

1                   A bill to be entitled  
2           An act relating to mandatory minimum sentences;  
3           amending s. 775.087, F.S.; deleting aggravated assault  
4           from the list of convictions which carry a minimum  
5           term of imprisonment if during the commission of the  
6           offense the convicted person possessed a firearm or  
7           destructive device; deleting aggravated assault from a  
8           list of convictions which carry a minimum term of  
9           imprisonment if during the commission of the offense  
10          the convicted person possessed a firearm or  
11          destructive device; deleting aggravated assault from  
12          the list of convictions which carry a minimum term of  
13          imprisonment if during the commission of the offense  
14          the convicted person possessed a semiautomatic firearm  
15          and its high-capacity detachable box magazine or a  
16          machine gun; deleting a provision prohibiting a court  
17          from imposing the mandatory minimum sentence for a  
18          conviction for aggravated assault if the court makes  
19          specified written findings; conforming cross-  
20          references; amending s. 985.557, F.S.; conforming a  
21          cross-reference; reenacting ss. 27.366, 921.0022(2),  
22          921.0024(1)(b), and 947.146(3)(b), F.S., relating to  
23          legislative intent and policy in cases meeting the  
24          criteria of s. 775.087(2) and (3), F.S., the Criminal  
25          Punishment Code, the Criminal Punishment Code  
26          worksheet, and the Control Release Authority,

27 |           respectively, to incorporate the amendment made to s.  
 28 |           775.087, F.S., in references thereto; providing an  
 29 |           effective date.

30 |  
 31 | Be It Enacted by the Legislature of the State of Florida:

32 |  
 33 |           Section 1. Subsections (2), (3), and (6) of section  
 34 | 775.087, Florida Statutes, are 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 |           f.g. Aggravated battery;
- 47 |           g.h. Kidnapping;
- 48 |           h.i. Escape;
- 49 |           i.j. Aircraft piracy;
- 50 |           j.k. Aggravated child abuse;
- 51 |           k.l. Aggravated abuse of an elderly person or disabled  
 52 | adult;

53        ~~l.m.~~ Unlawful throwing, placing, or discharging of a  
 54 destructive device or bomb;  
 55        ~~m.n.~~ Carjacking;  
 56        ~~n.o.~~ Home-invasion robbery;  
 57        ~~o.p.~~ Aggravated stalking;  
 58        ~~p.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        ~~q.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  
 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.-p.  
 87 ~~(a)1.a.-q.~~, regardless of whether the use of a weapon is an  
 88 element of the felony, and during the course of the commission  
 89 of the felony such person discharged a "firearm" or "destructive  
 90 device" as defined in s. 790.001 shall be sentenced to a minimum  
 91 term of 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.-p.  
 94 ~~(a)1.a.-q.~~, regardless of whether the use of a weapon is an  
 95 element of the felony, and during the course of the commission  
 96 of the felony such person discharged a "firearm" or "destructive  
 97 device" as defined in s. 790.001 and, as the result of the  
 98 discharge, death or great bodily harm was inflicted upon any  
 99 person, the convicted person shall be sentenced to a minimum  
 100 term of imprisonment of not less than 25 years and not more than  
 101 a term of imprisonment of life in prison.

102 (b) Subparagraph (a)1., subparagraph (a)2., or  
 103 subparagraph (a)3. does not prevent a court from imposing a  
 104 longer sentence of incarceration as authorized by law in

105 addition to the minimum mandatory sentence, or from imposing a  
 106 sentence of death pursuant to other applicable law. Subparagraph  
 107 (a)1., subparagraph (a)2., or subparagraph (a)3. does not  
 108 authorize a court to impose a lesser sentence than otherwise  
 109 required by law.

110 Notwithstanding s. 948.01, adjudication of guilt or imposition  
 111 of sentence shall not be suspended, deferred, or withheld, and  
 112 the defendant is not eligible for statutory gain-time under s.  
 113 944.275 or any form of discretionary early release, other than  
 114 pardon or executive clemency, or conditional medical release  
 115 under s. 947.149, prior to serving the minimum sentence.

