



Criminal Justice Subcommittee

Wednesday, February 12, 2014

9:00 AM

404 HOB

Will Weatherford
Speaker

Matt Gaetz
Chair

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Criminal Justice Subcommittee

Start Date and Time: Wednesday, February 12, 2014 09:00 am
End Date and Time: Wednesday, February 12, 2014 11:00 am
Location: Sumner Hall (404 HOB)
Duration: 2.00 hrs

Consideration of the following bill(s):

HB 39 Juries in Criminal Trials by Bracy
HB 59 Offenses Against Unborn Children by Ahern
HB 209 Carrying Concealed Weapon or Concealed Firearm by Fitzenhagen
HB 265 Criminal Record Information by Trujillo
HB 485 Sexual Misconduct with Students by Authority Figures by Raburn
HB 641 Computer Crimes by La Rosa
HB 643 Pub. Rec./Trade Secrets/Computers by La Rosa
HB 697 Controlled Substances by Ingram

NOTICE FINALIZED on 02/05/2014 16:15 by Bowen.Erika

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 39 Juries in Criminal Trials
SPONSOR(S): Bracy and others
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 94

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee		Cox <i>Kae</i>	Cunningham <i>JU</i>
2) Justice Appropriations Subcommittee			
3) Judiciary Committee			

SUMMARY ANALYSIS

Article I, Sections 16 and 22 of the Florida Constitution give all persons the right of trial by jury, but specify that the qualifications and the number of jurors, not fewer than six, must be fixed by law. Florida law currently requires a jury in a capital felony case to consist of 12 jurors. Juries in all other cases must consist of 6 jurors.

The bill requires a jury in all felony cases to consist of 12 jurors.

The Office of the State Courts Administrator and the Florida Court Clerks and Comptrollers report that the bill will have a significant fiscal impact on both state and local governments. See "FISCAL COMMENTS."

The bill is effective July 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Article I, Sections 16 and 22 of the Florida Constitution give all persons the right of trial by jury, but specify that the qualifications and the number of jurors, not fewer than six, must be fixed by law.

Florida law currently requires a jury in a capital felony¹ case to consist of 12 jurors.² Juries in all other cases must consist of 6 jurors.³

Effect of the Bill

The bill amends s. 910.13, F.S., to require a jury in all felony cases to consist of 12 jurors.

B. SECTION DIRECTORY:

Section 1. Amends s. 913.10, F.S., relating to number of jurors.

Section 2. Provides an effective date of July 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have any impact on state government revenues.

2. Expenditures:

Requiring all felony cases to be tried before a 12-person jury will result in the jury selection process taking longer to complete, which will likely have an increased workload on judges, state attorneys, and public defenders.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

Management Costs Associated with Juries

Section 40.23, F.S., requires the clerk of the circuit court (clerk) to mail written notices to individuals summoned for jury service. The clerk must compensate and reimburse jurors to ensure that a person does not experience financial hardship as a result of his or her jury service.⁴ Currently, jurors are compensated as follows:

¹ A capital felony must be punished by death if a sentencing proceeding results in findings by the court that the person must be punished by death, otherwise the person must be punished by life imprisonment and is ineligible for parole. Section 775.082, F.S. First degree murder is an example of a capital felony.

²Section 910.13, F.S.

³ *Id.*

⁴ "Jury service" constitutes being summoned and reporting for jury service as well as actual service on a jury. Juror service does not include days for which the juror was notified before reporting that his or her presence was not required. Section 40.24, F.S.

- \$15 per day for the first three days, but only for jurors who are not regularly employed⁵ or who do not continue to receive regular wages while serving,⁶ and
- \$30 per day for all jurors who serve more than three days.⁷

Additionally, the clerk must pay for jurors' meals and lodging if ordered by the court.⁸

Facility Costs Associated with Juries

Both Art V, Sec. 14 of the Florida Constitution and s. 29.008, F.S., require counties to fund the cost of construction or lease of facilities and the maintenance of facilities for circuit and county courts.

- "Construction or lease" includes all reasonable and necessary costs of the acquisition or lease of facilities for all jurors.⁹
- "Maintenance" includes all reasonable and necessary costs of renovation and reconstruction as needed to accommodate functions for the circuit and county courts, and for performing the court-related functions of the offices of the clerks of the circuit and county court and for maintaining the facilities in a condition appropriate and safe for the use intended.¹⁰

Fiscal Impact to the Clerks and OSCA

The bill requires all felony cases to be tried before a 12-person jury. This doubles the number of jurors that the counties will be required to expend management related costs on, which includes summons, compensation and reimbursement, and meals and lodging. Preliminary estimates from the Office of the State Courts Administrator (OSCA) are that, statewide and on an annual basis, more than 300,000 additional summonses may be needed.¹¹

The Florida Court Clerks and Comptrollers (FCCC) stated that for the 2012 fiscal year, 3,289 noncapital felony trials were held statewide.¹² The cost to the state for these 6-person felony trials was \$11.1 million.¹³ The Clerks estimate that the bill will result in a negative fiscal impact to local government in the amount of \$6.4 million.¹⁴

Both FCCC and OSCA note that additional costs may be incurred to provide for additional juror parking, juror assembly rooms, juror deliberation rooms, courtrooms that have a jury-box capacity of 12, and courthouse security.¹⁵

Lastly, a larger pool of potential jurors may produce additional workload for the clerks related to processing prospective jurors arriving at the courthouse and assisting jurors to courtrooms.¹⁶

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

There will be an increase in both the number of people who are summoned for the initial jury pool, as well as an increase in the number of people who are sworn onto felony juries. As a result, there will likely be an increase in the number of people that miss work or other duties as a result of being summoned for jury service.

⁵ "Regular employment" includes full-time employment and part-time, temporary, and casual employment, as long as the employment hours of a juror can be reasonably determined by a schedule or by custom and practice established during the 3-month period preceding the term of service as a juror. Section 40.24, F.S.

⁶ Section 40.24(3)(b), F.S.

⁷ Jurors are not entitled to additional reimbursement by the clerk of the circuit court for travel or other out-of-pocket expenses. Section 40.24(4) and (5), F.S.

⁸ Section 40.26, F.S.

⁹ Section 29.008(1)(b), F.S.

¹⁰ Section 29.008(1)(c), F.S.

