

+ HB219

By Senator Stewart

13-00062-18

2018196__

1 A bill to be entitled
2 An act relating to gun safety; creating s. 790.30,
3 F.S.; defining terms; prohibiting the sale or transfer
4 of an assault weapon or large-capacity magazine;
5 providing exceptions; providing criminal penalties;
6 prohibiting possession of an assault weapon or large
7 capacity magazine; providing exceptions; providing
8 criminal penalties; requiring certificates of
9 possession for assault weapons or large-capacity
10 magazines lawfully possessed before a specified date;
11 requiring the Department of Law Enforcement to adopt
12 rules by a certain date; limiting transfers of assault
13 weapons or large-capacity magazines represented by
14 such certificates; providing conditions for continued
15 possession of such weapons or large-capacity
16 magazines; requiring certificates of transfer for
17 transfers of assault weapons or large-capacity
18 magazines; providing for relinquishment of assault
19 weapons or large-capacity magazines; providing
20 requirements for transportation of assault weapons or
21 large-capacity magazines; providing criminal
22 penalties; specifying circumstances in which the
23 manufacture or transportation of assault weapons or
24 large-capacity magazines is not prohibited; exempting
25 permanently inoperable firearms from provisions;
26 amending s. 775.087, F.S.; providing enhanced criminal
27 penalties for certain offenses when committed with an
28 assault weapon or large-capacity magazine; reenacting
29 ss. 27.366, 921.0024(1)(b), and 947.146(3)(b), F.S.,
30 relating to legislative intent and policy in certain
31 cases, the Criminal Punishment Code worksheet key, and
32 the Control Release Authority, respectively, to
33 incorporate the amendment made to s. 775.087, F.S., in
34 references thereto; providing an effective date.

35
36 Be It Enacted by the Legislature of the State of Florida:

37
38 Section 1. Section 790.30, Florida Statutes, is created to
39 read:

- 40 790.30 Assault weapons.-
- 41 (1) DEFINITIONS.-As used in this section, the term:
- 42 (a) "Assault weapon" means:
- 43 1. A selective-fire firearm capable of fully automatic.

44 semiautomatic, or burst fire at the option of the user or any of
45 the following specified semiautomatic firearms:

- 46 a. Algimec AGM1.
- 47 b. All AK series, including, but not limited to, the
48 following: AK, AK-47, AK-74, AKM, AKS, ARM, MAK90, MISR, NHM90,
49 NHM91, Rock River Arms LAR-47, SA 85, SA 93, Vector Arms AK-47,
50 VEPR, WASR-10, and WUM.
- 51 c. All AR series, including, but not limited to, the
52 following: AR-10, AR-15, Armalite AR-180, Armalite M-15, AR-70,
53 Bushmaster XM15, Colt AR-15, DoubleStar AR rifles, DPMS tactical
54 rifles, Olympic Arms, Rock River Arms LAR-15, and Smith & Wesson
55 M&P15 rifles.
- 56 d. Barrett 82A1 and REC7.
- 57 e. Beretta AR-70 and Beretta Storm.
- 58 f. Bushmaster automatic rifle.
- 59 g. Calico Liberty series rifles.
- 60 h. Chartered Industries of Singapore SR-88.
- 61 i. Colt Sporter.
- 62 j. Daewoo K-1, K-2, Max-1, and Max-2.
- 63 k. FAMAS MAS .223.
- 64 l. Federal XC-900 and SC-450.
- 65 m. FN FAL (or FN LAR) and FN FNC.
- 66 n. FN FS2000, FN PS90, and FN SCAR.
- 67 o. Galil and UZI Sporter, Galil sniper rifle (Galatz),
68 Galil Sporter, UZI, or Vector Arms UZI.
- 69 p. Goncz High-Tech carbine.
- 70 q. Hi-Point carbine.
- 71 r. HK-91, HK-93, HK-94, HK-PSG-1, and SP-89.
- 72 s. Kel-Tec RFB, Sub-2000, and SU series.
- 73 t. M1 carbine.
- 74 u. M2HB and TNW M230.
- 75 v. Ruger Mini-14 with folding stock.
- 76 w. SAR-8, SAR-4800, and SR9.
- 77 x. SIG 57 AMT and 500 Series.
- 78 y. Sig Sauer MCX rifle.
- 79 z. SKS capable of accepting a detachable magazine.
- 80 aa. SLG 95.
- 81 bb. SLR 95 and 96.
- 82 cc. Spectre automatic carbine.
- 83 dd. Springfield Armory BM59, G-3, and SAR-48.
- 84 ee. Sterling MK-6 and MK-7.
- 85 ff. Steyr AUG.
- 86 gg. Thompson series, including Thompson T5.
- 87 hh. Weaver Arms Nighthawk.
- 88 2. All of the following handguns, copies, duplicates, or
89 altered facsimiles with the capability of any such weapon
90 thereof:
 - 91 a. AK-47 pistol and Mini AK-47 pistol.
 - 92 b. AR-15 pistol.
 - 93 c. Australian Automatic Arms SAP pistol.
 - 94 d. Bushmaster automatic pistol.
 - 95 e. Calico Liberty series pistols.
 - 96 f. Chiappa Firearms Mfour-22.
 - 97 g. Colefire Magnum.

