

By Senator Book

32-00592-17

2017648__

1 A bill to be entitled
2 An act relating to weapons and firearms; amending s.
3 790.115, F.S.; increasing the penalties for a person
4 who exhibits a weapon in a certain way in the presence
5 of one or more persons on or near a school or school
6 activity; increasing the penalties for a person who
7 stores or leaves a loaded firearm within the reach or
8 easy access of a minor who obtains the firearm and
9 commits specified violations; creating criminal
10 penalties for the discharge of a firearm obtained by a
11 minor if a person stores or leaves a loaded firearm
12 within the reach or easy access of such minor;
13 increasing the penalties for a person who discharges a
14 weapon or firearm in violation of a specified
15 provision; amending s. 790.174, F.S.; increasing the
16 penalties for a person who fails to store or leave a
17 firearm in a specified manner and as a result, a minor
18 gains access to the firearm and the minor possesses or
19 exhibits the firearm in a public place or in a
20 specified manner; creating criminal penalties for the
21 discharge of a firearm obtained by the minor if a
22 person violates certain provisions; amending s.
23 790.22, F.S.; creating criminal penalties for an adult
24 who violates specified provisions, resulting in the
25 child exhibiting a weapon in a certain way in the
26 presence of one or more persons on or near a school or
27 school activity; creating criminal penalties for an
28 adult who violates specified provisions, resulting in
29 the discharge of a firearm obtained by a child;
30 amending s. 921.0022, F.S.; conforming provisions to
31 changes made by the act; reenacting s. 409.175(5)(f),
32 F.S., relating to the adoption of a form used by

32-00592-17

2017648__

33 child-placing agencies, to incorporate the amendment
34 made to s. 790.174, F.S., in a reference thereto;
35 providing an effective date.
36

37 Be It Enacted by the Legislature of the State of Florida:
38

39 Section 1. Subsections (1) and (2) of section 790.115,
40 Florida Statutes, are amended to read:

41 790.115 Possessing or discharging weapons or firearms at a
42 school-sponsored event or on school property prohibited;
43 penalties; exceptions.-

44 (1) A person who exhibits any sword, sword cane, firearm,
45 electric weapon or device, destructive device, or other weapon
46 as defined in s. 790.001(13), including a razor blade, box
47 cutter, or common pocketknife, except as authorized in support
48 of school-sanctioned activities, in the presence of one or more
49 persons in a rude, careless, angry, or threatening manner and
50 not in lawful self-defense, at a school-sponsored event or on
51 the grounds or facilities of any school, school bus, or school
52 bus stop, or within 1,000 feet of the real property that
53 comprises a public or private elementary school, middle school,
54 or secondary school, during school hours or during the time of a
55 sanctioned school activity, commits a felony of the second ~~third~~
56 degree, punishable as provided in s. 775.082, s. 775.083, or s.
57 775.084. This subsection does not apply to the exhibition of a
58 firearm or weapon on private real property within 1,000 feet of
59 a school by the owner of such property or by a person whose
60 presence on such property has been authorized, licensed, or
61 invited by the owner.

32-00592-17

2017648__

62 (2) (a) A person shall not possess any firearm, electric
63 weapon or device, destructive device, or other weapon as defined
64 in s. 790.001(13), including a razor blade or box cutter, except
65 as authorized in support of school-sanctioned activities, at a
66 school-sponsored event or on the property of any school, school
67 bus, or school bus stop; however, a person may carry a firearm:

68 1. In a case to a firearms program, class or function which
69 has been approved in advance by the principal or chief
70 administrative officer of the school as a program or class to
71 which firearms could be carried;

72 2. In a case to a career center having a firearms training
73 range; or

74 3. In a vehicle pursuant to s. 790.25(5); except that
75 school districts may adopt written and published policies that
76 waive the exception in this subparagraph for purposes of student
77 and campus parking privileges.

78
79 For the purposes of this section, "school" means any preschool,
80 elementary school, middle school, junior high school, secondary
81 school, career center, or postsecondary school, whether public
82 or nonpublic.