¹¹ Office of the State Courts Administrator (OSCA) Analysis of HB 39 (on file with the Criminal Justice Subcommittee).

¹² Florida Court Clerks and Comptrollers (FCCC) Analysis of HB 39 (on file with the Criminal Justice Subcommittee).

¹³ *Id.*

¹⁴ *Id.*

¹⁵ See OSCA and FCCC Analyses on HB 39 (on file with the Criminal Justice Subcommittee).

¹⁶ OSCA Analysis of HB 39 (on file with the Criminal Justice Subcommittee).

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill appears to be exempt from the requirements of Article VII, Section 18, of the Florida Constitution because it is a criminal law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

HB 39

2014

1 A bill to be entitled
 2 An act relating to juries in criminal trials; amending
 3 s. 913.10, F.S.; requiring that a jury in the trial of
 4 a felony case be made up of 12 persons; providing an
 5 effective date.

6
 7 Be It Enacted by the Legislature of the State of Florida:

8
 9 Section 1. Section 913.10, Florida Statutes, is amended to
 10 read:

11 913.10 Number of jurors.—Twelve persons shall constitute a
 12 jury to try all capital and felony cases, and six persons shall
 13 constitute a jury to try all other criminal cases.

14 Section 2. This act shall take effect July 1, 2014.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Criminal Justice
 2 Subcommittee

3 Representative Bracy offered the following:

4

5 **Amendment (with title amendment)**

6 Remove line 12 and insert:

7 jury to try all capital and life felony cases, and six persons
 8 shall

9

10

11

12

13

T I T L E A M E N D M E N T

14

Remove line 4 and insert:

15 a life felony case be made up of 12 persons; providing an

16

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 59 Offenses Against Unborn Children
SPONSOR(S): Ahern and others
TIED BILLS: IDEN./SIM. BILLS: SB 162

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee		Ham-Warren	Cunningham
2) Justice Appropriations Subcommittee			
3) Judiciary Committee			

SUMMARY ANALYSIS

In Florida, killing an "unborn quick child" is only considered a separate offense when specifically designated by statute. There are currently three statutes that make it a crime to cause the death of an "unborn quick child" – vehicular homicide, DUI manslaughter, and killing of an unborn quick child by injury to the mother. The term "unborn quick child" is currently defined to mean a fetus that is "capable of meaningful life outside the womb."

The bill replaces the term "unborn quick child" that is currently used in the vehicular homicide, DUI manslaughter, and killing of an unborn quick child by injury to the mother statutes, with the term "unborn child." The bill defines "unborn child" as, "a member of the species homo sapiens, at any stage of development, who is carried in the womb."

The bill also creates a new rule of statutory construction specifying that if a person commits any crime that causes the death of, or bodily injury to, an unborn child, such person commits a separate offense, unless otherwise provided for in the criminal statute that was violated. The punishment for the separate offense is the same as the punishment that applies to the criminal statute that was violated, had the death or injury occurred to the mother.

The separate offense does not require proof that the person committing the criminal offense:

- Had knowledge or should have had knowledge that the victim was pregnant; or
- Intended to cause the death of, or bodily injury to, the unborn child.

The bill specifies that the above-described provision cannot be used to prosecute a woman with respect to her unborn child. Additionally, a person may not be prosecuted pursuant to the above-described provision:

- For conduct relating to an abortion for which the consent of the pregnant woman, or person authorized by law to act on her behalf, has been obtained or for which such consent is implied by law; or
- For any medical treatment of the pregnant woman or her unborn child.

On January 30, 2014, the Criminal Justice Impact Conference determined that this bill will have an indeterminate negative prison bed impact on the Department of Corrections.

This bill takes effect October 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Federal Law

Currently, federal law provides criminal penalties for causing death or bodily harm to an unborn child. In 2004, the Unborn Victims of Violence Act (Act) was enacted by Congress to provide increased protection to unborn children by modifying the language of 18 U.S.C. s. 1841.¹ Under the Act, any person who commits specified offenses causing death or bodily injury to a child who is in utero during the commission of the offense commits an offense separate from any act committed against the unborn child's mother.² Punishment for the offense is the same as if the offense had been committed against the pregnant woman.³ However, in no instance may the death penalty be imposed.⁴ The Act does not require proof that the person engaging in the offense had knowledge or should have had knowledge that the victim of the underlying offense was pregnant, or that the defendant intended to cause death or bodily injury to the child in utero.⁵

The Act defines the term "child in utero" to mean "a member of the species homo sapiens, at any stage of development, who is carried in the womb."⁶ The Act specifies that the offense does not require that the person engaged in the conduct had knowledge or should have had knowledge that the mother was pregnant, or intended to cause death or bodily injury to the unborn child.⁷ The Act creates an exception to prosecution for abortions performed under authorized consent, or for medical treatment of the woman or her unborn child, or for any actions by the woman with respect to her unborn child.⁸

State Law

At least thirty-seven states have statutes that criminalize the killing of a fetus or "unborn child," in at least some circumstances.⁹ These state laws vary with respect to the gestational stage at which criminal liability will attach.¹⁰

In Florida, the killing of a viable fetus or unborn quick child is only considered a separate and independent offense when specifically designated by statute. There are currently three statutes that make it a crime to cause the death of a "viable fetus" or "unborn quick child." Unlike federal law, both of these terms are defined to mean a fetus that is capable of meaningful life outside the womb.

Vehicular Homicide

Section 782.071, F.S., defines vehicular homicide as "the killing of a human being, or the killing of a viable fetus by any injury to the mother, caused by the operation of a motor vehicle by another in a reckless manner likely to cause the death of, or great bodily harm to, another."¹¹ The statute specifies that a fetus is viable when it "becomes capable of meaningful life outside the womb through standard medical measures."¹²

¹ Unborn Victims of Violence Act of 2004, Pub. L. No. 108-212, 118 Stat. 568 (2004).

² 18 U.S.C. s. 1841(a)(1).

³ 18 U.S.C. s. 1841(a)(2)(A).

⁴ 18 U.S.C. s. 1841(a)(2)(D).

⁵ 18 U.S.C. s. 1841(a)(2)(B).

⁶ 18 U.S.C. s. 1841(d).

⁷ 18 U.S.C. s. 1841(a)(2)(B).

⁸ 18 U.S.C. s. 1841(c).