- 98 h. DSA SA58 PKP FAL.
- 99 i. Encom MK-IV, MP-9, and MP-45.
- 100 j. Feather AT-9 and Mini-AT.
- 101 k. German Sport 522 PK.
- 102 l. Goncz High-Tech Long pistol.
- 103 m. Holmes MP-83.
- 104 n. Intratec AB-10, TEC-9, TEC-22 Scorpion, and TEC-DC9.
- 105 o. I.O. Inc. PPS-43C.
- 106 p. Iver Johnson Enforcer.
- 107 q. Kel-Tec PLR-16 pistol.
- 108 r. MAC-10, MAC-11, Masterpiece Arms MPA pistol series, and
- 109 Velocity Arms VMA series.
- 110 s. Scarab Skorpion.
- 111 t. Sig Sauer P556 pistol.
- 112 u. Spectre automatic pistol.
- 113 v. Thompson TA5 series pistols.
- 114 w. UZI pistol and Micro-UZI pistol.
- 115 x. Wilkinson "Linda" pistol.
- 116 3. All of the following shotguns, copies, duplicates, or
- 117 altered facsimiles with the capability of any such weapon
- 118 thereof:
- 119 a. Armscor 30 BG.
- 120 b. Franchi LAW-12 and SPAS-12.
- 121 c. Kel-Tec KSG.
- 122 d. Remington TAC-2 and TACB3 FS.
- 123 e. Saiga.
- 124 f. Streetsweeper.
- 125 g. Striker 12.
- 126 h. USAS-12.
- 127 4. A part or combination of parts that convert a firearm
- 128 into an assault weapon, or any combination of parts from which
- 129 an assault weapon may be assembled if those parts are in the
- 130 possession or under the control of the same person.
- 131 5. A semiautomatic firearm not listed in this paragraph
- 132 which meets the criteria of one of the following sub
- 133 subparagraphs:
- 134 a. A semiautomatic rifle that has an ability to accept a
- 135 detachable magazine and that has one or more of the following:
- 136 (I) A folding or telescoping stock.
- 137 (II) A pistol grip that protrudes conspicuously beneath the
- 138 action of the weapon or any feature functioning as a protruding
- 139 grip that can be held by the nontrigger hand or a thumbhole
- 140 stock.
- 141 (III) A bayonet mount.
- 142 (IV) A flash suppressor or threaded barrel designed to
- 143 accommodate a flash suppressor.
- 144 (V) A grenade launcher.
- 145 (VI) A shroud that is attached to the barrel, or that
- 146 partially or completely encircles the barrel and allows the
- 147 bearer to hold the firearm with the nontrigger hand without
- 148 being burned, but excluding a slide that encloses the barrel.
- 149 b. A semiautomatic pistol that has an ability to accept a
- 150 detachable magazine and that has one or more of the following:
- 151 (I) The capacity to accept an ammunition magazine that

152 attaches to the pistol at any location outside the pistol grip.

153 (II) A threaded barrel capable of accepting a barrel

154 extender, flash suppressor, forward handgrip, or silencer.

