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LEGISLATIVE ACTION

Senate

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House

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Senator Grall moved the following:

Senate Amendment (with title amendment)

Delete lines 108 - 376

and insert:

Statutes, are amended, and paragraph (i) is added to subsection (5) of that section, to read:

95.11 Limitations other than for the recovery of real property.—Actions other than for recovery of real property shall be commenced as follows:

(2) WITHIN FIVE YEARS.—

(b) A legal or equitable action on a contract, obligation,



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or liability founded on a written instrument, except for an action to enforce a claim against a payment bond, which shall be governed by the applicable provisions of paragraph (6)(e), s. 255.05(10), s. 337.18(1), or s. 713.23(1)(e), and except for an action for a deficiency judgment governed by paragraph (6)(f) ~~(6)(h)~~.

(5) WITHIN TWO YEARS.—

(i) Except for actions described in subsection (9), or a petition challenging a criminal conviction, all petitions; extraordinary writs; tort actions, including those under s. 768.28(14); or other actions which concern any condition of confinement of a prisoner filed by or on behalf of a prisoner as defined in s. 57.085. Any petition, writ, or action brought under this paragraph must be commenced within 2 years after the time the incident, conduct, or conditions occurred or within 2 years after the time the incident, conduct, or conditions were discovered, or should have been discovered.

(6) WITHIN ONE YEAR.—

~~(f) Except for actions described in subsection (9), a petition for extraordinary writ, other than a petition challenging a criminal conviction, filed by or on behalf of a prisoner as defined in s. 57.085.~~

~~(g) Except for actions described in subsection (9), an action brought by or on behalf of a prisoner, as defined in s. 57.085, relating to the conditions of the prisoner's confinement.~~

~~(h)~~ An action to enforce a claim of a deficiency related to a note secured by a mortgage against a residential property that is a one-family to four-family dwelling unit. The limitations



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period shall commence on the day after the certificate is issued by the clerk of court or the day after the mortgagee accepts a deed in lieu of foreclosure.

Section 3. Section 760.701, Florida Statutes, is created to read:

760.701 Lawsuits by prisoners.—

(1) For the purposes of this section, the term "prisoner" means any person incarcerated or detained in any jail, prison, or other correctional facility, who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program.

(2) An action may not be brought by or on behalf of a prisoner relating to the conditions of the prisoner's confinement under 42 U.S.C. s. 1983, or any other state or federal law, until such administrative remedies as are available are fully exhausted.

(3) The court shall on its own motion or on the motion of a party dismiss any action brought relating to the conditions of the prisoner's confinement under 42 U.S.C. s. 1983, or any other state or federal law, by a prisoner if the court is satisfied that the action is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief from a defendant who is immune from such relief. The court shall review any such action pursuant to s. 57.085(6).

(4) An action may not be brought in state court by or on behalf of a prisoner relating to the conditions of the prisoner's confinement under 42 U.S.C. s. 1983, or any state tort action, for mental or emotional injury suffered while in



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custody without a prior showing of physical injury or the
commission of a sexual act as defined in 18 U.S.C. s. 2246(2).

(5) The time for bringing an action which concerns any
condition of confinement of a prisoner shall be the limitations
period as described in s. 95.11(5)(i).

Section 4. Paragraph (d) of subsection (2) of section
775.087, Florida Statutes, is amended, paragraph (e) is added to
that subsection, paragraph (e) of subsection (3) is redesignated
as paragraph (f), paragraph (d) of that subsection is amended, a
new paragraph (e) is added to that subsection, and paragraph (a)
of subsection (2) and paragraph (a) of subsection (3) are
republished, 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:

- a. Murder;
- b. Sexual battery;
- c. Robbery;
- d. Burglary;
- e. Arson;
- f. Aggravated battery;
- g. Kidnapping;
- h. Escape;
- i. Aircraft piracy;
- j. Aggravated child abuse;
- k. Aggravated abuse of an elderly person or disabled adult;
- l. Unlawful throwing, placing, or discharging of a



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destructive device or bomb;

m. Carjacking;

n. Home-invasion robbery;

o. Aggravated stalking;

p. Trafficking in cannabis, trafficking in cocaine, capital importation of cocaine, trafficking in illegal drugs, capital importation of illegal drugs, trafficking in phencyclidine, capital importation of phencyclidine, trafficking in methaqualone, capital importation of methaqualone, trafficking in amphetamine, capital importation of amphetamine, trafficking in flunitrazepam, trafficking in gamma-hydroxybutyric acid (GHB), trafficking in 1,4-Butanediol, trafficking in Phenethylamines, or other violation of s. 893.135(1);

q. Possession of a firearm by a felon; or

r. Human trafficking

and during the commission of the offense, such person actually possessed a "firearm" or "destructive device" as those terms are defined in s. 790.001, shall be sentenced to a minimum term of imprisonment of 10 years, except that a person who is convicted for possession of a firearm by a felon or burglary of a conveyance shall be sentenced to a minimum term of imprisonment of 3 years if such person possessed a "firearm" or "destructive device" during the commission of the offense. However, if an offender who is convicted of the offense of possession of a firearm by a felon has a previous conviction of committing or attempting to commit a felony listed in s. 775.084(1)(b)1. and actually possessed a firearm or destructive device during the commission of the prior felony, the offender shall be sentenced



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to a minimum term of imprisonment of 10 years.

