

1 A bill to be entitled
 2 An act relating to the Self-Defense Protection Act;
 3 providing a short title; amending s. 775.087, F.S.;
 4 extending an exception to certain mandatory minimum
 5 sentences if a use or threatened use of force was
 6 justifiable under specified provisions to cases other
 7 than those involving aggravated assault; revising
 8 required written findings; providing an effective
 9 date.

10

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

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13 Section 1. This act shall be cited as the "Self-Defense
 14 Protection Act."

15 Section 2. Subsection (6) of section 775.087, Florida
 16 Statutes, is amended, and subsections (2) and (3) of that
 17 section are republished, to read:

18 775.087 Possession or use of weapon; aggravated battery;
 19 felony reclassification; minimum sentence.—

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

- 23 a. Murder;
- 24 b. Sexual battery;
- 25 c. Robbery;
- 26 d. Burglary;

- 27 e. Arson;
- 28 f. Aggravated assault;
- 29 g. Aggravated battery;
- 30 h. Kidnapping;
- 31 i. Escape;
- 32 j. Aircraft piracy;
- 33 k. Aggravated child abuse;
- 34 l. Aggravated abuse of an elderly person or disabled
- 35 adult;
- 36 m. Unlawful throwing, placing, or discharging of a
- 37 destructive device or bomb;
- 38 n. Carjacking;
- 39 o. Home-invasion robbery;
- 40 p. Aggravated stalking;
- 41 q. Trafficking in cannabis, trafficking in cocaine,
- 42 capital importation of cocaine, trafficking in illegal drugs,
- 43 capital importation of illegal drugs, trafficking in
- 44 phencyclidine, capital importation of phencyclidine, trafficking
- 45 in methaqualone, capital importation of methaqualone,
- 46 trafficking in amphetamine, capital importation of amphetamine,
- 47 trafficking in flunitrazepam, trafficking in gamma-
- 48 hydroxybutyric acid (GHB), trafficking in 1,4-Butanediol,
- 49 trafficking in Phenethylamines, or other violation of s.
- 50 893.135(1); or
- 51 r. Possession of a firearm by a felon
- 52

53 and during the commission of the offense, such person actually
54 possessed a "firearm" or "destructive device" as those terms are
55 defined in s. 790.001, shall be sentenced to a minimum term of
56 imprisonment of 10 years, except that a person who is convicted
57 for aggravated assault, possession of a firearm by a felon, or
58 burglary of a conveyance shall be sentenced to a minimum term of
59 imprisonment of 3 years if such person possessed a "firearm" or
60 "destructive device" during the commission of the offense.
61 However, if an offender who is convicted of the offense of
62 possession of a firearm by a felon has a previous conviction of
63 committing or attempting to commit a felony listed in s.
64 775.084(1)(b)1. and actually possessed a firearm or destructive
65 device during the commission of the prior felony, the offender
66 shall be sentenced to a minimum term of imprisonment of 10
67 years.

68 2. Any person who is convicted of a felony or an attempt
69 to commit a felony listed in sub-subparagraphs (a)1.a.-q.,
70 regardless of whether the use of a weapon is an element of the
71 felony, and during the course of the commission of the felony
72 such person discharged a "firearm" or "destructive device" as
73 defined in s. 790.001 shall be sentenced to a minimum term of
74 imprisonment of 20 years.

75 3. Any person who is convicted of a felony or an attempt
76 to commit a felony listed in sub-subparagraphs (a)1.a.-q.,
77 regardless of whether the use of a weapon is an element of the
78 felony, and during the course of the commission of the felony

79 | such person discharged a "firearm" or "destructive device" as
80 | defined in s. 790.001 and, as the result of the discharge, death
81 | or great bodily harm was inflicted upon any person, the
82 | convicted person shall be sentenced to a minimum term of
83 | imprisonment of not less than 25 years and not more than a term
84 | of imprisonment of life in prison.

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

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

100 | (c) If the minimum mandatory terms of imprisonment imposed
101 | pursuant to this section exceed the maximum sentences authorized
102 | by s. 775.082, s. 775.084, or the Criminal Punishment Code under
103 | chapter 921, then the mandatory minimum sentence must be
104 | imposed. If the mandatory minimum terms of imprisonment pursuant

105 to this section are less than the sentences that could be
106 imposed as authorized by s. 775.082, s. 775.084, or the Criminal
107 Punishment Code under chapter 921, then the sentence imposed by
108 the court must include the mandatory minimum term of
109 imprisonment as required in this section.