155 (III) A slide that encloses the barrel and that allows the

156 shooter to hold the firearm with the nontrigger hand without

157 being burned.

158 (IV) A manufactured weight of 50 ounces or more when the

159 pistol is unloaded.

160 (V) A semiautomatic version of an automatic firearm.

161 (VI) Any feature capable of functioning as a protruding

162 grip that can be held by the nontrigger hand.

163 (VII) A folding, telescoping, or thumbhole stock.

164 c. A semiautomatic shotgun that has one or more of the

165 following:

166 (I) A folding or telescoping stock.

167 (II) A pistol grip that protrudes conspicuously beneath the

168 action of the weapon.

169 (III) A thumbhole stock.

170 (IV) A fixed-magazine capacity in excess of 5 rounds.

171 (V) An ability to accept a detachable magazine.

172 d. A semiautomatic pistol or a semiautomatic, centerfire,

173 or rimfire rifle with a fixed magazine that has the capacity to

174 accept more than 10 rounds of ammunition.

175 e. A part or combination of parts designed or intended to

176 convert a firearm into an assault weapon, or any combination of

177 parts from which an assault weapon may be assembled if those

178 parts are in the possession or under the control of the same

179 person.

180 (b) "Detachable magazine" means an ammunition feeding

181 device that can be removed from a firearm without disassembly of

182 the firearm action.

183 (c) "Fixed magazine" means an ammunition feeding device

184 contained in, or permanently attached to, a firearm in such a

185 manner that the device cannot be removed without disassembly of

186 the firearm action.

187 (d) "Large-capacity magazine" means any ammunition feeding

188 device with the capacity to accept more than 7 rounds, or any

189 conversion kit, part, or combination of parts from which such a

190 device can be assembled if those parts are in the possession or

191 under the control of the same person, but does not include any

192 of the following:

193 1. A feeding device that has been permanently altered so

194 that it cannot accommodate more than 7 rounds;

195 2. A .22 caliber tube ammunition feeding device; or

196 3. A tubular magazine that is contained in a lever-action

197 firearm.

198 (e) "Licensed gun dealer" means a person who has a federal

199 firearms license.

200 (2) SALE OR TRANSFER.—

201 (a) A person may not import into the state or, within this

202 state, distribute, transport, sell, keep for sale, offer or

203 expose for sale, or give an assault weapon or large-capacity

204 magazine. Except as provided in paragraph (b), any person who

205 violates this paragraph commits a felony of the third degree.

206 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,
207 with a mandatory minimum term of imprisonment of 2 years.

208 (b) A person may not transfer, sell, or give an assault
209 weapon or large-capacity magazine to a person under 18 years of
210 age. Any person who violates this paragraph commits a felony of
211 the second degree, punishable as provided in s. 775.082, s.
212 775.083, or s. 775.084, with a mandatory minimum term of
213 imprisonment of 6 years.

214 (c) Paragraph (a) does not apply to:

215 1. The sale of assault weapons or large-capacity magazines
216 to the Department of Law Enforcement, to a law enforcement
217 agency, as defined in s. 934.02, to the Department of
218 Corrections, or to the military, air, or naval forces of this
219 state or the United States for use in the discharge of their
220 official duties.

221 2. A person who is the executor or administrator of an
222 estate that includes an assault weapon or large-capacity
223 magazine for which a certificate of possession has been issued
224 under subsection (4) which is disposed of as authorized by the
225 probate court, if the disposition is otherwise authorized under
226 this section.

227 3. The transfer by bequest or intestate succession of an
228 assault weapon or large-capacity magazine for which a
229 certificate of possession has been issued under subsection (4).

230 (3) POSSESSION.—

231 (a) Except as provided in subsection (5) or otherwise
232 provided in this section or authorized by any other law, a
233 person may not, within this state, possess an assault weapon or
234 large-capacity magazine. Any person who violates this paragraph
235 commits a felony of the third degree, punishable as provided in
236 s. 775.082, s. 775.083, or s. 775.084, with a mandatory minimum
237 term of imprisonment of 1 year.

