

By Senator Steube

23-00015-18

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1                                   A bill to be entitled  
 2       An act relating to weapons and firearms; amending s.  
 3       790.053, F.S.; deleting a statement of applicability  
 4       relating to violations of carrying a concealed weapon  
 5       or firearm; reducing the penalties applicable to a  
 6       person licensed to carry a concealed weapon or firearm  
 7       for a first or second violation of specified  
 8       provisions relating to openly carrying weapons; making  
 9       a fine payable to the clerk of the court; amending s.  
 10      790.06, F.S.; providing that a person licensed to  
 11      carry a concealed weapon or firearm does not violate  
 12      certain provisions if the firearm is temporarily and  
 13      openly displayed; reenacting ss. 943.051(3)(b) and  
 14      985.11(1)(b), F.S., both relating to fingerprinting of  
 15      a minor for violating specified provisions, to  
 16      incorporate the amendment made to s. 790.053, F.S., in  
 17      references thereto; providing an effective date.

18  
 19 Be It Enacted by the Legislature of the State of Florida:

20  
 21       Section 1. Section 790.053, Florida Statutes, is amended to  
 22       read:

23       790.053 Open carrying of weapons.—

24       (1) Except as otherwise provided by law and in subsection  
 25       (2), it is unlawful for any person to openly carry on or about  
 26       his or her person any firearm or electric weapon or device. ~~It~~  
 27       ~~is not a violation of this section for a person licensed to~~  
 28       ~~carry a concealed firearm as provided in s. 790.06(1), and who~~  
 29       ~~is lawfully carrying a firearm in a concealed manner, to briefly~~

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30 ~~and openly display the firearm to the ordinary sight of another~~  
 31 ~~person, unless the firearm is intentionally displayed in an~~  
 32 ~~angry or threatening manner, not in necessary self-defense.~~

33 (2) A person may openly carry, for purposes of lawful self-  
 34 defense:

35 (a) A self-defense chemical spray.

36 (b) A nonlethal stun gun or dart-firing stun gun or other  
 37 nonlethal electric weapon or device that is designed solely for  
 38 defensive purposes.

39 (3) (a) A ~~Any~~ person violating this section who is not  
 40 licensed under s. 790.06 commits a misdemeanor of the second  
 41 degree, punishable as provided in s. 775.082 or s. 775.083.

42 (b) A person violating this section who is licensed under  
 43 s. 790.06 commits:

44 1. A noncriminal violation with a penalty of:

45 a. Twenty-five dollars, payable to the clerk of the court,  
 46 for a first violation; or

47 b. Five hundred dollars, payable to the clerk of court, for  
 48 a second violation.

49 2. A misdemeanor of the second degree, punishable as  
 50 provided in s. 775.082 or s. 775.083, for a third or subsequent  
 51 violation.

52 Section 2. Subsection (1) of section 790.06, Florida  
 53 Statutes, is amended to read:

54 790.06 License to carry concealed weapon or firearm.—

55 (1) The Department of Agriculture and Consumer Services is  
 56 authorized to issue licenses to carry concealed weapons or  
 57 concealed firearms to persons qualified as provided in this  
 58 section. Each such license must bear a color photograph of the

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59 licensee. For the purposes of this section, concealed weapons or  
60 concealed firearms are defined as a handgun, electronic weapon  
61 or device, tear gas gun, knife, or billie, but the term does not  
62 include a machine gun as defined in s. 790.001(9). Such licenses  
63 shall be valid throughout the state for a period of 7 years  
64 after ~~from~~ the date of issuance. Any person in compliance with  
65 the terms of such license may carry a concealed weapon or  
66 concealed firearm notwithstanding the provisions of s. 790.01.  
67 The licensee must carry the license, together with valid  
68 identification, at all times in which the licensee is in actual  
69 possession of a concealed weapon or firearm and must display  
70 both the license and proper identification upon demand by a law  
71 enforcement officer. A person licensed to carry a concealed  
72 firearm under this section whose firearm is temporarily and  
73 openly displayed to the ordinary sight of another person does  
74 not violate s. 790.053 and may not be arrested or charged with a  
75 noncriminal or criminal violation of s. 790.053. Violations of  
76 the provisions of this subsection shall constitute a noncriminal  
77 violation with a penalty of \$25, payable to the clerk of the  
78 court.