110 (d) It is the intent of the Legislature that offenders who
111 actually possess, carry, display, use, threaten to use, or
112 attempt to use firearms or destructive devices be punished to
113 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 (3)(a)1. Any person who is convicted of a felony or an
120 attempt to commit a felony, regardless of whether the use of a
121 firearm is an element of the felony, and the conviction was for:

- 122 a. Murder;
- 123 b. Sexual battery;
- 124 c. Robbery;
- 125 d. Burglary;
- 126 e. Arson;
- 127 f. Aggravated assault;
- 128 g. Aggravated battery;
- 129 h. Kidnapping;
- 130 i. Escape;

131 j. Sale, manufacture, delivery, or intent to sell,
 132 manufacture, or deliver any controlled substance;
 133 k. Aircraft piracy;
 134 l. Aggravated child abuse;
 135 m. Aggravated abuse of an elderly person or disabled
 136 adult;
 137 n. Unlawful throwing, placing, or discharging of a
 138 destructive device or bomb;
 139 o. Carjacking;
 140 p. Home-invasion robbery;
 141 q. Aggravated stalking; or
 142 r. Trafficking in cannabis, trafficking in cocaine,
 143 capital importation of cocaine, trafficking in illegal drugs,
 144 capital importation of illegal drugs, trafficking in
 145 phencyclidine, capital importation of phencyclidine, trafficking
 146 in methaqualone, capital importation of methaqualone,
 147 trafficking in amphetamine, capital importation of amphetamine,
 148 trafficking in flunitrazepam, trafficking in gamma-
 149 hydroxybutyric acid (GHB), trafficking in 1,4-Butanediol,
 150 trafficking in Phenethylamines, or other violation of s.
 151 893.135(1);
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 153 and during the commission of the offense, such person possessed
 154 a semiautomatic firearm and its high-capacity detachable box
 155 magazine or a machine gun as defined in s. 790.001, shall be
 156 sentenced to a minimum term of imprisonment of 15 years.

157 2. Any person who is convicted of a felony or an attempt
158 to commit a felony listed in subparagraph (a)1., regardless of
159 whether the use of a weapon is an element of the felony, and
160 during the course of the commission of the felony such person
161 discharged a semiautomatic firearm and its high-capacity box
162 magazine or a "machine gun" as defined in s. 790.001 shall be
163 sentenced to a minimum term of imprisonment of 20 years.

164 3. Any person who is convicted of a felony or an attempt
165 to commit a felony listed in subparagraph (a)1., regardless of
166 whether the use of a weapon is an element of the felony, and
167 during the course of the commission of the felony such person
168 discharged a semiautomatic firearm and its high-capacity box
169 magazine or a "machine gun" as defined in s. 790.001 and, as the
170 result of the discharge, death or great bodily harm was
171 inflicted upon any person, the convicted person shall be
172 sentenced to a minimum term of imprisonment of not less than 25
173 years and not more than a term of imprisonment of life in
174 prison.

175 (b) Subparagraph (a)1., subparagraph (a)2., or
176 subparagraph (a)3. does not prevent a court from imposing a
177 longer sentence of incarceration as authorized by law in
178 addition to the minimum mandatory sentence, or from imposing a
179 sentence of death pursuant to other applicable law. Subparagraph
180 (a)1., subparagraph (a)2., or subparagraph (a)3. does not
181 authorize a court to impose a lesser sentence than otherwise
182 required by law.

183
184 Notwithstanding s. 948.01, adjudication of guilt or imposition
185 of sentence shall not be suspended, deferred, or withheld, and
186 the defendant is not eligible for statutory gain-time under s.
187 944.275 or any form of discretionary early release, other than
188 pardon or executive clemency, or conditional medical release
189 under s. 947.149, prior to serving the minimum sentence.

190 (c) If the minimum mandatory terms of imprisonment imposed
191 pursuant to this section exceed the maximum sentences authorized
192 by s. 775.082, s. 775.084, or the Criminal Punishment Code under
193 chapter 921, then the mandatory minimum sentence must be
194 imposed. If the mandatory minimum terms of imprisonment pursuant
195 to this section are less than the sentences that could be
196 imposed as authorized by s. 775.082, s. 775.084, or the Criminal
197 Punishment Code under chapter 921, then the sentence imposed by
198 the court must include the mandatory minimum term of
199 imprisonment as required in this section.

200 (d) It is the intent of the Legislature that offenders who
201 possess, carry, display, use, threaten to use, or attempt to use
202 a semiautomatic firearm and its high-capacity detachable box
203 magazine or a machine gun as defined in s. 790.001 be punished
204 to the fullest extent of the law, and the minimum terms of
205 imprisonment imposed pursuant to this subsection shall be
206 imposed for each qualifying felony count for which the person is
207 convicted. The court shall impose any term of imprisonment
208 provided for in this subsection consecutively to any other term

209 of imprisonment imposed for any other felony offense.

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

211 1. "High-capacity detachable box magazine" means any
212 detachable box magazine, for use in a semiautomatic firearm,
213 which is capable of being loaded with more than 20 centerfire
214 cartridges.

215 2. "Semiautomatic firearm" means a firearm which is
216 capable of firing a series of rounds by separate successive
217 depressions of the trigger and which uses the energy of
218 discharge to perform a portion of the operating cycle.

219 (6) Notwithstanding s. 27.366, the sentencing court shall
220 not impose the mandatory minimum sentence required by subsection
221 (2) or subsection (3) ~~for a conviction for aggravated assault~~ if
222 the court makes written findings that:

223 (a) The defendant had a good faith belief that the use or
224 threatened use of force ~~aggravated assault~~ was justifiable
225 pursuant to chapter 776.

226 ~~(b) The aggravated assault was not committed in the course~~
227 ~~of committing another criminal offense.~~

228 (b)-(e) The defendant does not pose a threat to public
229 safety.

230 (c)-(d) The totality of the circumstances involved in the
231 offense does ~~do~~ not justify the imposition of such sentence.

232 Section 3. This act shall take effect upon becoming a law.