238 (b) Paragraph (a) does not apply to the possession of an
239 assault weapon or large-capacity magazine by a member or
240 employee of the Department of Law Enforcement, a law enforcement
241 agency, as defined in s. 934.02, the Department of Corrections,
242 or the military, air, or naval forces of this state or of the
243 United States for use in the discharge of his or her official
244 duties; nor does this section prohibit the possession or use of
245 an assault weapon or large-capacity magazine by a sworn member
246 of one of these agencies when on duty and the use is within the
247 scope of his or her duties.

248 (c) Paragraph (a) does not apply to the possession of an
249 assault weapon or large-capacity magazine by any person before
250 July 1, 2019, if all of the following are applicable:

251 1. The person is eligible to apply for a certificate of
252 possession for the assault weapon or large-capacity magazine by
253 July 1, 2019;

254 2. The person lawfully possessed the assault weapon or
255 large-capacity magazine before October 1, 2018; and

256 3. The person is otherwise in compliance with this section
257 and the applicable requirements of this chapter for possession
258 of a firearm.

259 (d) Paragraph (a) does not apply to a person who is the

260 executor or administrator of an estate that includes an assault
261 weapon or large-capacity magazine for which a certificate of
262 possession has been issued under subsection (4), if the assault
263 weapon or large-capacity magazine is possessed at a place set
264 forth in subparagraph (4)(c)1. or as authorized by the probate
265 court.

266 (4) CERTIFICATE OF POSSESSION.—

267 (a) Any person who lawfully possesses an assault weapon or
268 large-capacity magazine before October 1, 2018, shall apply by
269 October 1, 2019, or, if such person is a member of the military
270 or naval forces of this state or of the United States and cannot
271 apply by October 1, 2019, because he or she is or was on
272 official duty outside this state, shall apply within 90 days
273 after returning to the state, to the Department of Law
274 Enforcement for a certificate of possession with respect to such
275 assault weapon or large-capacity magazine. The certificate must
276 contain a description of the assault weapon or large-capacity
277 magazine which identifies the assault weapon or large-capacity
278 magazine uniquely, including all identification marks; the full
279 name, address, date of birth, and thumbprint of the owner; and
280 any other information as the department may deem appropriate.
281 The department shall adopt rules no later than January 1, 2019,
282 to establish procedures with respect to the application for, and
283 issuance of, certificates of possession under this section.

284 (b)1. An assault weapon or large-capacity magazine lawfully
285 possessed in accordance with this section may not be sold or
286 transferred on or after January 1, 2019, to any person within
287 this state other than to a licensed gun dealer, as provided in
288 subsection (5); or by a bequest or intestate succession.

289 2. A person who obtains title to an assault weapon or
290 large-capacity magazine for which a certificate of possession
291 has been issued under this subsection shall, within 90 days
292 after obtaining title, apply to the Department of Law
293 Enforcement for a certificate of possession, render the assault
294 weapon or large-capacity magazine permanently inoperable, sell
295 the assault weapon or large-capacity magazine to a licensed gun
296 dealer, or remove the assault weapon or large-capacity magazine
297 from the state.

298 3. A person who moves into the state and who is in lawful
299 possession of an assault weapon or large-capacity magazine,
300 shall, within 90 days, either render the assault weapon or
301 large-capacity magazine permanently inoperable, sell the assault
302 weapon or large-capacity magazine to a licensed gun dealer, or
303 remove the assault weapon or large-capacity magazine from this
304 state, unless the person is a member of the military, air, or
305 naval forces of this state or of the United States, is in lawful
306 possession of an assault weapon or large-capacity magazine, and
307 has been transferred into the state after October 1, 2019.

308 (c) A person who has been issued a certificate of
309 possession for an assault weapon or large-capacity magazine
310 under this subsection may possess it only if the person is:

311 1. At the residence, the place of business, or any other
312 property owned by that person, or on a property owned by another
313 person with the owner's express permission;

314 2. On the premises of a target range of a public or private
315 club or organization organized for the purpose of practicing
316 shooting at targets;

317 3. On a target range that holds a regulatory or business
318 license for the purpose of practicing shooting at that target
319 range;

320 4. On the premises of a licensed shooting club;

321 5. Attending an exhibition, display, or educational project
322 on firearms which is sponsored by, conducted under the auspices
323 of, or approved by a law enforcement agency or a nationally or
324 state-recognized entity that fosters proficiency in, or promotes
325 education about, firearms; or

326 6. Transporting the assault weapon or large-capacity
327 magazine between any of the places mentioned in this paragraph,
328 or from or to any licensed gun dealer for servicing or repair
329 pursuant to paragraph (7)(b), provided the assault weapon or
330 large-capacity magazine is transported as required by subsection
331 (7).