79 Section 3. For the purpose of incorporating the amendment  
80 made by this act to section 790.053, Florida Statutes, in a  
81 reference thereto, paragraph (b) of subsection (3) of section  
82 943.051, Florida Statutes, is reenacted to read:

83 943.051 Criminal justice information; collection and  
84 storage; fingerprinting.—

85 (3)

86 (b) A minor who is charged with or found to have committed  
87 the following offenses shall be fingerprinted and the

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88 fingerprints shall be submitted electronically to the  
89 department, unless the minor is issued a civil citation pursuant  
90 to s. 985.12:

91 1. Assault, as defined in s. 784.011.

92 2. Battery, as defined in s. 784.03.

93 3. Carrying a concealed weapon, as defined in s. 790.01(1).

94 4. Unlawful use of destructive devices or bombs, as defined  
95 in s. 790.1615(1).

96 5. Neglect of a child, as defined in s. 827.03(1)(e).

97 6. Assault or battery on a law enforcement officer, a  
98 firefighter, or other specified officers, as defined in s.  
99 784.07(2)(a) and (b).

100 7. Open carrying of a weapon, as defined in s. 790.053.

101 8. Exposure of sexual organs, as defined in s. 800.03.

102 9. Unlawful possession of a firearm, as defined in s.  
103 790.22(5).

104 10. Petit theft, as defined in s. 812.014(3).

105 11. Cruelty to animals, as defined in s. 828.12(1).

106 12. Arson, as defined in s. 806.031(1).

107 13. Unlawful possession or discharge of a weapon or firearm  
108 at a school-sponsored event or on school property, as provided  
109 in s. 790.115.

110 Section 4. For the purpose of incorporating the amendment  
111 made by this act to section 790.053, Florida Statutes, in a  
112 reference thereto, paragraph (b) of subsection (1) of section  
113 985.11, Florida Statutes, is reenacted to read:

114 985.11 Fingerprinting and photographing.—

115 (1)

116 (b) Unless the child is issued a civil citation or is

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117 participating in a similar diversion program pursuant to s.  
118 985.12, a child who is charged with or found to have committed  
119 one of the following offenses shall be fingerprinted, and the  
120 fingerprints shall be submitted to the Department of Law  
121 Enforcement as provided in s. 943.051(3)(b):

- 122 1. Assault, as defined in s. 784.011.
- 123 2. Battery, as defined in s. 784.03.
- 124 3. Carrying a concealed weapon, as defined in s. 790.01(1).
- 125 4. Unlawful use of destructive devices or bombs, as defined  
126 in s. 790.1615(1).
- 127 5. Neglect of a child, as defined in s. 827.03(1)(e).
- 128 6. Assault on a law enforcement officer, a firefighter, or  
129 other specified officers, as defined in s. 784.07(2)(a).
- 130 7. Open carrying of a weapon, as defined in s. 790.053.
- 131 8. Exposure of sexual organs, as defined in s. 800.03.
- 132 9. Unlawful possession of a firearm, as defined in s.  
133 790.22(5).
- 134 10. Petit theft, as defined in s. 812.014.
- 135 11. Cruelty to animals, as defined in s. 828.12(1).
- 136 12. Arson, resulting in bodily harm to a firefighter, as  
137 defined in s. 806.031(1).
- 138 13. Unlawful possession or discharge of a weapon or firearm  
139 at a school-sponsored event or on school property as defined in  
140 s. 790.115.

141  
142 A law enforcement agency may fingerprint and photograph a child  
143 taken into custody upon probable cause that such child has  
144 committed any other violation of law, as the agency deems  
145 appropriate. Such fingerprint records and photographs shall be

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146 retained by the law enforcement agency in a separate file, and  
147 these records and all copies thereof must be marked "Juvenile  
148 Confidential." These records are not available for public  
149 disclosure and inspection under s. 119.07(1) except as provided  
150 in ss. 943.053 and 985.04(2), but shall be available to other  
151 law enforcement agencies, criminal justice agencies, state  
152 attorneys, the courts, the child, the parents or legal  
153 custodians of the child, their attorneys, and any other person  
154 authorized by the court to have access to such records. In  
155 addition, such records may be submitted to the Department of Law  
156 Enforcement for inclusion in the state criminal history records  
157 and used by criminal justice agencies for criminal justice  
158 purposes. These records may, in the discretion of the court, be  
159 open to inspection by anyone upon a showing of cause. The  
160 fingerprint and photograph records shall be produced in the  
161 court whenever directed by the court. Any photograph taken  
162 pursuant to this section may be shown by a law enforcement  
163 officer to any victim or witness of a crime for the purpose of  
164 identifying the person who committed such crime.

165 Section 5. This act shall take effect July 1, 2018.