory minimum terms of imprisonment pursuant
92 to this section are less than the sentences that could be
93 imposed as authorized by s. 775.082, s. 775.084, or the Criminal
94 Punishment Code under chapter 921, then the sentence imposed by
95 the court must include the mandatory minimum term of
96 imprisonment as required in this section.

97 (d) It is the intent of the Legislature that offenders who
98 actually possess, carry, display, use, threaten to use, or



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99 attempt to use firearms or destructive devices be punished to
100 the fullest extent of the law, and the minimum terms of
101 imprisonment imposed pursuant to this subsection shall be
102 imposed for each qualifying felony count for which the person is
103 convicted. The court shall impose any term of imprisonment
104 provided for in this subsection consecutively to any other term
105 of imprisonment imposed for any other felony offense.

106 (e) The minimum mandatory sentence set forth in paragraph
107 (2) (a) for a conviction for aggravated assault under s. 784.021
108 shall not be imposed upon a person who uses force to defend
109 himself, herself, or another if the court finds in writing that:

110 1. The person had a good faith belief that such conduct was
111 necessary to defend himself, herself, or another against a
112 person's imminent use of unlawful force consistent with s.
113 776.012 and the act was not done in the course of the commission
114 of another crime; or

115 2.a. The person did not intend to cause harm and did not
116 cause physical harm to another; and

117 b. The aggravated assault was not committed in the course
118 of committing another crime.

119 3. Nothing in this paragraph shall be construed to change
120 or modify any other provision related to the use of force in
121 chapter 776.

122
123 ===== T I T L E A M E N D M E N T =====

124 And the title is amended as follows:

125 Delete lines 4 - 6

126 and insert:

127 775.087, F.S.; creating an exception to the minimum



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mandatory sentence for aggravated assault under
specified conditions; amending s. 776.012, F.S.;