332 (5) CERTIFICATE OF TRANSFER.—If an owner of an assault
333 weapon or large-capacity magazine sells or transfers the weapon
334 or magazine to a licensed gun dealer, he or she shall, at the
335 time of delivery of the weapon, execute a certificate of
336 transfer and cause the certificate to be mailed or delivered to
337 the Department of Law Enforcement. The certificate must contain:

338 (a) The date of sale or transfer.

339 (b) The name and address of the seller or transferor and
340 the licensed gun dealer and their social security numbers or
341 driver license numbers.

342 (c) The licensed gun dealer's federal firearms license
343 number.

344 (d) A description of the weapon, including the caliber of
345 the weapon and its make, model, and serial number.

346 (e) Any other information the Department of Law Enforcement
347 prescribes.

348

349 The licensed gun dealer shall present his or her driver license
350 or social security card and federal firearms license to the
351 seller or transferor for inspection at the time of purchase or
352 transfer. The Department of Law Enforcement shall maintain a
353 file of all certificates of transfer at its headquarters.

354 (6) RELINQUISHMENT.—An individual may arrange in advance to
355 relinquish an assault weapon or large-capacity magazine to a law
356 enforcement agency, as defined in s. 934.02, or the Department
357 of Law Enforcement. The assault weapon or large-capacity
358 magazine shall be transported in accordance with subsection (7).

359 (7) TRANSPORTATION.—

360 (a) A licensed gun dealer who lawfully purchases for resale
361 an assault weapon or large-capacity magazine pursuant to
362 subsection (2) may transport the assault weapon or large
363 capacity magazine between licensed gun dealers or out of this
364 state, but no person shall carry a loaded assault weapon
365 concealed from public view, or knowingly have in any motor
366 vehicle owned, operated, or occupied by him or her a loaded or
367 unloaded assault weapon, unless such weapon is kept in the trunk

368 of such vehicle or in a case or other container that is
 369 inaccessible to the operator of or any passenger in such
 370 vehicle. Any person who violates this paragraph commits a
 371 misdemeanor of the second degree, punishable as provided in s.
 372 775.082 or s. 775.083. Any licensed gun dealer may display the
 373 assault weapon or large-capacity magazine at any gun show or
 374 sell it to a resident outside this state.

375 (b) Any licensed gun dealer may transfer possession of any
 376 assault weapon or large-capacity magazine received pursuant to
 377 paragraph (a) to a gunsmith for purposes of accomplishing
 378 service or repair of the same. Transfers are permissible only to
 379 a gunsmith who is:

380 1. In the licensed gun dealer's employ; or
 381 2. Contracted by the licensed gun dealer for gunsmithing
 382 services, provided the gunsmith holds a dealer's license issued
 383 pursuant to chapter 44 of Title 18 the United States Code, 18
 384 U.S.C. ss. 921 et seq., and the regulations issued pursuant
 385 thereto.

386 (8) CIRCUMSTANCES IN WHICH MANUFACTURE OR TRANSPORTATION
 387 NOT PROHIBITED.—This section does not prohibit any person, firm,
 388 or corporation engaged in the business of manufacturing assault
 389 weapons or large-capacity magazines in this state from
 390 manufacturing or transporting assault weapons or large-capacity
 391 magazines in this state for sale within this state in accordance
 392 with subparagraph (2)(c)1. or for sale outside this state.

393 (9) EXCEPTION.—This section does not apply to any firearm
 394 modified to render it permanently inoperable.