⁹ Nat'l Right to Life Comm., *State Homicide Laws That Recognize Unborn Victims*, NATIONAL RIGHT TO LIFE (July 5, 2012), <https://www.nrlc.org/federal/unbornvictims/statehomicidelaws092302/> (last visited February 7, 2014).

¹⁰ *Id.*

¹¹ The vehicular homicide statute specifies that a right of action for civil damages exists under s. 768.19, F.S., for all deaths described in the statute. Section 782.071(3), F.S.

¹² Section 782.071(2), F.S.

Killing of an Unborn Quick Child by Injury to the Mother

Section 782.09, F.S., provides that the killing of an unborn quick child is murder if the killing was the result of an injury to the unborn child's mother which would have been murder if it resulted in the mother's death.¹³ The term "unborn quick child," as used in s. 782.09, F.S., is defined in accordance with the definition of "viable fetus" set forth in the vehicular homicide statute.¹⁴

DUI Manslaughter

Section 316.193(3), F.S., provides, in part, that in order to prove a DUI manslaughter case, the state must establish the following elements:

- The defendant operated a vehicle.
- The defendant, by reason of such operation, caused or contributed to the cause of the death of any human being or unborn quick child.¹⁵
- At the time of such operation, the defendant was under the influence of alcoholic beverages or a controlled substance to the extent that the defendant's normal faculties were impaired or the defendant had a blood alcohol level of .08 or higher.

The term "unborn quick child," is defined in accordance with the definition of "viable fetus" set forth in the vehicular homicide statute.¹⁶

Effect of the Bill

The bill cites the act as the "Florida Unborn Victims of Violence Act."

The bill replaces the terms "viable fetus" and "unborn quick child" that are currently used in the vehicular homicide, killing of an unborn quick child by injury to the mother, and DUI manslaughter statutes, with the term "unborn child." The bill defines "unborn child" in accordance with federal law as, "a member of the species homo sapiens, at any stage of development, who is carried in the womb."

The bill also amends s. 775.021, F.S., to create a new rule of statutory construction specifying that if a person commits any crime that causes the death of, or bodily injury to, an unborn child, such person commits a separate offense, unless otherwise provided for in the criminal statute that was violated. The punishment for the separate offense is the same as the punishment that applies to the criminal statute that was violated, had the death or injury occurred to the mother. However, in no instance can the death penalty be imposed for the separate offense.

The bill specifies that the separate offense does not require proof that the person committing the criminal offense:

- Had knowledge or should have had knowledge that the victim of the underlying offense was pregnant; or
- Intended to cause the death of, or bodily injury to, the unborn child.

The bill also specifies that the above-described provision cannot be used to prosecute a woman with respect to her unborn child. Additionally, a person may not be prosecuted pursuant to the above-described provision:

- For conduct relating to an abortion for which the consent of the pregnant woman, or person authorized by law to act on her behalf, has been obtained or for which such consent is implied by law; or
- For any medical treatment of the pregnant woman or her unborn child.

¹³ Murder of an unborn quick child is deemed murder in the same degree as that which would have been committed against the mother. Section 782.09(1), F.S.

¹⁴ Section 782.071(2), F.S.

¹⁵ Pursuant to s. 316.193(3)(c), F.S., the term "unborn quick child" shares the same definition as "viable fetus," defined under s. 782.071(2), F.S., as a viable fetus "when it becomes capable of meaningful life outside the womb through standard medical measures."

¹⁶ Section 316.193(3)(c), F.S.

The bill makes conforming changes to s 435.04(2), F.S., relating to employment screening standards, and s. 921.0022, F.S, the offense severity ranking chart.

B. SECTION DIRECTORY:

Section 1. Cites the Act as the "Florida Unborn Victims of Violence Act."

Section 2. Amends s. 775.021, F.S., relating to rules of construction.

Section 3. Amends s. 316.193, F.S., relating to driving under the influence; penalties.

Section 4. Amends s. 435.04, F.S., relating to level 2 screening standards.

Section 5. Amends s. 782.071, F.S., relating to vehicular homicide.

Section 6. Amends s. 782.09, F.S., relating to killing of unborn quick child by injury to mother.

Section 7. Amends s. 921.0022, F.S., relating to Criminal Punishment Code; offense severity ranking chart.

Section 8. Provides an effective date of October 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill does not appear to have any impact on state revenues.

2. Expenditures:

On January 30, 2014, the Criminal Justice Impact Conference determined that this bill will have an indeterminate negative prison bed impact on the Department of Corrections.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to have any impact on local government revenues.

2. Expenditures:

This bill does not appear to have any impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to offenses against unborn children;
 3 providing a short title; amending s. 775.021, F.S.;
 4 providing a rule of construction that a person who
 5 engages in conduct that violates any provision of the
 6 Florida Criminal Code or of a criminal offense defined
 7 by another statute and causes the death of, or bodily
 8 injury to, an unborn child commits a separate offense
 9 if such an offense is not otherwise specifically
 10 provided for; providing for criminal penalties for
 11 such an offense; specifying that certain types of
 12 knowledge or intent are not necessary for such an
 13 offense; providing exceptions; providing a definition;
 14 amending s. 316.193, 435.04, 782.071, 782.09, and
 15 921.0022, F.S.; defining and substituting the term
 16 "unborn child" for similar terms used in provisions
 17 relating to driving under the influence, employment
 18 background screening standards, vehicular homicide,
 19 the killing of an unborn quick child by injury to the
 20 child's mother; and the offense severity ranking chart
 21 of the Criminal Punishment Code, respectively;
 22 conforming terminology; providing an effective date.

23
 24 Be It Enacted by the Legislature of the State of Florida:

25
 26 Section 1. This act may be cited as the "Florida Unborn
 27 Victims of Violence Act."

28 Section 2. Subsection (5) is added to section 775.021,

29 Florida Statutes, to read:

30 775.021 Rules of construction.-

31 (5) Whoever commits an act that violates a provision of
 32 this code or commits a criminal offense defined by another
 33 statute and thereby causes the death of, or bodily injury to, an
 34 unborn child commits a separate offense if the provision or
 35 statute does not otherwise specifically provide a separate
 36 offense for such death or injury to an unborn child.

37 (a) Except as otherwise provided in this subsection, the
 38 punishment for a separate offense under this subsection is the
 39 same as the punishment provided under this code or other statute
 40 for that conduct had the injury or death occurred to the mother
 41 of the unborn child.

