

2012 -- S 2773

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LC02117
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO CRIMINAL OFFENSES - WEAPONS

Introduced By: Senators Jabour, Metts, Miller, and Perry

Date Introduced: March 08, 2012

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

- 1 SECTION 1. Section 11-47-3.2 of the General Laws in Chapter 11-47 entitled
2 "Weapons" is hereby amended to read as follows:
- 3 **11-47-3.2. Using a firearm when committing a crime of violence. --** (a) No person
4 shall use a firearm while committing or attempting to commit a crime of violence. Every person
5 violating the provisions of this section shall be punished: (1) for the first offense by imprisonment
6 for ten (10) years; however, if the violation was committed by use of a machine gun as defined in
7 section 11-47-2(6), the term of imprisonment shall be thirty (30) years; (2) for a second
8 conviction under this section by imprisonment for twenty (20) years; however, if the violation
9 was committed by use of a machine gun as defined in section 11-47-2(6), the term of
10 imprisonment shall be life; and (3) for a third or subsequent conviction, the person shall be
11 sentenced to life, or life without the possibility of parole by the sentencing judge after
12 consideration of aggravating and mitigating circumstances contained in sections 12-19.2-3 and
13 12-19.2-4. Any sentence imposed upon a person pursuant to this section shall be imposed
14 consecutively to and not concurrently with any sentence imposed for the underlying crime or
15 attempted crime, and the person shall not be afforded the benefits of deferment of sentence or
16 parole; provided, that unless sentenced to life without the possibility of parole pursuant to
17 subdivision (3) of this subsection, a person sentenced to life under this section may be granted
18 parole.
- 19 (b) Every person who, while committing an offense violating subsection (a) of this

1 section, discharges a firearm shall be guilty of a felony and be imprisoned as follows:

2 (1) Ten (10) years, if no injury to any other person results from the discharge;

3 (2) Twenty (20) years, if a person other than a police officer is injured by the discharge
4 of the firearm, or if a police officer who is engaged in the performance of his or her duty is
5 deliberately endangered by the person's discharge of the firearm; ~~and~~

6 (3) Life, if a police officer who is engaged in the performance of his or her duty is
7 injured by the discharge of the firearm; ~~or~~; and

8 (4) Life, if the death or permanent incapacity of any person (other than the person
9 convicted) results from the discharge of the firearm; provided that, involuntary manslaughter
10 shall not be considered a "crime of violence" for the purpose of subdivision (b)(4) only.

11 (c) The penalties defined in subsection (b) of this section shall run consecutively, and not
12 concurrently, to any other sentence imposed and, notwithstanding the provisions of chapter 8 of
13 title 13, the person shall not be afforded the benefits of deferment of sentence or parole; provided,
14 that a person sentenced to life under subdivision (b)(3) or (b)(4) of this section may be granted
15 parole.

16 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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1 This act would except involuntary manslaughter as a crime of violence from the
2 sentencing scheme of subdivision 11-47-3.2(b)(4).

3 This act would take effect upon passage.

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