

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,

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

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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.