83 (b) A person who willfully and knowingly possesses any
84 electric weapon or device, destructive device, or other weapon
85 as defined in s. 790.001(13), including a razor blade or box
86 cutter, except as authorized in support of school-sanctioned
87 activities, in violation of this subsection commits a felony of
88 the third degree, punishable as provided in s. 775.082, s.
89 775.083, or s. 775.084.

90 (c)1. A person who willfully and knowingly possesses any

32-00592-17

2017648__

91 firearm in violation of this subsection commits a felony of the
92 third degree, punishable as provided in s. 775.082, s. 775.083,
93 or s. 775.084.

94 2. A person who stores or leaves a loaded firearm within
95 the reach or easy access of a minor who obtains the firearm and
96 commits a violation of subparagraph 1. commits a misdemeanor of
97 the first ~~second~~ degree, punishable as provided in s. 775.082 or
98 s. 775.083; except that this does not apply if the firearm was
99 stored or left in a securely locked box or container or in a
100 location which a reasonable person would have believed to be
101 secure, or was securely locked with a firearm-mounted push-
102 button combination lock or a trigger lock; if the minor obtains
103 the firearm as a result of an unlawful entry by any person; or
104 to members of the Armed Forces, National Guard, or State
105 Militia, or to police or other law enforcement officers, with
106 respect to firearm possession by a minor which occurs during or
107 incidental to the performance of their official duties.

108 3. A person who violates subparagraph 2., resulting in the
109 discharge of the firearm obtained by the minor, commits a felony
110 of the third degree, punishable as provided in s. 775.082, s.
111 775.083, or 775.084.

112 (d) A person who discharges any weapon or firearm while in
113 violation of paragraph (a), unless discharged for lawful defense
114 of himself or herself or another or for a lawful purpose,
115 commits a felony of the first ~~second~~ degree, punishable as
116 provided in s. 775.082, s. 775.083, or s. 775.084.

117 (e) The penalties of this subsection shall not apply to
118 persons licensed under s. 790.06. Persons licensed under s.
119 790.06 shall be punished as provided in s. 790.06(12), except

32-00592-17

2017648__

120 that a licenseholder who unlawfully discharges a weapon or
121 firearm on school property as prohibited by this subsection
122 commits a felony of the second degree, punishable as provided in
123 s. 775.082, s. 775.083, or s. 775.084.

124 Section 2. Subsection (2) of section 790.174, Florida
125 Statutes, is amended, subsection (1) is republished, present
126 subsection (3) of that section is redesignated as subsection
127 (4), and a new subsection (3) is added to that section, to read:

128 790.174 Safe storage of firearms required.-

129 (1) A person who stores or leaves, on a premise under his
130 or her control, a loaded firearm, as defined in s. 790.001, and
131 who knows or reasonably should know that a minor is likely to
132 gain access to the firearm without the lawful permission of the
133 minor's parent or the person having charge of the minor, or
134 without the supervision required by law, shall keep the firearm
135 in a securely locked box or container or in a location which a
136 reasonable person would believe to be secure or shall secure it
137 with a trigger lock, except when the person is carrying the
138 firearm on his or her body or within such close proximity
139 thereto that he or she can retrieve and use it as easily and
140 quickly as if he or she carried it on his or her body.

141 (2) It is a misdemeanor of the first ~~second~~ degree,
142 punishable as provided in s. 775.082 or s. 775.083, if a person
143 violates subsection (1) by failing to store or leave a firearm
144 in the required manner and as a result thereof a minor gains
145 access to the firearm, without the lawful permission of the
146 minor's parent or the person having charge of the minor, and
147 possesses or exhibits it, without the supervision required by
148 law:

32-00592-17

2017648__

149 (a) In a public place; or

150 (b) In a rude, careless, angry, or threatening manner in
151 violation of s. 790.10.

152
153 This subsection does not apply if the minor obtains the firearm
154 as a result of an unlawful entry by any person.

155 (3) A person who violates subsection (2), resulting in the
156 discharge of the firearm obtained by the minor, commits a felony
157 of the third degree, punishable as provided in s. 775.082, s.
158 775.083, or s. 775.084.