42 (b) An offense under this subsection does not require
 43 proof that the person engaging in the conduct:

44 1. Had knowledge or should have had knowledge that the
 45 victim of the underlying offense was pregnant; or

46 2. Intended to cause the death of, or bodily injury to,
 47 the unborn child.

48 (c) Notwithstanding any other provision of law, the death
 49 penalty may not be imposed for an offense under this subsection.

50 (d) This subsection does not permit the prosecution:

51 1. Of any person for conduct relating to an abortion for
 52 which the consent of the pregnant woman, or a person authorized
 53 by law to act on her behalf, has been obtained or for which such
 54 consent is implied by law;

55 2. Of a person for providing medical treatment of the
 56 pregnant woman or her unborn child; or

57 | 3. Of a woman with respect to her unborn child.
 58 | (e) As used in this subsection, the term "unborn child"
 59 | means a member of the species homo sapiens, at any stage of
 60 | development, who is carried in the womb.

61 | Section 3. Paragraph (c) of subsection (3) of section
 62 | 316.193, Florida Statutes, is amended to read:

63 | 316.193 Driving under the influence; penalties.—

64 | (3) Any person:

65 | (c) Who, by reason of such operation, causes or
 66 | contributes to causing:

67 | 1. Damage to the property or person of another commits a
 68 | misdemeanor of the first degree, punishable as provided in s.
 69 | 775.082 or s. 775.083.

70 | 2. Serious bodily injury to another, as defined in s.
 71 | 316.1933, commits a felony of the third degree, punishable as
 72 | provided in s. 775.082, s. 775.083, or s. 775.084.

73 | 3. The death of any human being or unborn ~~quick~~ child
 74 | commits DUI manslaughter, and commits:

75 | a. A felony of the second degree, punishable as provided
 76 | in s. 775.082, s. 775.083, or s. 775.084.

77 | b. A felony of the first degree, punishable as provided in
 78 | s. 775.082, s. 775.083, or s. 775.084, if:

79 | (I) At the time of the crash, the person knew, or should
 80 | have known, that the crash occurred; and

81 | (II) The person failed to give information and render aid
 82 | as required by s. 316.062.

83 |

84 | For purposes of this subsection, the ~~definition of the~~ term

85 "unborn ~~quick~~ child" has the same meaning as provided in s.
 86 775.021(5) ~~shall be determined in accordance with the definition~~
 87 ~~of viable fetus as set forth in s. 782.071.~~ A person who is
 88 convicted of DUI manslaughter shall be sentenced to a mandatory
 89 minimum term of imprisonment of 4 years.

90 Section 4. Paragraph (g) of subsection (2) of section
 91 435.04, Florida Statutes, is amended to read:

92 435.04 Level 2 screening standards.—

93 (2) The security background investigations under this
 94 section must ensure that no persons subject to the provisions of
 95 this section have been arrested for and are awaiting final
 96 disposition of, have been found guilty of, regardless of
 97 adjudication, or entered a plea of nolo contendere or guilty to,
 98 or have been adjudicated delinquent and the record has not been
 99 sealed or expunged for, any offense prohibited under any of the
 100 following provisions of state law or similar law of another
 101 jurisdiction:

102 (g) Section 782.09, relating to killing of an unborn ~~quick~~
 103 child by injury to the mother.

104 Section 5. Section 782.071, Florida Statutes, is amended
 105 to read:

106 782.071 Vehicular homicide.—"Vehicular homicide" is the
 107 killing of a human being, or the killing of an unborn child ~~a~~
 108 ~~viable fetus~~ by any injury to the mother, caused by the
 109 operation of a motor vehicle by another in a reckless manner
 110 likely to cause the death of, or great bodily harm to, another.

111 (1) Vehicular homicide is:

112 (a) A felony of the second degree, punishable as provided

113 in s. 775.082, s. 775.083, or s. 775.084.

114 (b) A felony of the first degree, punishable as provided
 115 in s. 775.082, s. 775.083, or s. 775.084, if:

116 1. At the time of the accident, the person knew, or should
 117 have known, that the accident occurred; and

118 2. The person failed to give information and render aid as
 119 required by s. 316.062.

120

121 This paragraph does not require that the person knew that the
 122 accident resulted in injury or death.

123 (2) For purposes of this section, the term "unborn child"
 124 has the same meaning as provided in s. 775.021(5) ~~a fetus is~~
 125 ~~viable when it becomes capable of meaningful life outside the~~
 126 ~~womb through standard medical measures.~~

127 (3) A right of action for civil damages shall exist under
 128 s. 768.19, under all circumstances, for all deaths described in
 129 this section.

130 (4) In addition to any other punishment, the court may
 131 order the person to serve 120 community service hours in a
 132 trauma center or hospital that regularly receives victims of
 133 vehicle accidents, under the supervision of a registered nurse,
 134 an emergency room physician, or an emergency medical technician
 135 pursuant to a voluntary community service program operated by
 136 the trauma center or hospital.

137 Section 6. Section 782.09, Florida Statutes, is amended to
 138 read:

139 782.09 Killing of unborn ~~quick~~ child by injury to mother.—

140 (1) The unlawful killing of an unborn ~~quick~~ child, by any

141 | injury to the mother of such child which would be murder if it
 142 | resulted in the death of such mother, shall be deemed murder in
 143 | the same degree as that which would have been committed against
 144 | the mother. Any person, other than the mother, who unlawfully
 145 | kills an unborn ~~quiek~~ child by any injury to the mother:

146 | (a) Which would be murder in the first degree constituting
 147 | a capital felony if it resulted in the mother's death commits
 148 | murder in the first degree constituting a capital felony,
 149 | punishable as provided in s. 775.082.

150 | (b) Which would be murder in the second degree if it
 151 | resulted in the mother's death commits murder in the second
 152 | degree, a felony of the first degree, punishable as provided in
 153 | s. 775.082, s. 775.083, or s. 775.084.

154 | (c) Which would be murder in the third degree if it
 155 | resulted in the mother's death commits murder in the third
 156 | degree, a felony of the second degree, punishable as provided in
 157 | s. 775.082, s. 775.083, or s. 775.084.