395 Section 2. Paragraph (a) of subsection (3) of section
 396 775.087, Florida Statutes, is amended to read:

397 775.087 Possession or use of weapon; aggravated battery;
 398 felony reclassification; minimum sentence.—

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

- 402 a. Murder;
- 403 b. Sexual battery;
- 404 c. Robbery;
- 405 d. Burglary;
- 406 e. Arson;
- 407 f. Aggravated battery;
- 408 g. Kidnapping;
- 409 h. Escape;
- 410 i. Sale, manufacture, delivery, or intent to sell,
- 411 manufacture, or deliver any controlled substance;
- 412 j. Aircraft piracy;
- 413 k. Aggravated child abuse;
- 414 l. Aggravated abuse of an elderly person or disabled adult;
- 415 m. Unlawful throwing, placing, or discharging of a
- 416 destructive device or bomb;
- 417 n. Carjacking;
- 418 o. Home-invasion robbery;
- 419 p. Aggravated stalking; or
- 420 q. Trafficking in cannabis, trafficking in cocaine, capital
- 421 importation of cocaine, trafficking in illegal drugs, capital

422 importation of illegal drugs, trafficking in phencyclidine,
423 capital importation of phencyclidine, trafficking in
424 methaqualone, capital importation of methaqualone, trafficking
425 in amphetamine, capital importation of amphetamine, trafficking
426 in flunitrazepam, trafficking in gamma-hydroxybutyric acid
427 (GHB), trafficking in 1,4-Butanediol, trafficking in
428 Phenethylamines, or other violation of s. 893.135(1);

429

430 and during the commission of the offense, such person possessed
431 a semiautomatic firearm and its high-capacity detachable box
432 magazine, an assault weapon or large-capacity magazine as
433 defined in s. 790.30, or a machine gun as defined in s. 790.001,
434 shall be sentenced to a minimum term of imprisonment of 15
435 years.

436 2. Any person who is convicted of a felony or an attempt to
437 commit a felony listed in subparagraph (a)1., regardless of
438 whether the use of a weapon is an element of the felony, and
439 during the course of the commission of the felony such person
440 discharged a semiautomatic firearm and its high-capacity box
441 magazine, an assault weapon or large-capacity magazine as
442 defined in s. 790.30, or a “machine gun” as defined in s.
443 790.001 shall be sentenced to a minimum term of imprisonment of
444 20 years.

445 3. Any person who is convicted of a felony or an attempt to
446 commit a felony listed in subparagraph (a)1., regardless of
447 whether the use of a weapon is an element of the felony, and
448 during the course of the commission of the felony such person
449 discharged a semiautomatic firearm and its high-capacity box
450 magazine, an assault weapon or large-capacity magazine as
451 defined in s. 790.30, or a “machine gun” as defined in s.
452 790.001 and, as the result of the discharge, death or great
453 bodily harm was inflicted upon any person, the convicted person
454 shall be sentenced to a minimum term of imprisonment of not less
455 than 25 years and not more than a term of imprisonment of life
456 in prison.

457 Section 3. For the purpose of incorporating the amendment
458 made by this act to section 775.087, Florida Statutes, in a
459 reference thereto, section 27.366, Florida Statutes, is
460 reenacted to read:

461 27.366 Legislative intent and policy in cases meeting
462 criteria of s. 775.087(2) and (3).—It is the intent of the
463 Legislature that convicted criminal offenders who meet the
464 criteria in s. 775.087(2) and (3) be sentenced to the minimum
465 mandatory prison terms provided therein. It is the intent of the
466 Legislature to establish zero tolerance of criminals who use,
467 threaten to use, or avail themselves of firearms in order to
468 commit crimes and thereby demonstrate their lack of value for
469 human life. It is also the intent of the Legislature that
470 prosecutors should appropriately exercise their discretion in
471 those cases in which the offenders’ possession of the firearm is
472 incidental to the commission of a crime and not used in
473 furtherance of the crime, used in order to commit the crime, or
474 used in preparation to commit the crime. For every case in which
475 the offender meets the criteria in this act and does not receive

476 the mandatory minimum prison sentence, the state attorney must
477 explain the sentencing deviation in writing and place such
478 explanation in the case file maintained by the state attorney.