159 Section 3. Subsection (2) and paragraph (a) of subsection
160 (4) of section 790.22, Florida Statutes, are amended to read:

161 790.22 Use of BB guns, air or gas-operated guns, or
162 electric weapons or devices by minor under 16; limitation;
163 possession of firearms by minor under 18 prohibited; penalties.-

164 (2) Any adult responsible for the welfare of any child
165 under the age of 16 years who knowingly permits such child to
166 use or have in his or her possession any BB gun, air or gas-
167 operated gun, electric weapon or device, or firearm in violation
168 of ~~the provisions of~~ subsection (1) of this section commits a
169 misdemeanor of the second degree, punishable as provided in s.
170 775.082 or s. 775.083.

171 (a) An adult who violates this subsection, resulting in the
172 child violating s. 790.115(1), commits a misdemeanor of the
173 first degree, punishable as provided in s. 775.082 or s.
174 775.083.

175 (b) An adult who violates this subsection, resulting in the
176 discharge of the firearm obtained by the child, commits a felony
177 of the third degree, punishable as provided in s. 775.082, s.

32-00592-17

2017648__

178 775.083, or s. 775.084.

179 (4) (a) Any parent or guardian of a minor, or other adult
 180 responsible for the welfare of a minor, who knowingly and
 181 willfully permits the minor to possess a firearm in violation of
 182 subsection (3) commits a felony of the third degree, punishable
 183 as provided in s. 775.082, s. 775.083, or s. 775.084.

184 1. An adult who violates this paragraph, resulting in the
 185 child violating s. 790.115(1), commits a felony of the second
 186 degree, punishable as provided in s. 775.082, s. 775.083, or
 187 775.084.

188 2. An adult who violates this paragraph, resulting in the
 189 discharge of the firearm obtained by the child, commits a felony
 190 of the first degree, as punishable in s. 775.082, s. 775.083, or
 191 s. 775.084.

192 Section 4. Paragraphs (d) and (f) of subsection (3) of
 193 section 921.0022, Florida Statutes, are amended to read:

194 921.0022 Criminal Punishment Code; offense severity ranking
 195 chart.—

196 (3) OFFENSE SEVERITY RANKING CHART

197 (d) LEVEL 4

198

Florida Statute	Felony Degree	Description
316.1935(3)(a)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer

199

32-00592-17

2017648__

who is in a patrol
vehicle with siren and
lights activated.

200

499.0051 (1)

3rd

Failure to maintain or
deliver transaction
history, transaction
information, or
transaction statements.

201

499.0051 (5)

2nd

Knowing sale or
delivery, or possession
with intent to sell,
contraband prescription
drugs.

202

517.07 (1)

3rd

Failure to register
securities.

203

517.12 (1)

3rd

Failure of dealer,
associated person, or
issuer of securities to
register.

204

784.07 (2) (b)

3rd

Battery of law
enforcement officer,
firefighter, etc.

205

784.074 (1) (c)

3rd

Battery of sexually

32-00592-17

2017648__

violent predators
facility staff.

206

784.075

3rd

Battery on detention or
commitment facility
staff.

207

784.078

3rd

Battery of facility
employee by throwing,
tossing, or expelling
certain fluids or
materials.

208

784.08 (2) (c)

3rd

Battery on a person 65
years of age or older.

209

784.081 (3)

3rd

Battery on specified
official or employee.

210

784.082 (3)

3rd

Battery by detained
person on visitor or
other detainee.

211

784.083 (3)

3rd

Battery on code
inspector.

212

784.085

3rd

Battery of child by
throwing, tossing,
projecting, or expelling

32-00592-17

2017648__

213

certain fluids or materials.

787.03(1)

3rd

Interference with custody; wrongly takes minor from appointed guardian.

214

787.04(2)

3rd

Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.

215

787.04(3)

3rd

Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.

216

787.07

3rd

Human smuggling.

217

790.115(1)

2nd ~~3rd~~

Exhibiting firearm or weapon within 1,000 feet of a school.

218

790.115(2)(b)

3rd

Possessing electric

32-00592-17

2017648__

weapon or device,
destructive device, or
other weapon on school
property.

219

790.115 (2) (c)

3rd

Possessing firearm on
school property.

220

800.04 (7) (c)

3rd

Lewd or lascivious
exhibition; offender
less than 18 years.