116 (c) If the minimum mandatory terms of imprisonment imposed  
 117 pursuant to this section exceed the maximum sentences authorized  
 118 by s. 775.082, s. 775.084, or the Criminal Punishment Code under  
 119 chapter 921, then the mandatory minimum sentence must be  
 120 imposed. If the mandatory minimum terms of imprisonment pursuant  
 121 to this section are less than the sentences that could be  
 122 imposed as authorized by s. 775.082, s. 775.084, or the Criminal  
 123 Punishment Code under chapter 921, then the sentence imposed by  
 124 the court must include the mandatory minimum term of  
 125 imprisonment as required in this section.

126 (d) It is the intent of the Legislature that offenders who  
 127 actually possess, carry, display, use, threaten to use, or  
 128 attempt to use firearms or destructive devices be punished to  
 129 the fullest extent of the law, and the minimum terms of  
 130 imprisonment imposed pursuant to this subsection shall be

131 imposed for each qualifying felony count for which the person is  
 132 convicted. The court shall impose any term of imprisonment  
 133 provided for in this subsection consecutively to any other term  
 134 of imprisonment imposed for any other felony offense.

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

- 138 a. Murder;
- 139 b. Sexual battery;
- 140 c. Robbery;
- 141 d. Burglary;
- 142 e. Arson;
- 143 ~~f. Aggravated assault;~~
- 144 f.g. Aggravated battery;
- 145 ~~g.h.~~ Kidnapping;
- 146 ~~h.i.~~ Escape;
- 147 ~~i.j.~~ Sale, manufacture, delivery, or intent to sell,  
 148 manufacture, or deliver any controlled substance;
- 149 ~~j.k.~~ Aircraft piracy;
- 150 ~~k.l.~~ Aggravated child abuse;
- 151 ~~l.m.~~ Aggravated abuse of an elderly person or disabled  
 152 adult;
- 153 ~~m.n.~~ Unlawful throwing, placing, or discharging of a  
 154 destructive device or bomb;
- 155 ~~n.o.~~ Carjacking;
- 156 ~~o.p.~~ Home-invasion robbery;

157 ~~p.e.~~ Aggravated stalking; or  
 158 ~~q.f.~~ Trafficking in cannabis, trafficking in cocaine,  
 159 capital importation of cocaine, trafficking in illegal drugs,  
 160 capital importation of illegal drugs, trafficking in  
 161 phencyclidine, capital importation of phencyclidine, trafficking  
 162 in methaqualone, capital importation of methaqualone,  
 163 trafficking in amphetamine, capital importation of amphetamine,  
 164 trafficking in flunitrazepam, trafficking in gamma-  
 165 hydroxybutyric acid (GHB), trafficking in 1,4-Butanediol,  
 166 trafficking in Phenethylamines, or other violation of s.  
 167 893.135(1);

168  
 169 and during the commission of the offense, such person possessed  
 170 a semiautomatic firearm and its high-capacity detachable box  
 171 magazine or a machine gun as defined in s. 790.001, shall be  
 172 sentenced to a minimum term of imprisonment of 15 years.

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

180 3. Any person who is convicted of a felony or an attempt  
 181 to commit a felony listed in subparagraph (a)1., regardless of  
 182 whether the use of a weapon is an element of the felony, and

183 during the course of the commission of the felony such person  
 184 discharged a semiautomatic firearm and its high-capacity box  
 185 magazine or a "machine gun" as defined in s. 790.001 and, as the  
 186 result of the discharge, death or great bodily harm was  
 187 inflicted upon any person, the convicted person shall be  
 188 sentenced to a minimum term of imprisonment of not less than 25  
 189 years and not more than a term of imprisonment of life in  
 190 prison.

191 (b) Subparagraph (a)1., subparagraph (a)2., or  
 192 subparagraph (a)3. does not prevent a court from imposing a  
 193 longer sentence of incarceration as authorized by law in  
 194 addition to the minimum mandatory sentence, or from imposing a  
 195 sentence of death pursuant to other applicable law. Subparagraph  
 196 (a)1., subparagraph (a)2., or subparagraph (a)3. does not  
 197 authorize a court to impose a lesser sentence than otherwise  
 198 required by law.