479 Section 4. For the purpose of incorporating the amendment
480 made by this act to section 775.087, Florida Statutes, in a
481 reference thereto, paragraph (b) of subsection (1) of section
482 921.0024, Florida Statutes, is reenacted to read:

483 921.0024 Criminal Punishment Code; worksheet computations;
484 scoresheets.—

485 (1)

486 (b) WORKSHEET KEY:

487

488 Legal status points are assessed when any form of legal status
489 existed at the time the offender committed an offense before the
490 court for sentencing. Four (4) sentence points are assessed for
491 an offender's legal status.

492

493 Community sanction violation points are assessed when a
494 community sanction violation is before the court for sentencing.
495 Six (6) sentence points are assessed for each community sanction
496 violation and each successive community sanction violation,
497 unless any of the following apply:

498 1. If the community sanction violation includes a new
499 felony conviction before the sentencing court, twelve (12)
500 community sanction violation points are assessed for the
501 violation, and for each successive community sanction violation
502 involving a new felony conviction.

503 2. If the community sanction violation is committed by a
504 violent felony offender of special concern as defined in s.
505 948.06:

506 a. Twelve (12) community sanction violation points are
507 assessed for the violation and for each successive violation of
508 felony probation or community control where:

509 I. The violation does not include a new felony conviction;
510 and

511 II. The community sanction violation is not based solely on
512 the probationer or offender's failure to pay costs or fines or
513 make restitution payments.

514 b. Twenty-four (24) community sanction violation points are
515 assessed for the violation and for each successive violation of
516 felony probation or community control where the violation
517 includes a new felony conviction.

518

519 Multiple counts of community sanction violations before the
520 sentencing court shall not be a basis for multiplying the
521 assessment of community sanction violation points.

522

523 Prior serious felony points: If the offender has a primary
524 offense or any additional offense ranked in level 8, level 9, or
525 level 10, and one or more prior serious felonies, a single
526 assessment of thirty (30) points shall be added. For purposes of
527 this section, a prior serious felony is an offense in the
528 offender's prior record that is ranked in level 8, level 9, or
529 level 10 under s. 921.0022 or s. 921.0023 and for which the

530 offender is serving a sentence of confinement, supervision, or
531 other sanction or for which the offender's date of release from
532 confinement, supervision, or other sanction, whichever is later,
533 is within 3 years before the date the primary offense or any
534 additional offense was committed.

535

536 Prior capital felony points: If the offender has one or more
537 prior capital felonies in the offender's criminal record, points
538 shall be added to the subtotal sentence points of the offender
539 equal to twice the number of points the offender receives for
540 the primary offense and any additional offense. A prior capital
541 felony in the offender's criminal record is a previous capital
542 felony offense for which the offender has entered a plea of nolo
543 contendere or guilty or has been found guilty; or a felony in
544 another jurisdiction which is a capital felony in that
545 jurisdiction, or would be a capital felony if the offense were
546 committed in this state.

547

548 Possession of a firearm, semiautomatic firearm, or machine gun:
549 If the offender is convicted of committing or attempting to
550 commit any felony other than those enumerated in s. 775.087(2)
551 while having in his or her possession: a firearm as defined in
552 s. 790.001(6), an additional eighteen (18) sentence points are
553 assessed; or if the offender is convicted of committing or
554 attempting to commit any felony other than those enumerated in
555 s. 775.087(3) while having in his or her possession a
556 semiautomatic firearm as defined in s. 775.087(3) or a machine
557 gun as defined in s. 790.001(9), an additional twenty-five (25)
558 sentence points are assessed.

559

560 Sentencing multipliers:

561

562 Drug trafficking: If the primary offense is drug trafficking
563 under s. 893.135, the subtotal sentence points are multiplied,
564 at the discretion of the court, for a level 7 or level 8
565 offense, by 1.5. The state attorney may move the sentencing
566 court to reduce or suspend the sentence of a person convicted of
567 a level 7 or level 8 offense, if the offender provides
568 substantial assistance as described in s. 893.135(4).

569

570 Law enforcement protection: If the primary offense is a
571 violation of the Law Enforcement Protection Act under s.
572 775.0823(2), (3), or (4), the subtotal sentence points are
573 multiplied by 2.5. If the primary offense is a violation of s.
574 775.0823(5), (6), (7), (8), or (9), the subtotal sentence points
575 are multiplied by 2.0. If the primary offense is a violation of
576 s. 784.07(3) or s. 775.0875(1), or of the Law Enforcement
577 Protection Act under s. 775.0823(10) or (11), the subtotal
578 sentence points are multiplied by 1.5.