221

810.02 (4) (a)

3rd

Burglary, or attempted
burglary, of an
unoccupied structure;
unarmed; no assault or
battery.

222

810.02 (4) (b)

3rd

Burglary, or attempted
burglary, of an
unoccupied conveyance;
unarmed; no assault or
battery.

223

810.06

3rd

Burglary; possession of
tools.

224

810.08 (2) (c)

3rd

Trespass on property,
armed with firearm or

32-00592-17

2017648__

dangerous weapon.

225

812.014 (2) (c) 3.

3rd

Grand theft, 3rd degree
\$10,000 or more but less
than \$20,000.

226

812.014
(2) (c) 4.-10.

3rd

Grand theft, 3rd degree,
a will, firearm, motor
vehicle, livestock, etc.

227

812.0195 (2)

3rd

Dealing in stolen
property by use of the
Internet; property
stolen \$300 or more.

228

817.563 (1)

3rd

Sell or deliver
substance other than
controlled substance
agreed upon, excluding
s. 893.03(5) drugs.

229

817.568 (2) (a)

3rd

Fraudulent use of
personal identification
information.

230

817.625 (2) (a)

3rd

Fraudulent use of
scanning device or
reencoder.

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32-00592-17 2017648__

232	828.125 (1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.
233	837.02 (1)	3rd	Perjury in official proceedings.
234	837.021 (1)	3rd	Make contradictory statements in official proceedings.
235	838.022	3rd	Official misconduct.
236	839.13 (2) (a)	3rd	Falsifying records of an individual in the care and custody of a state agency.
237	839.13 (2) (c)	3rd	Falsifying records of the Department of Children and Families.
238	843.021	3rd	Possession of a concealed handcuff key by a person in custody.

32-00592-17 2017648__

239	843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
240	843.15 (1) (a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
241	847.0135 (5) (c)	3rd	Lewd or lascivious exhibition using computer; offender less than 18 years.
242	874.05 (1) (a)	3rd	Encouraging or recruiting another to join a criminal gang.
243	893.13 (2) (a) 1.	2nd	Purchase of cocaine (or other s. 893.03 (1) (a), (b), or (d), (2) (a), (2) (b), or (2) (c) 4. drugs).
243	914.14 (2)	3rd	Witnesses accepting bribes.

32-00592-17

2017648__

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914.22 (1)	3rd	Force, threaten, etc., witness, victim, or informant.
914.23 (2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.
918.12	3rd	Tampering with jurors.
934.215	3rd	Use of two-way communications device to facilitate commission of a crime.
(f) LEVEL 6		
Florida Statute	Felony Degree	Description
316.027 (2) (b)	2nd	Leaving the scene of a crash involving serious bodily injury.
316.193 (2) (b)	3rd	Felony DUI, 4th or subsequent conviction.

	32-00592-17		2017648__
254	400.9935 (4) (c)	2nd	Operating a clinic, or offering services requiring licensure, without a license.
255	499.0051 (2)	2nd	Knowing forgery of transaction history, transaction information, or transaction statement.
256	499.0051 (3)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.
257	499.0051 (4)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.
258	775.0875 (1)	3rd	Taking firearm from law enforcement officer.
259	784.021 (1) (a)	3rd	Aggravated assault; deadly weapon without intent to kill.
	784.021 (1) (b)	3rd	Aggravated assault; intent to commit felony.

32-00592-17

2017648__

260

784.041 3rd Felony battery; domestic battery by strangulation.

261

784.048 (3) 3rd Aggravated stalking; credible threat.

262

784.048 (5) 3rd Aggravated stalking of person under 16.

263

784.07 (2) (c) 2nd Aggravated assault on law enforcement officer.

264

784.074 (1) (b) 2nd Aggravated assault on sexually violent predators facility staff.

265

784.08 (2) (b) 2nd Aggravated assault on a person 65 years of age or older.

266

784.081 (2) 2nd Aggravated assault on specified official or employee.