199 Notwithstanding s. 948.01, adjudication of guilt or imposition  
 200 of sentence shall not be suspended, deferred, or withheld, and  
 201 the defendant is not eligible for statutory gain-time under s.  
 202 944.275 or any form of discretionary early release, other than  
 203 pardon or executive clemency, or conditional medical release  
 204 under s. 947.149, prior to serving the minimum sentence.

205 (c) If the minimum mandatory terms of imprisonment imposed  
 206 pursuant to this section exceed the maximum sentences authorized  
 207 by s. 775.082, s. 775.084, or the Criminal Punishment Code under  
 208 chapter 921, then the mandatory minimum sentence must be

209 imposed. If the mandatory minimum terms of imprisonment pursuant  
 210 to this section are less than the sentences that could be  
 211 imposed as authorized by s. 775.082, s. 775.084, or the Criminal  
 212 Punishment Code under chapter 921, then the sentence imposed by  
 213 the court must include the mandatory minimum term of  
 214 imprisonment as required in this section.

215 (d) It is the intent of the Legislature that offenders who  
 216 possess, carry, display, use, threaten to use, or attempt to use  
 217 a semiautomatic firearm and its high-capacity detachable box  
 218 magazine or a machine gun as defined in s. 790.001 be punished  
 219 to the fullest extent of the law, and the minimum terms of  
 220 imprisonment imposed pursuant to this subsection shall be  
 221 imposed for each qualifying felony count for which the person is  
 222 convicted. The court shall impose any term of imprisonment  
 223 provided for in this subsection consecutively to any other term  
 224 of imprisonment imposed for any other felony offense.

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

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

230 2. "Semiautomatic firearm" means a firearm which is  
 231 capable of firing a series of rounds by separate successive  
 232 depressions of the trigger and which uses the energy of  
 233 discharge to perform a portion of the operating cycle.

234 ~~(6) Notwithstanding s. 27.366, the sentencing court shall~~

235 ~~not impose the mandatory minimum sentence required by subsection~~  
 236 ~~(2) or subsection (3) for a conviction for aggravated assault if~~  
 237 ~~the court makes written findings that:~~

238 ~~(a) The defendant had a good faith belief that the~~  
 239 ~~aggravated assault was justifiable pursuant to chapter 776.~~

240 ~~(b) The aggravated assault was not committed in the course~~  
 241 ~~of committing another criminal offense.~~

242 ~~(c) The defendant does not pose a threat to public safety.~~

243 ~~(d) The totality of the circumstances involved in the~~  
 244 ~~offense do not justify the imposition of such sentence.~~

245 Section 2. Paragraph (d) of subsection (2) of section  
 246 985.557, Florida Statutes, is amended to read:

247 985.557 Direct filing of an information; discretionary and  
 248 mandatory criteria.—

249 (2) MANDATORY DIRECT FILE.—

250 (d)1. With respect to any child who was 16 or 17 years of  
 251 age at the time the alleged offense was committed, the state  
 252 attorney shall file an information if the child has been charged  
 253 with committing or attempting to commit an offense listed in s.  
 254 775.087(2)(a)1.a.-p. ~~s. 775.087(2)(a)1.a.-q.~~, and, during the  
 255 commission of or attempt to commit the offense, the child:

256 a. Actually possessed a firearm or destructive device, as  
 257 those terms are defined in s. 790.001.

258 b. Discharged a firearm or destructive device, as  
 259 described in s. 775.087(2)(a)2.

260 c. Discharged a firearm or destructive device, as

261 described in s. 775.087(2)(a)3., and, as a result of the  
 262 discharge, death or great bodily harm was inflicted upon any  
 263 person.

264 2. Upon transfer, any child who is:

265 a. Charged under sub-subparagraph 1.a. and who has been  
 266 previously adjudicated or had adjudication withheld for a  
 267 forcible felony offense or any offense involving a firearm, or  
 268 who has been previously placed in a residential commitment  
 269 program, shall be subject to sentencing under s. 775.087(2)(a),  
 270 notwithstanding s. 985.565.

271 b. Charged under sub-subparagraph 1.b. or sub-subparagraph  
 272 1.c., shall be subject to sentencing under s. 775.087(2)(a),  
 273 notwithstanding s. 985.565.