158 | (2) The unlawful killing of an unborn ~~quiek~~ child by any
 159 | injury to the mother of such child which would be manslaughter
 160 | if it resulted in the death of such mother shall be deemed
 161 | manslaughter. A person who unlawfully kills an unborn ~~quiek~~
 162 | child by any injury to the mother which would be manslaughter if
 163 | it resulted in the mother's death commits manslaughter, a felony
 164 | of the second degree, punishable as provided in s. 775.082, s.
 165 | 775.083, or s. 775.084.

166 | (3) The death of the mother resulting from the same act or
 167 | criminal episode that caused the death of the unborn ~~quiek~~ child
 168 | does not bar prosecution under this section.

169 (4) This section does not authorize the prosecution of any
 170 person in connection with a termination of pregnancy pursuant to
 171 chapter 390.

172 (5) For purposes of this section, the ~~definition of the~~
 173 term "unborn ~~quick~~ child" has the same meaning as provided in s.
 174 775.021(5) ~~shall be determined in accordance with the definition~~
 175 ~~of viable fetus as set forth in s. 782.071.~~

176 Section 7. Paragraph (g) of subsection (3) of section
 177 921.0022, Florida Statutes, is amended to read:

178 921.0022 Criminal Punishment Code; offense severity
 179 ranking chart.-

180 (3) OFFENSE SEVERITY RANKING CHART

181 (g) LEVEL 7

182

Florida Statute	Felony Degree	Description
316.027(1)(b)	1st	Accident involving death, failure to stop; leaving scene.
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
316.1935(3)(b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to

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185

			elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
186	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
187	402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
188	409.920 (2)(b)1.a.	3rd	Medicaid provider fraud; \$10,000 or less.
189	409.920 (2)(b)1.b.	2nd	Medicaid provider fraud; more than \$10,000, but less than \$50,000.
190	456.065(2)	3rd	Practicing a health care profession without a license.
191	456.065(2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
192			

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193	458.327(1)	3rd	Practicing medicine without a license.
194	459.013(1)	3rd	Practicing osteopathic medicine without a license.
195	460.411(1)	3rd	Practicing chiropractic medicine without a license.
196	461.012(1)	3rd	Practicing podiatric medicine without a license.
197	462.17	3rd	Practicing naturopathy without a license.
198	463.015(1)	3rd	Practicing optometry without a license.
199	464.016(1)	3rd	Practicing nursing without a license.
200	465.015(2)	3rd	Practicing pharmacy without a license.
201	466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.
	467.201	3rd	Practicing midwifery without a

			license.
202	468.366	3rd	Delivering respiratory care services without a license.
203	483.828 (1)	3rd	Practicing as clinical laboratory personnel without a license.
204	483.901 (9)	3rd	Practicing medical physics without a license.
205	484.013 (1) (c)	3rd	Preparing or dispensing optical devices without a prescription.
206	484.053	3rd	Dispensing hearing aids without a license.
207	494.0018 (2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
208	560.123 (8) (b) 1.	3rd	Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by a

			money services business.
209	560.125(5)(a)	3rd	Money services business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
210	655.50(10)(b)1.	3rd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.
211	775.21(10)(a)	3rd	Sexual predator; failure to register; failure to renew driver's license or identification card; other registration violations.
212	775.21(10)(b)	3rd	Sexual predator working where children regularly congregate.
213	775.21(10)(g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
214	782.051(3)	2nd	Attempted felony murder of a

215	782.07(1)	2nd	person by a person other than the perpetrator or the perpetrator of an attempted felony.
216	782.071	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
217	782.072	2nd	Killing of a human being or <u>unborn child</u> viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide).
218	784.045(1)(a)1.	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
219	784.045(1)(a)2.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
220			Aggravated battery; using deadly weapon.

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221	784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
222	784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.
223	784.048(7)	3rd	Aggravated stalking; violation of court order.
224	784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
225	784.074(1)(a)	1st	Aggravated battery on sexually violent predators facility staff.
226	784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.
227	784.081(1)	1st	Aggravated battery on specified official or employee.
228	784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.
	784.083(1)	1st	Aggravated battery on code inspector.

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229

787.06(3)(a) 1st Human trafficking using coercion for labor and services.

230

787.06(3)(e) 1st Human trafficking using coercion for labor and services by the transfer or transport of any individual from outside Florida to within the state.

231

790.07(4) 1st Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).

232

790.16(1) 1st Discharge of a machine gun under specified circumstances.

233

790.165(2) 2nd Manufacture, sell, possess, or deliver hoax bomb.

234

790.165(3) 2nd Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.

235

790.166(3) 2nd Possessing, selling, using, or

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236			attempting to use a hoax weapon of mass destruction.
	790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
237			
	790.23	1st, PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
238			
	794.08(4)	3rd	Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
239			
	796.03	2nd	Procuring any person under 16 years for prostitution.
240			
	800.04(5)(c)1.	2nd	Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years.
241			

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242	800.04 (5) (c) 2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender 18 years or older.
243	806.01 (2)	2nd	Maliciously damage structure by fire or explosive.
244	810.02 (3) (a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
245	810.02 (3) (b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
246	810.02 (3) (d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
247	810.02 (3) (e)	2nd	Burglary of authorized emergency vehicle.
	812.014 (2) (a) 1.	1st	Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree

			grand theft.
248	812.014(2)(b)2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.
249	812.014(2)(b)3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
250	812.014(2)(b)4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.
251	812.0145(2)(a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
252	812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
253	812.131(2)(a)	2nd	Robbery by sudden snatching.
254	812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
255	817.034(4)(a)1.	1st	Communications fraud, value

			greater than \$50,000.
256	817.234(8)(a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
257	817.234(9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
258	817.234(11)(c)	1st	Insurance fraud; property value \$100,000 or more.
259	817.2341 (2)(b) & (3)(b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
260	817.535(2)(a)	3rd	Filing false lien or other unauthorized document.
261	825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.

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262

825.103(2)(b) 2nd Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000.

263

827.03(2)(b) 2nd Neglect of a child causing great bodily harm, disability, or disfigurement.

264

827.04(3) 3rd Impregnation of a child under 16 years of age by person 21 years of age or older.

265

837.05(2) 3rd Giving false information about alleged capital felony to a law enforcement officer.

266

838.015 2nd Bribery.

267

838.016 2nd Unlawful compensation or reward for official behavior.

268

838.021(3)(a) 2nd Unlawful harm to a public servant.