267

784.082 (2) 2nd Aggravated assault by detained person on

	32-00592-17		2017648__
268			visitor or other detainee.
269	784.083 (2)	2nd	Aggravated assault on code inspector.
270	787.02 (2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
271	790.115 (2) (d)	<u>1st</u> 2nd	Discharging firearm or weapon on school property.
272	790.161 (2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property.
273	790.164 (1)	2nd	False report concerning bomb, explosive, weapon of mass destruction, act of arson or violence to state property, or use of firearms in violent manner.
	790.19	2nd	Shooting or throwing

32-00592-17

2017648__

deadly missiles into dwellings, vessels, or vehicles.

274

794.011 (8) (a)

3rd

Solicitation of minor to participate in sexual activity by custodial adult.

275

794.05 (1)

2nd

Unlawful sexual activity with specified minor.

276

800.04 (5) (d)

3rd

Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years of age; offender less than 18 years.

277

800.04 (6) (b)

2nd

Lewd or lascivious conduct; offender 18 years of age or older.

278

806.031 (2)

2nd

Arson resulting in great bodily harm to firefighter or any other person.

279

810.02 (3) (c)

2nd

Burglary of occupied

32-00592-17

2017648__

structure; unarmed; no
assault or battery.

280

810.145 (8) (b)

2nd

Video voyeurism; certain
minor victims; 2nd or
subsequent offense.

281

812.014 (2) (b) 1.

2nd

Property stolen \$20,000
or more, but less than
\$100,000, grand theft in
2nd degree.

282

812.014 (6)

2nd

Theft; property stolen
\$3,000 or more;
coordination of others.

283

812.015 (9) (a)

2nd

Retail theft; property
stolen \$300 or more;
second or subsequent
conviction.

284

812.015 (9) (b)

2nd

Retail theft; property
stolen \$3,000 or more;
coordination of others.

285

812.13 (2) (c)

2nd

Robbery, no firearm or
other weapon (strong-arm
robbery).

286

	32-00592-17		2017648__
	817.4821 (5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.
287			
	825.102 (1)	3rd	Abuse of an elderly person or disabled adult.
288			
	825.102 (3) (c)	3rd	Neglect of an elderly person or disabled adult.
289			
	825.1025 (3)	3rd	Lewd or lascivious molestation of an elderly person or disabled adult.
290			
	825.103 (3) (c)	3rd	Exploiting an elderly person or disabled adult and property is valued at less than \$10,000.
291			
	827.03 (2) (c)	3rd	Abuse of a child.
292			
	827.03 (2) (d)	3rd	Neglect of a child.
293			
	827.071 (2) & (3)	2nd	Use or induce a child in a sexual performance, or

32-00592-17

2017648__

promote or direct such performance.

294

836.05

2nd

Threats; extortion.

295

836.10

2nd

Written threats to kill or do bodily injury.

296

843.12

3rd

Aids or assists person to escape.

297

847.011

3rd

Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors.

298

847.012

3rd

Knowingly using a minor in the production of materials harmful to minors.

299

847.0135 (2)

3rd

Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.

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32-00592-17

2017648__

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914.23 2nd Retaliation against a witness, victim, or informant, with bodily injury.

944.35 (3) (a) 2. 3rd Committing malicious battery upon or inflicting cruel or inhuman treatment on an inmate or offender on community supervision, resulting in great bodily harm.

944.40 2nd Escapes.

944.46 3rd Harboring, concealing, aiding escaped prisoners.

944.47 (1) (a) 5. 2nd Introduction of contraband (firearm, weapon, or explosive) into correctional facility.

951.22 (1) 3rd Intoxicating drug, firearm, or weapon introduced into county

32-00592-17

2017648__

facility.

306

307 Section 5. For the purpose of incorporating the amendment
308 made by this act to section 790.174, Florida Statutes, in a
309 reference thereto, paragraph (f) of subsection (5) of section
310 409.175, Florida Statutes, is reenacted to read:

311 409.175 Licensure of family foster homes, residential
312 child-caring agencies, and child-placing agencies; public
313 records exemption.—

314 (5)

315 (f) The department's rules shall include adoption of a form
316 to be used by child-placing agencies during an adoption home
317 study that requires all prospective adoptive applicants to
318 acknowledge in writing the receipt of a document containing
319 solely and exclusively the language provided for in s. 790.174
320 verbatim.

321 Section 6. This act shall take effect July 1, 2017.