274 3. Upon transfer, any child who is charged under this  
 275 paragraph, but who does not meet the requirements specified in  
 276 subparagraph 2., shall be sentenced under s. 985.565; however,  
 277 if the court imposes a juvenile sanction, the court must commit  
 278 the child to a high-risk or maximum-risk juvenile facility.

279 4. This paragraph shall not apply if the state attorney  
 280 has good cause to believe that exceptional circumstances exist  
 281 that preclude the just prosecution of the child in adult court.

282 5. The Department of Corrections shall make every  
 283 reasonable effort to ensure that any child 16 or 17 years of age  
 284 who is convicted and sentenced under this paragraph be  
 285 completely separated such that there is no physical contact with  
 286 adult offenders in the facility, to the extent that it is

287 consistent with chapter 958.

288 Section 3. For the purpose of incorporating the amendment  
 289 made by this act to section 775.087, Florida Statutes, in a  
 290 reference thereto, Section 27.366, Florida Statutes, is  
 291 reenacted to read:

292 27.366 Legislative intent and policy in cases meeting  
 293 criteria of s. 775.087(2) and (3).—It is the intent of the  
 294 Legislature that convicted criminal offenders who meet the  
 295 criteria in s. 775.087(2) and (3) be sentenced to the minimum  
 296 mandatory prison terms provided therein. It is the intent of the  
 297 Legislature to establish zero tolerance of criminals who use,  
 298 threaten to use, or avail themselves of firearms in order to  
 299 commit crimes and thereby demonstrate their lack of value for  
 300 human life. It is also the intent of the Legislature that  
 301 prosecutors should appropriately exercise their discretion in  
 302 those cases in which the offenders' possession of the firearm is  
 303 incidental to the commission of a crime and not used in  
 304 furtherance of the crime, used in order to commit the crime, or  
 305 used in preparation to commit the crime. For every case in which  
 306 the offender meets the criteria in this act and does not receive  
 307 the mandatory minimum prison sentence, the state attorney must  
 308 explain the sentencing deviation in writing and place such  
 309 explanation in the case file maintained by the state attorney.

310 Section 4. For the purpose of incorporating the amendment  
 311 made by this act to section 775.087, Florida Statutes, in a  
 312 reference thereto, Subsection (2) of section 921.0022, Florida

313 Statutes, is reenacted to read:

314 921.0022 Criminal Punishment Code; offense severity  
315 ranking chart.—

316 (2) The offense severity ranking chart has 10 offense  
317 levels, ranked from least severe, which are level 1 offenses, to  
318 most severe, which are level 10 offenses, and each felony  
319 offense is assigned to a level according to the severity of the  
320 offense. For purposes of determining which felony offenses are  
321 specifically listed in the offense severity ranking chart and  
322 which severity level has been assigned to each of these  
323 offenses, the numerical statutory references in the left column  
324 of the chart and the felony degree designations in the middle  
325 column of the chart are controlling; the language in the right  
326 column of the chart is provided solely for descriptive purposes.  
327 Reclassification of the degree of the felony through the  
328 application of s. 775.0845, s. 775.0861, s. 775.0862, s.  
329 775.087, s. 775.0875, s. 794.023, or any other law that provides  
330 an enhanced penalty for a felony offense, to any offense listed  
331 in the offense severity ranking chart in this section shall not  
332 cause the offense to become unlisted and is not subject to the  
333 provisions of s. 921.0023.

334 Section 5. For the purpose of incorporating the amendment  
335 made by this act to section 775.087, Florida Statutes, in a  
336 reference thereto, paragraph (b) of subsection (1) of section  
337 921.0024, Florida Statutes, is reenacted to read:

338 921.0024 Criminal Punishment Code; worksheet computations;

339 | scoresheets.—

340 |       (1)

341 |       (b) WORKSHEET KEY:

342 | Legal status points are assessed when any form of legal status  
 343 | existed at the time the offender committed an offense before the  
 344 | court for sentencing. Four (4) sentence points are assessed for  
 345 | an offender's legal status.