2. Any person who is convicted of a felony or an attempt to commit a felony listed in sub-subparagraphs 1.a.-p. or sub-subparagraph 1.r., regardless of whether the use of a weapon is an element of the felony, and during the course of the commission of the felony such person discharged a "firearm" or "destructive device" as defined in s. 790.001 shall be sentenced to a minimum term of imprisonment of 20 years.

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

(d) It is the intent of the Legislature that offenders who actually possess, carry, display, use, threaten to use, or attempt to use firearms or destructive devices be punished to the fullest extent of the law. The court shall impose, and the minimum term terms of imprisonment required under paragraph (a) imposed pursuant to this subsection shall be imposed for each qualifying felony offense count for which the person is convicted. If the offender is convicted of multiple felony offenses for which paragraph (a) requires the imposition of a minimum term of imprisonment, the court shall impose any such terms term of imprisonment provided for in this subsection



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~~consecutively to any other term of imprisonment imposed for any other felony offense.~~

(e) If an offender commits a felony enumerated in subparagraph (a)1. in conjunction with any other felony offense not enumerated in subparagraph (a)1., the court may impose any term of imprisonment provided for in paragraph (a) consecutively to any other term of imprisonment imposed for any other felony offense not enumerated in subparagraph (a)1.

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

- a. Murder;
- b. Sexual battery;
- c. Robbery;
- d. Burglary;
- e. Arson;
- f. Aggravated battery;
- g. Kidnapping;
- h. Escape;
- i. Sale, manufacture, delivery, or intent to sell, manufacture, or deliver any controlled substance;
- j. Aircraft piracy;
- k. Aggravated child abuse;
- l. Aggravated abuse of an elderly person or disabled adult;
- m. Unlawful throwing, placing, or discharging of a destructive device or bomb;
- n. Carjacking;
- o. Home-invasion robbery;
- p. Aggravated stalking;



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q. Trafficking in cannabis, trafficking in cocaine, capital importation of cocaine, trafficking in illegal drugs, capital importation of illegal drugs, trafficking in phencyclidine, capital importation of phencyclidine, trafficking in methaqualone, capital importation of methaqualone, trafficking in amphetamine, capital importation of amphetamine, trafficking in flunitrazepam, trafficking in gamma-hydroxybutyric acid (GHB), trafficking in 1,4-Butanediol, trafficking in Phenethylamines, or other violation of s. 893.135(1); or

r. Human trafficking

and during the commission of the offense, such person possessed a semiautomatic firearm and its high-capacity detachable box magazine or a machine gun as defined in s. 790.001, shall be sentenced to a minimum term of imprisonment of 15 years.

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

3. Any person who is convicted of a felony or an attempt to commit a felony listed in subparagraph 1., regardless of whether the use of a weapon is an element of the felony, and during the course of the commission of the felony such person discharged a semiautomatic firearm and its high-capacity box magazine or a "machine gun" as defined in s. 790.001 and, as the result of the discharge, death or great bodily harm was inflicted upon any



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person, the convicted person shall be sentenced to a minimum term of imprisonment of not less than 25 years and not more than a term of imprisonment of life in prison.

(d) It is the intent of the Legislature that offenders who possess, carry, display, use, threaten to use, or attempt to use a semiautomatic firearm and its high-capacity detachable box magazine or a machine gun as defined in s. 790.001 be punished to the fullest extent of the law. The court shall impose, and the minimum term terms of imprisonment required under paragraph (a) imposed pursuant to this subsection shall be imposed for each qualifying felony offense count for which the person is convicted. If the offender is convicted of multiple felony offenses for which paragraph (a) requires the imposition of a minimum term of imprisonment, the court shall impose any such terms term of imprisonment provided for in this subsection consecutively to any other term of imprisonment imposed for any other felony offense.

(e) If an offender commits a felony enumerated in subparagraph (a)1. in conjunction with any other felony offense not enumerated in subparagraph (a)1., the court may impose any term of imprisonment provided for in paragraph (a) consecutively to any other term of imprisonment imposed for any other felony offense not enumerated in subparagraph (a)1.

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

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

2. "Semiautomatic firearm" means a firearm which is capable



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of firing a series of rounds by separate successive depressions of the trigger and which uses the energy of discharge to perform a portion of the operating cycle.

Section 5. Subsection (13) of section 517.191, Florida Statutes, is amended to read:

517.191 Enforcement by the Office of Financial Regulation; enforcement by Attorney General.—

(13) ~~Notwithstanding s. 95.11(5)(f),~~ An enforcement action brought under this section based on a violation of this chapter or any rule or order issued under this chapter shall be brought within 6 years after the facts giving rise to the cause of action were discovered or should have been discovered with the exercise of due diligence, but not more than 8 years after the date such violation occurred.

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

And the title is amended as follows:

Delete lines 7 - 25

and insert:

providing for a 2-year period of limitation for bringing certain actions relating to the condition of confinement of prisoners; creating s. 760.701, F.S.; defining the term "prisoner"; requiring exhaustion of administrative remedies before certain actions concerning confinement of prisoners may be brought; providing for dismissal of certain actions involving prisoner confinement in certain circumstances; requiring a showing of physical injury or the commission of a certain act as a condition precedent



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273 for bringing certain actions relating to prisoner
274 confinement; specifying a time limitation period for
275 bringing an action concerning any condition of
276 confinement; amending s. 775.087, F.S.; providing that
277 prison terms for certain offenses committed in
278 conjunction with another felony offense may be
279 sentenced to be served consecutively; amending s.
280 517.191, F.S.; conforming a provision to changes made
281 by the act;