269

838.22 2nd Bid tampering.

270

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271	843.0855(2)	3rd	Impersonation of a public officer or employee.
272	843.0855(3)	3rd	Unlawful simulation of legal process.
273	843.0855(4)	3rd	Intimidation of a public officer or employee.
274	847.0135(3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
275	847.0135(4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
276	872.06	2nd	Abuse of a dead human body.
277	874.05(2)(b)	1st	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.
278	874.10	1st, PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.

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279	893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
280	893.13(1)(e)1.	1st	Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., within 1,000 feet of property used for religious services or a specified business site.
281	893.13(4)(a)	1st	Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).
	893.135(1)(a)1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000

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			lbs.
282	893.135 (1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
283	893.135 (1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
284	893.135(1)(d)1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
285	893.135(1)(e)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
286	893.135(1)(f)1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
287	893.135 (1)(g)1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
288	893.135 (1)(h)1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1

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			kilogram or more, less than 5 kilograms.
289	893.135 (1)(j)1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
290	893.135 (1)(k)2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
291	893.1351(2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
292	896.101(5)(a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.
293	896.104(4)(a)1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.
294	943.0435(4)(c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting

			requirements.
295	943.0435(8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
296	943.0435(9) (a)	3rd	Sexual offender; failure to comply with reporting requirements.
297	943.0435(13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
298	943.0435(14)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.
299	944.607(9)	3rd	Sexual offender; failure to comply with reporting requirements.
300	944.607(10) (a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.

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301

944.607(12) 3rd Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.

302

944.607(13) 3rd Sexual offender; failure to report and reregister; failure to respond to address verification.

303

985.4815(10) 3rd Sexual offender; failure to submit to the taking of a digitized photograph.

304

985.4815(12) 3rd Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.

305

985.4815(13) 3rd Sexual offender; failure to report and reregister; failure to respond to address verification.

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307

Section 8. This act shall take effect October 1, 2014.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 209 Carrying Concealed Weapon or Concealed Firearm

SPONSOR(S): Fitzenhagen and others

TIED BILLS: IDEN./SIM. BILLS: SB 296

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee		Cunningham	Cunningham
2) Economic Development & Tourism Subcommittee			
3) Judiciary Committee			

SUMMARY ANALYSIS

Section 790.01, F.S., makes it a first degree misdemeanor for a person to carry a concealed weapon or electric weapon or device on or about his or her person. Carrying a concealed firearm is a third degree felony. These criminal penalties do not apply to:

- A person licensed to carry a concealed weapon or firearm; or
- A person carrying the following in a concealed manner for purposes of lawful self-defense:
 - Self-defense chemical spray; or
 - A nonlethal stun gun or dart-firing stun gun or other nonlethal electric weapon or device that is designed solely for defensive purposes.

The bill creates an additional exception in s. 790.01, F.S., specifying that the statute's criminal penalties do not apply to:

- A person who carries a concealed weapon or firearm on or about his or her person while complying with a mandatory evacuation order issued during a state of emergency declared by the Governor.

On January 30, 2014, the Criminal Justice Impact Conference determined that this bill will have an insignificant prison bed impact on the Department of Corrections. The bill may also have a positive jail bed impact.

The bill is effective July 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Section 790.01, F.S., makes it a first degree misdemeanor¹ for a person to carry a concealed weapon² or electric weapon or device³ on or about his or her person. Carrying a concealed firearm⁴ is a third degree felony^{5,6}. These criminal penalties do not apply to:

- A person licensed to carry a concealed weapon or firearm pursuant to s. 790.06, F.S.;⁷ or
- A person carrying the following in a concealed manner for purposes of lawful self-defense:
 - Self-defense chemical spray;⁸ or
 - A nonlethal stun gun or dart-firing stun gun⁹ or other nonlethal electric weapon or device that is designed solely for defensive purposes.¹⁰

Effect of the Bill

The bill creates an additional exception in s. 790.01, F.S., specifying that the statute's criminal penalties do not apply to:

- A person who carries a concealed weapon or firearm on or about his or her person while complying with a mandatory evacuation¹¹ order issued during a state of emergency declared by the Governor pursuant to ch. 252, F.S.¹²

B. SECTION DIRECTORY:

Section 1. Amends s. 790.01, F.S., relating to carrying concealed weapons.

Section 2. Provides an effective date of July 1, 2014.

¹ A first degree misdemeanor is punishable by up to one year in county jail and a \$1,000 fine. Sections 775.082 and 775.083, F.S.

² Section 790.001(3)(a), F.S., defines "concealed weapon" as any dirk, metallic knuckles, slungshot, billie, tear gas gun, chemical weapon or device, or other deadly weapon carried on or about a person in such a manner as to conceal the weapon from the ordinary sight of another person.

³ Section 790.001(14), F.S., defines "electric weapon or device" as any device which, through the application or use of electrical current, is designed, redesigned, used, or intended to be used for offensive or defensive purposes, the destruction of life, or the infliction of injury.

⁴ Section 790.001(2), F.S., defines "concealed firearm" as any firearm which is carried on or about a person in such a manner as to conceal the firearm from the ordinary sight of another person. Section 790.001(6), F.S., defines "firearm" as any weapon (including a starter gun) which will, is designed to, or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any firearm muffler or firearm silencer; any destructive device; or any machine gun. The term "firearm" does not include an antique firearm unless the antique firearm is used in the commission of a crime.

⁵ A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

⁶ Section 790.01(2), F.S.

⁷ Section 790.06, F.S., sets forth the requirements for obtaining concealed weapons and concealed firearms licenses.

⁸ Section 790.001(3)(b), F.S., defines "self-defense chemical spray" as a device carried solely for purposes of lawful self-defense that is compact in size, designed to be carried on or about the person, and contains not more than two ounces of chemical.

⁹ Section 790.001(15), F.S., defines "dart-firing stun gun" as any device having one or more darts that are capable of delivering an electrical current.

¹⁰ Section 790.01(3) and (4), F.S.

¹¹ As part of his or her emergency management powers, the Governor is authorized to direct and compel the evacuation of all or part of the population from any stricken or threatened area within the state if she or he deems this action necessary for the preservation of life or other emergency mitigation, response, or recovery. Section 252.36(5)(e), F.S.