346 | Community sanction violation points are assessed when a  
 347 | community sanction violation is before the court for sentencing.  
 348 | Six (6) sentence points are assessed for each community sanction  
 349 | violation and each successive community sanction violation,  
 350 | unless any of the following apply:

351 |       1. If the community sanction violation includes a new  
 352 | felony conviction before the sentencing court, twelve (12)  
 353 | community sanction violation points are assessed for the  
 354 | violation, and for each successive community sanction violation  
 355 | involving a new felony conviction.

356 |       2. If the community sanction violation is committed by a  
 357 | violent felony offender of special concern as defined in s.  
 358 | 948.06:

359 |       a. Twelve (12) community sanction violation points are  
 360 | assessed for the violation and for each successive violation of  
 361 | felony probation or community control where:

362 |       I. The violation does not include a new felony conviction;  
 363 | and

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

367 b. Twenty-four (24) community sanction violation points  
 368 are assessed for the violation and for each successive violation  
 369 of felony probation or community control where the violation  
 370 includes a new felony conviction.

371 Multiple counts of community sanction violations before the  
 372 sentencing court shall not be a basis for multiplying the  
 373 assessment of community sanction violation points.

374 Prior serious felony points: If the offender has a primary  
 375 offense or any additional offense ranked in level 8, level 9, or  
 376 level 10, and one or more prior serious felonies, a single  
 377 assessment of thirty (30) points shall be added. For purposes of  
 378 this section, a prior serious felony is an offense in the  
 379 offender's prior record that is ranked in level 8, level 9, or  
 380 level 10 under s. 921.0022 or s. 921.0023 and for which the  
 381 offender is serving a sentence of confinement, supervision, or  
 382 other sanction or for which the offender's date of release from  
 383 confinement, supervision, or other sanction, whichever is later,  
 384 is within 3 years before the date the primary offense or any  
 385 additional offense was committed.

386 Prior capital felony points: If the offender has one or more  
 387 prior capital felonies in the offender's criminal record, points

388 shall be added to the subtotal sentence points of the offender  
 389 equal to twice the number of points the offender receives for  
 390 the primary offense and any additional offense. A prior capital  
 391 felony in the offender's criminal record is a previous capital  
 392 felony offense for which the offender has entered a plea of nolo  
 393 contendere or guilty or has been found guilty; or a felony in  
 394 another jurisdiction which is a capital felony in that  
 395 jurisdiction, or would be a capital felony if the offense were  
 396 committed in this state.

397 Possession of a firearm, semiautomatic firearm, or machine gun:  
 398 If the offender is convicted of committing or attempting to  
 399 commit any felony other than those enumerated in s. 775.087(2)  
 400 while having in his or her possession: a firearm as defined in  
 401 s. 790.001(6), an additional eighteen (18) sentence points are  
 402 assessed; or if the offender is convicted of committing or  
 403 attempting to commit any felony other than those enumerated in  
 404 s. 775.087(3) while having in his or her possession a  
 405 semiautomatic firearm as defined in s. 775.087(3) or a machine  
 406 gun as defined in s. 790.001(9), an additional twenty-five (25)  
 407 sentence points are assessed.

408 Sentencing multipliers:

409 Drug trafficking: If the primary offense is drug trafficking  
 410 under s. 893.135, the subtotal sentence points are multiplied,  
 411 at the discretion of the court, for a level 7 or level 8

412 offense, by 1.5. The state attorney may move the sentencing  
 413 court to reduce or suspend the sentence of a person convicted of  
 414 a level 7 or level 8 offense, if the offender provides  
 415 substantial assistance as described in s. 893.135(4).

416 Law enforcement protection: If the primary offense is a  
 417 violation of the Law Enforcement Protection Act under s.  
 418 775.0823(2), (3), or (4), the subtotal sentence points are  
 419 multiplied by 2.5. If the primary offense is a violation of s.  
 420 775.0823(5), (6), (7), (8), or (9), the subtotal sentence points  
 421 are multiplied by 2.0. If the primary offense is a violation of  
 422 s. 784.07(3) or s. 775.0875(1), or of the Law Enforcement  
 423 Protection Act under s. 775.0823(10) or (11), the subtotal  
 424 sentence points are multiplied by 1.5.

