

House Bill No. 1395

An act relating to sentencing; reenacting sections 4 and 12 of chapter 99-188, Laws of Florida; amending s. 784.07, F.S.; providing minimum terms of imprisonment for persons convicted of aggravated assault or aggravated battery of a law enforcement officer; requiring the Governor to place public service announcements explaining the provisions of this act; provides for retroactive application of the reenacted provisions; further amending s. 784.07, F.S., to incorporate amendments contained in chapters 99-3 and 99-248, Laws of Florida, to correct a cross reference; providing an effective date.

WHEREAS, in 1999 the Legislature adopted chapter 99-188, Laws of Florida, with the primary motivation of reducing crime in this state and to protect the public from violent criminals through the adoption of enhanced and mandatory sentences for violent and repeat offenders, for persons involved in drug-related crimes, committing aggravated battery or aggravated assault on law enforcement personnel or the elderly, and for persons committing criminal acts while in prison or while having escaped from prison, and

WHEREAS, a three-judge panel of the District Court of Appeal of Florida, Second District, has issued a nonfinal opinion declaring chapter 99-188, Laws of Florida, unconstitutional as a violation of the requirement in Section 6, Article III of the Florida Constitution that “every law shall embrace but one subject and matter properly connected therewith. . .”, finding that the addition of two minor provisions relating to burglary of railroad vehicles and the provision of sentencing documents relative to aliens to the Immigration and Naturalization Service were not matters properly connected with the subject of the 1999 act, which was “sentencing,” and

WHEREAS, the nonfinal ruling on this matter was issued while the Legislature was in session, and

WHEREAS, the Attorney General, on behalf of the people of the State of Florida, has indicated a determination to seek rehearing, en banc, of this matter, and

WHEREAS, a final opinion by the District Court of Appeal of Florida, Second District, declaring chapter 99-188, Laws of Florida, to have been in violation of Section 6, Article III of the Florida Constitution would be subject to appeal by the state to the Florida Supreme Court, and

WHEREAS, in its nonfinal ruling, the panel of the District Court of Appeal of Florida, Second District, has certified its decision as passing on two questions of great public importance with respect to chapter 99-188, Laws of Florida, further invoking the jurisdiction of the Florida Supreme Court, and

WHEREAS, the final resolution as to the constitutionality of chapter 99-188, Laws of Florida, remains uncertain, and is unlikely to be finally deter-

mined by the judicial system, while the 2002 legislative session is in progress, and

WHEREAS, the legislative action to correct the effect of this ruling forthwith is essential to public safety and cannot await a final resolution by the District Court of Appeal and the Florida Supreme Court, and

WHEREAS, the Legislature, only out of an abundance of caution due to tentative posture of the law while it awaits final resolution by the District Court of Appeal and the Florida Supreme Court, has prepared five separate bills to reenact selected provisions of chapter 99-188, Laws of Florida, all of which relate to the single general issue of sentencing in criminal cases, and

WHEREAS, the Legislature does not intend the division of these bills relating to sentencing as any kind of legislative acknowledgement that said bills could not or should not be joined together in a single bill in full compliance with Section 6, Article III of the Florida Constitution, NOW THEREFORE,

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

Section 1. Sections 4 and 12 of chapter 99-188, Laws of Florida, are reenacted to read:

Section 4. Paragraphs (c) and (d) of subsection (2) of section 784.07, Florida Statutes, 1998 Supplement, are amended to read:

784.07 Assault or battery of law enforcement officers, firefighters, emergency medical care providers, public transit employees or agents, or other specified officers; reclassification of offenses; minimum sentences.—

(2) Whenever any person is charged with knowingly committing an assault or battery upon a law enforcement officer, a firefighter, an emergency medical care provider, a traffic accident investigation officer as described in s. 316.640, a traffic infraction enforcement officer as described in s. 318.141, a parking enforcement specialist as defined in s. 316.640, or a security officer employed by the board of trustees of a community college, while the officer, firefighter, emergency medical care provider, intake officer, traffic accident investigation officer, traffic infraction enforcement officer, parking enforcement specialist, public transit employee or agent, or security officer is engaged in the lawful performance of his or her duties, the offense for which the person is charged shall be reclassified as follows:

(c) In the case of aggravated assault, from a felony of the third degree to a felony of the second degree. Notwithstanding any other provision of law, any person convicted of aggravated assault upon a law enforcement officer shall be sentenced to a minimum term of imprisonment of 3 years.

(d) In the case of aggravated battery, from a felony of the second degree to a felony of the first degree. Notwithstanding any other provision of law, any person convicted of aggravated battery of a law enforcement officer shall be sentenced to a minimum term of imprisonment of 5 years.

Section 12. In order to inform the public and to deter and prevent crime in the state, the Executive Office of the Governor shall place public service announcements in visible local media throughout the state explaining the penalties provided in this act.

Section 2. Subsection (2) of section 784.07, Florida Statutes, as amended by section 4 of chapter 99-188, Laws of Florida, and as reenacted by section 1 of this act, is further amended to read:

784.07 Assault or battery of law enforcement officers, firefighters, emergency medical care providers, public transit employees or agents, or other specified officers; reclassification of offenses; minimum sentences.—

(2) Whenever any person is charged with knowingly committing an assault or battery upon a law enforcement officer, a firefighter, an emergency medical care provider, a traffic accident investigation officer as described in s. 316.640, a traffic infraction enforcement officer as described in ~~s. 316.640~~ s. ~~318.141~~, a parking enforcement specialist as defined in s. 316.640, or a security officer employed by the board of trustees of a community college, while the officer, firefighter, emergency medical care provider, intake officer, traffic accident investigation officer, traffic infraction enforcement officer, parking enforcement specialist, public transit employee or agent, or security officer is engaged in the lawful performance of his or her duties, the offense for which the person is charged shall be reclassified as follows:

(a) In the case of assault, from a misdemeanor of the second degree to a misdemeanor of the first degree.

(b) In the case of battery, from a misdemeanor of the first degree to a felony of the third degree.

(c) In the case of aggravated assault, from a felony of the third degree to a felony of the second degree. Notwithstanding any other provision of law, any person convicted of aggravated assault upon a law enforcement officer shall be sentenced to a minimum term of imprisonment of 3 years.

(d) In the case of aggravated battery, from a felony of the second degree to a felony of the first degree. Notwithstanding any other provision of law, any person convicted of aggravated battery of a law enforcement officer shall be sentenced to a minimum term of imprisonment of 5 years.

Section 3. The provisions reenacted by this act shall be applied retroactively to July 1, 1999, or as soon thereafter as the Constitution of the State of Florida and the Constitution of the United States may permit.

Section 4. This act shall take effect upon becoming a law.

Approved by the Governor April 29, 2002.

Filed in Office Secretary of State April 29, 2002.