579

580 Grand theft of a motor vehicle: If the primary offense is grand
581 theft of the third degree involving a motor vehicle and in the
582 offender's prior record, there are three or more grand thefts of
583 the third degree involving a motor vehicle, the subtotal

584 sentence points are multiplied by 1.5.

585

586 Offense related to a criminal gang: If the offender is convicted
587 of the primary offense and committed that offense for the
588 purpose of benefiting, promoting, or furthering the interests of
589 a criminal gang as defined in s. 874.03, the subtotal sentence
590 points are multiplied by 1.5. If applying the multiplier results
591 in the lowest permissible sentence exceeding the statutory
592 maximum sentence for the primary offense under chapter 775, the
593 court may not apply the multiplier and must sentence the
594 defendant to the statutory maximum sentence.

595

596 Domestic violence in the presence of a child: If the offender is
597 convicted of the primary offense and the primary offense is a
598 crime of domestic violence, as defined in s. 741.28, which was
599 committed in the presence of a child under 16 years of age who
600 is a family or household member as defined in s. 741.28(3) with
601 the victim or perpetrator, the subtotal sentence points are
602 multiplied by 1.5.

603

604 Adult-on-minor sex offense: If the offender was 18 years of age
605 or older and the victim was younger than 18 years of age at the
606 time the offender committed the primary offense, and if the
607 primary offense was an offense committed on or after October 1,
608 2014, and is a violation of s. 787.01(2) or s. 787.02(2), if the
609 violation involved a victim who was a minor and, in the course
610 of committing that violation, the defendant committed a sexual
611 battery under chapter 794 or a lewd act under s. 800.04 or s.
612 847.0135(5) against the minor; s. 787.01(3)(a)2. or 3.; s.
613 787.02(3)(a)2. or 3.; s. 794.011, excluding s. 794.011(10); s.
614 800.04; or s. 847.0135(5), the subtotal sentence points are
615 multiplied by 2.0. If applying the multiplier results in the
616 lowest permissible sentence exceeding the statutory maximum
617 sentence for the primary offense under chapter 775, the court
618 may not apply the multiplier and must sentence the defendant to
619 the statutory maximum sentence.

620 Section 5. For the purpose of incorporating the amendment
621 made by this act to section 775.087, Florida Statutes, in a
622 reference thereto, paragraph (b) of subsection (3) of section
623 947.146, Florida Statutes, is reenacted to read:

624 947.146 Control Release Authority.—

625 (3) Within 120 days prior to the date the state
626 correctional system is projected pursuant to s. 216.136 to
627 exceed 99 percent of total capacity, the authority shall
628 determine eligibility for and establish a control release date
629 for an appropriate number of parole ineligible inmates committed
630 to the department and incarcerated within the state who have
631 been determined by the authority to be eligible for
632 discretionary early release pursuant to this section. In
633 establishing control release dates, it is the intent of the
634 Legislature that the authority prioritize consideration of
635 eligible inmates closest to their tentative release date. The
636 authority shall rely upon commitment data on the offender
637 information system maintained by the department to initially

638 identify inmates who are to be reviewed for control release
639 consideration. The authority may use a method of objective risk
640 assessment in determining if an eligible inmate should be
641 released. Such assessment shall be a part of the department's
642 management information system. However, the authority shall have
643 sole responsibility for determining control release eligibility,
644 establishing a control release date, and effectuating the
645 release of a sufficient number of inmates to maintain the inmate
646 population between 99 percent and 100 percent of total capacity.
647 Inmates who are ineligible for control release are inmates who
648 are parole eligible or inmates who:

649 (b) Are serving the mandatory minimum portion of a sentence
650 enhanced under s. 775.087(2) or (3), or s. 784.07(3);

651

652 In making control release eligibility determinations under this
653 subsection, the authority may rely on any document leading to or
654 generated during the course of the criminal proceedings,
655 including, but not limited to, any presentence or postsentence
656 investigation or any information contained in arrest reports
657 relating to circumstances of the offense.

658 Section 6. This act shall take effect October 1, 2018.