425 Grand theft of a motor vehicle: If the primary offense is grand  
 426 theft of the third degree involving a motor vehicle and in the  
 427 offender's prior record, there are three or more grand thefts of  
 428 the third degree involving a motor vehicle, the subtotal  
 429 sentence points are multiplied by 1.5.

430 Offense related to a criminal gang: If the offender is convicted  
 431 of the primary offense and committed that offense for the  
 432 purpose of benefiting, promoting, or furthering the interests of  
 433 a criminal gang as defined in s. 874.03, the subtotal sentence  
 434 points are multiplied by 1.5. If applying the multiplier results  
 435 in the lowest permissible sentence exceeding the statutory

436 maximum sentence for the primary offense under chapter 775, the  
 437 court may not apply the multiplier and must sentence the  
 438 defendant to the statutory maximum sentence.

439 Domestic violence in the presence of a child: If the offender is  
 440 convicted of the primary offense and the primary offense is a  
 441 crime of domestic violence, as defined in s. 741.28, which was  
 442 committed in the presence of a child under 16 years of age who  
 443 is a family or household member as defined in s. 741.28(3) with  
 444 the victim or perpetrator, the subtotal sentence points are  
 445 multiplied by 1.5.

446 Adult-on-minor sex offense: If the offender was 18 years of age  
 447 or older and the victim was younger than 18 years of age at the  
 448 time the offender committed the primary offense, and if the  
 449 primary offense was an offense committed on or after October 1,  
 450 2014, and is a violation of s. 787.01(2) or s. 787.02(2), if the  
 451 violation involved a victim who was a minor and, in the course  
 452 of committing that violation, the defendant committed a sexual  
 453 battery under chapter 794 or a lewd act under s. 800.04 or s.  
 454 847.0135(5) against the minor; s. 787.01(3)(a)2. or 3.; s.  
 455 787.02(3)(a)2. or 3.; s. 794.011, excluding s. 794.011(10); s.  
 456 800.04; or s. 847.0135(5), the subtotal sentence points are  
 457 multiplied by 2.0. If applying the multiplier results in the  
 458 lowest permissible sentence exceeding the statutory maximum  
 459 sentence for the primary offense under chapter 775, the court  
 460 may not apply the multiplier and must sentence the defendant to

461 the statutory maximum sentence.

462 Section 6. For the purpose of incorporating the amendment  
 463 made by this act to section 775.087, Florida Statutes, in a  
 464 reference thereto, paragraph (b) of subsection (3) of section  
 465 947.146, Florida Statutes, is reenacted to read:

466 947.146 Control Release Authority.—

467 (3) Within 120 days prior to the date the state  
 468 correctional system is projected pursuant to s. 216.136 to  
 469 exceed 99 percent of total capacity, the authority shall  
 470 determine eligibility for and establish a control release date  
 471 for an appropriate number of parole ineligible inmates committed  
 472 to the department and incarcerated within the state who have  
 473 been determined by the authority to be eligible for  
 474 discretionary early release pursuant to this section. In  
 475 establishing control release dates, it is the intent of the  
 476 Legislature that the authority prioritize consideration of  
 477 eligible inmates closest to their tentative release date. The  
 478 authority shall rely upon commitment data on the offender  
 479 information system maintained by the department to initially  
 480 identify inmates who are to be reviewed for control release  
 481 consideration. The authority may use a method of objective risk  
 482 assessment in determining if an eligible inmate should be  
 483 released. Such assessment shall be a part of the department's  
 484 management information system. However, the authority shall have  
 485 sole responsibility for determining control release eligibility,  
 486 establishing a control release date, and effectuating the

487 release of a sufficient number of inmates to maintain the inmate  
488 population between 99 percent and 100 percent of total capacity.  
489 Inmates who are ineligible for control release are inmates who  
490 are parole eligible or inmates who:

491 (b) Are serving the mandatory minimum portion of a  
492 sentence enhanced under s. 775.087(2) or (3), or s. 784.07(3);  
493

494 In making control release eligibility determinations under this  
495 subsection, the authority may rely on any document leading to or  
496 generated during the course of the criminal proceedings,  
497 including, but not limited to, any presentence or postsentence  
498 investigation or any information contained in arrest reports  
499 relating to circumstances of the offense.

500 Section 7. This act shall take effect July 1, 2016.