¹² Section 252.36(2), F.S., provides that a state of emergency shall be declared by executive order or proclamation of the Governor if she or he finds an emergency has occurred or that the occurrence or the threat thereof is imminent. The state of emergency shall continue until the Governor finds that the threat or danger has been dealt with to the extent that the emergency conditions no longer exist and she or he terminates the state of emergency by executive order or proclamation, but no state of emergency may continue for longer than 60 days unless renewed by the Governor.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have any impact on state revenues.

2. Expenditures:

On January 30, 2014, the Criminal Justice Impact Conference determined that this bill will have an insignificant prison bed impact on the Department of Corrections.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

Section 790.01, F.S., makes it a first degree misdemeanor for a person to carry a concealed weapon or electric weapon or device on or about his or her person. The bill creates an additional exception to this statute, which could have a positive jail bed impact.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to carrying a concealed weapon or a concealed firearm; amending s. 790.01, F.S.; providing an exemption from criminal penalties for carrying a concealed weapon or a concealed firearm when complying with a mandatory evacuation order during a declared state of emergency; providing an effective date.

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

Section 1. Section 790.01, Florida Statutes, is amended to read:

790.01 Carrying concealed weapons or concealed firearms.—

(1) Except as provided in subsection (3) ~~(4)~~, a person who carries a concealed weapon or electric weapon or device on or about his or her person commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) Except as provided in subsection (3), a person who carries a concealed firearm on or about his or her person commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) This section does not apply to:

(a) A person licensed to carry a concealed weapon or a concealed firearm pursuant to the provisions of s. 790.06.

(b) A person who carries a concealed weapon or a concealed firearm on or about his or her person while complying with a

27 mandatory evacuation order issued during a state of emergency
 28 declared by the Governor pursuant to chapter 252.

29 ~~(c)(4)~~ ~~It is not a violation of this section for~~ A person
 30 who carries ~~to carry~~ for purposes of lawful self-defense, in a
 31 concealed manner:

32 1.(a) A self-defense chemical spray.

33 2.(b) A nonlethal stun gun or dart-firing stun gun or
 34 other nonlethal electric weapon or device that is designed
 35 solely for defensive purposes.

36 ~~(4)(5)~~ This section does not preclude any prosecution for
 37 the use of an electric weapon or device, a dart-firing stun gun,
 38 or a self-defense chemical spray during the commission of any
 39 criminal offense under s. 790.07, s. 790.10, s. 790.23, or s.
 40 790.235, or for any other criminal offense.

41 Section 2. This act shall take effect July 1, 2014.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 265 Criminal Record Information
SPONSOR(S): Trujillo and others
TIED BILLS: IDEN./SIM. **BILLS:** CS/SB 298

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee		Westcott <i>WJW</i>	Cunningham <i>AM</i>
2) Justice Appropriations Subcommittee			
3) Judiciary Committee			

SUMMARY ANALYSIS

When a person is arrested, his or her photograph is taken. In Florida, as in most states, this photograph (often referred to as a "mug shot") is a public record. In recent years, a trend has developed where companies scour the public records of a state and post mug shots on their own private websites. Because this is often embarrassing, many individuals seek to have this information removed. However, many of the websites charge a fee to remove the photograph from their website. The expense is compounded when the photograph is posted on multiple websites, with each charging their own removal fee.

The bill creates s. 836.12, F.S., which makes it a first degree misdemeanor for a person engaged in publishing or otherwise disseminating criminal record information through a print or electronic medium to solicit or accept payment of a fee or other consideration to remove, correct, or modify such information.

The term "criminal record information" includes the following:

- Descriptions or notations of an arrest, a formal criminal charge, and the disposition of the criminal charge, including, but not limited to, information made available under ch. 119, F.S.;
- Photographs of a person taken pursuant to an arrest or other involvement in the criminal justice system; or
- Personal identifying information when published or disseminated in connection with information described above, including, but not limited to, a person's name, address, date of birth, photograph, and social security number or other government-issued identification number.

These changes are designed to eliminate some of the financial incentives of engaging in this practice. Obtaining the photographs as a public record will still be legal, as well as posting them or publishing them.

The bill may have an insignificant negative jail bed impact.

The bill is effective on October 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

When a person is arrested, his or her photograph is taken. In Florida, as in most states, this photograph (often referred to as a "mug shot") is a public record. In recent years, a trend has developed where companies scour the public records of a state and post mug shots on their own private websites.¹ While criminal history and arrest information is requested on individuals for legitimate purposes by many entities, the publication of these photographs on the Internet can lead to problems and embarrassment for many individuals. For example, if a potential employer conducts an Internet search of a potential employee, one of the top results might be a mug shot.²

Generally, mug shots remain on most of these websites whether the person is found guilty or not guilty, or even if the charges are dropped.³ Many of the websites and some third party websites charge a fee (often a very expensive one) to remove the photograph from their website.⁴ The expense is compounded when the photograph is posted on multiple websites, with each charging their own fee for removal.⁵ There have also been reported incidents of people paying the fees and their photographs not being removed.⁶

Recently, a Pinellas County woman sued websites that published her name, photograph, and arrest information online and then charged a fee to remove the information.⁷ The published information was from an arrest for domestic battery in which the charges were later dropped.⁸ The websites that published her information charged anywhere from \$300-\$1,700 to remove the arrest information.⁹ The woman sued the websites in federal court alleging a violation of s. 540.08, F.S.¹⁰, and common law invasion of privacy.¹¹ The defendants moved to have the Court dismiss the lawsuit for failure to state a cause of action, but the federal district court held that the woman had stated a cause of action for a violation of s. 540.08, F.S.¹² It remains to be determined whether the operator of the websites violated the statute, and if so, what impact such a decision would have on similar suits that might be filed in other federal or state courts.

¹ David Segal, *Mugged by a Mug Shot Online*, The New York Times, Oct. 5, 2013, http://www.nytimes.com/2013/10/06/business/mugged-by-a-mug-shot-online.html?pagewanted=all&_r=2& (last visited Jan. 27, 2014).

² *Id.*

³ National Conference of State Legislatures, *Mug Shots and Booking Photo Websites*, Dec. 4, 2013, <http://www.ncsl.org/research/telecommunications-and-information-technology/mug-shots-and-booking-photo-websites.aspx?TabId=27534> (last visited Jan. 27, 2014).

⁴ Segal, *supra* note 1.

