

By Senator Thurston

33-01377A-17

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1                   A bill to be entitled  
2           An act relating to reclassification of offenses  
3           involving certain firearms or additional firearm  
4           magazines; amending s. 775.087, F.S.; providing for  
5           the reclassification of offenses committed while in  
6           possession of a weapon or firearm capable of holding  
7           more than 10 rounds of ammunition or while in  
8           possession of a firearm and more than one magazine for  
9           such firearm; reenacting s. 921.0022(2), F.S.,  
10          relating to the Criminal Punishment Code and offense  
11          severity ranking chart, to incorporate the amendment  
12          made to s. 775.087, F.S., in a reference thereto;  
13          providing an effective date.

14  
15 Be It Enacted by the Legislature of the State of Florida:

16  
17           Section 1. Subsection (1) of section 775.087, Florida  
18           Statutes, is amended to read:

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

21           (1) (a) Unless otherwise provided by law, whenever a person  
22           is charged with a felony, except a felony in which the use of a  
23           weapon or firearm is an essential element, and during the  
24           commission of such felony the defendant carries, displays, uses,  
25           threatens to use, or attempts to use any weapon or firearm, or  
26           during the commission of such felony the defendant commits an  
27           aggravated battery, the felony for which the person is charged  
28           shall be reclassified as follows:

29           1. ~~(a)~~ In the case of a felony of the first degree, to a

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30 life felony.

31 2.~~(b)~~ In the case of a felony of the second degree, to a  
32 felony of the first degree.

33 3.~~(e)~~ In the case of a felony of the third degree, to a  
34 felony of the second degree.

35 (b) In addition to any other classification of an offense  
36 provided by law, whenever a person commits a misdemeanor or  
37 felony, and during the commission of such offense the person  
38 carries, displays, uses, threatens to use, or attempts to use a  
39 weapon or firearm capable of holding 10 or more rounds of  
40 ammunition without the necessity of reloading, or the person  
41 possesses a firearm and possesses more than one firearm magazine  
42 capable of being used in the firearm, the offense for which the  
43 person is charged shall be reclassified as follows:

44 1. In the case of a felony of the first degree, to a life  
45 felony.

46 2. In the case of a felony of the second degree, to a  
47 felony of the first degree.

48 3. In the case of a felony of the third degree, to a felony  
49 of the second degree.

50 4. In the case of a misdemeanor of the first degree, to a  
51 felony of the third degree.

52 5. In the case of a misdemeanor of the second degree, to a  
53 misdemeanor of the first degree.

54  
55 For purposes of sentencing under chapter 921 and determining  
56 incentive gain-time eligibility under chapter 944, a felony  
57 offense which is reclassified under this subsection ~~section~~ is  
58 ranked one level above the ranking under s. 921.0022 or s.

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59 921.0023 of the felony offense committed.

60 Section 2. For the purpose of incorporating the amendment  
61 made by this act to section 775.087, Florida Statutes, in a  
62 reference thereto, subsection (2) of section 921.0022, Florida  
63 Statutes, is reenacted to read:

64 921.0022 Criminal Punishment Code; offense severity ranking  
65 chart.—

66 (2) The offense severity ranking chart has 10 offense  
67 levels, ranked from least severe, which are level 1 offenses, to  
68 most severe, which are level 10 offenses, and each felony  
69 offense is assigned to a level according to the severity of the  
70 offense. For purposes of determining which felony offenses are  
71 specifically listed in the offense severity ranking chart and  
72 which severity level has been assigned to each of these  
73 offenses, the numerical statutory references in the left column  
74 of the chart and the felony degree designations in the middle  
75 column of the chart are controlling; the language in the right  
76 column of the chart is provided solely for descriptive purposes.  
77 Reclassification of the degree of the felony through the  
78 application of s. 775.0845, s. 775.085, s. 775.0861, s.  
79 775.0862, s. 775.0863, s. 775.087, s. 775.0875, s. 794.023, or  
80 any other law that provides an enhanced penalty for a felony  
81 offense, to any offense listed in the offense severity ranking  
82 chart in this section shall not cause the offense to become  
83 unlisted and is not subject to the provisions of s. 921.0023.

84 Section 3. This act shall take effect October 1, 2017.