⁵ Andrew Knapp, *South Carolina attorneys, lawmakers aim to disrupt business of publishing jail mug shots*, The Post and Courier (Charleston, S.C.), Nov. 17, 2013, <http://www.postandcourier.com/article/20131117/PC1610/131119492> (last visited on Jan. 27, 2014).

⁶ *Id.*

⁷ Laura C. Morel, *Lawsuit targets mug shot websites that keep arrests alive*, Tampa Bay Times, Nov. 10, 2013, <http://www.tampabay.com/news/publicsafety/crime/lawsuit-targets-mug-shot-websites-that-keep-arrests-alive/2151818> (last visited Feb. 7, 2014).

⁸ *Id.*

⁹ *Id.*

¹⁰ Section 540.08(1), F.S., states "No person shall publish, print, display, or otherwise use for purposes of trade or for any commercial or advertising purpose the name, portrait, photograph, or other likeness of any natural person without the express written or oral consent to such use. . ."

¹¹ Order Denying Motion to Dismiss, *Shannon L. Biotta v. Citizen Information Associates, LLC, et al.*, Case No. 8:13-cv-2811-T-30GW, 2014 WL 105177 (M.D. Fla. Jan. 10, 2014).

¹² *Id.*

Other State Responses

Other states have recently passed laws addressing this problem in various ways. Some have passed laws that say public records cannot be used for commercial purposes.¹³ This strategy could raise First Amendment concerns since the photographs usually involved are obtained legally. Other states have adopted different measures. Oregon, for example, passed a law requiring that a company remove the photograph upon request in instances where the individual can prove that the charges were dismissed or the individual was exonerated.¹⁴ Oregon's bill passed during the summer of 2013,¹⁵ so its effectiveness is unclear at this point. An American Bar Association article argues that there is no legal solution to this problem, and instead, the solution is going to be in the private sector.¹⁶ The article states:

The only true solution is that we as consumers will have to get better at evaluating information that is presented to us. We have to accept that people have taken drugs, been at beer parties and gotten arrested. We have to rewire our brains not to overreact to that information, and realize that all of us have transgressed.¹⁷

Private Sector Responses

The private sector has addressed the issue to some extent. For example, Google has changed its algorithm in an attempt to push the mug shot websites down in the search results page so the mug-shot is not the first result when searching for someone's name.¹⁸ Additionally, credit card companies, such as American Express, Discover, Visa, and PayPal, have severed ties with the companies that charge to remove the criminal record information.¹⁹ While the private sector responses make it more difficult for these websites to get paid, it is unclear what the long-term effects will be from these actions.

Florida Law

Currently, Florida law does not impose civil or criminal penalties on entities that publish mug shots of individuals. There are, however, statutes that create civil remedies for similar behavior. For example, s. 540.08, F.S., prohibits a person from publishing, printing, displaying or otherwise publicly using for purposes of trade or for any commercial or advertising purpose the name, portrait, photograph, or other likeness of any natural person without the express written or oral consent. The victim may bring an action to enjoin the unauthorized use, and to recover damages for any loss or injury.²⁰ Similarly, a person may bring a civil suit alleging invasion of privacy.²¹ However, these causes of action would generally not apply in cases where the publication at issue was a public record.

Effect of the Bill

The bill creates s. 836.12, F.S., which makes it a first degree misdemeanor²² for a person engaged in publishing or otherwise disseminating criminal record information through a print or electronic medium

¹³ National Conference of State Legislatures, *supra* note 3.

¹⁴ Christian Gaston, *John Kitzhaber to sign Oregon law regulating mug shot web sites*, The Oregonian, July 29, 2013, http://www.oregonlive.com/politics/index.ssf/2013/07/john_kitzhaber_to_sign_oregon.html (last visited Jan. 27, 2014).

¹⁵ *Id.*

¹⁶ Stephanie Francis Ward, *Hoist Your Mug: Websites Will Post Your Name and Photo; Others Will Charge You to Remove Them*, A.B.A. J., Aug. 2012, http://www.abajournal.com/magazine/article/hoist_your_mug_websites_will_post_your_name_and_photo_others_will_charge_yo/ (last visited Jan. 27, 2014).

¹⁷ *Id.* at 21.

¹⁸ Segal, *supra* note 1.

¹⁹ *Id.*

²⁰ Section 540.08(2), F.S.

²¹ The Florida Supreme Court first recognized the tort of invasion of privacy in *Cason v. Baskin*, 20 So.2d 243 (1944), a recognition reconfirmed in *Cason v. Baskin*, 30 So.2d 635 (1947). Since then Florida decisions have filled out the contours of this tort right of privacy by accepting the following four general categories recognized by Prosser in his Law of Torts, p. 804-14 (4th Ed. 1971): (1) Intrusion, i.e., invading plaintiffs' physical solitude or seclusion; (2) Public Disclosure of Private Facts; (3) False Light in the Public Eye, i.e., a privacy theory analogous to the law of defamation; and (4) Appropriation, i.e., commercial exploitation of the property value of one's name. *Loft v. Fuller*, 408 So.2d 619 (Fla. 4th DCA 1981).

²² A first degree misdemeanor is punishable by up to one year in county jail and a \$1,000 fine. Sections 775.082 and 775.083, F.S.

to solicit or accept payment of a fee or other consideration to remove, correct, or modify such information.

The term "criminal record information" includes the following:

- Descriptions or notations of an arrest, a formal criminal charge, and the disposition of the criminal charge, including, but not limited to, information made available under ch. 119, F.S.;
- Photographs of a person taken pursuant to an arrest or other involvement in the criminal justice system; or
- Personal identifying information when published or disseminated in connection with information described above, including, but not limited to, a person's name, address, date of birth, photograph, and social security number or other government-issued identification number.

These changes are designed to eliminate some of the financial incentives of engaging in this practice. Obtaining the photographs as a public record will still be legal, as well as posting them or publishing them.

B. SECTION DIRECTORY:

Section 1. Creates s. 836.12, F.S., relating to criminal record information.

Section 2. Provides an effective date of October 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have any impact on state revenues.

2. Expenditures:

The bill does not appear to have any impact on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government expenditures.

2. Expenditures:

The bill may have a negative jail impact on local governments because it creates a new first degree misdemeanor offense.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill limits the ability of certain Florida businesses to charge to remove photographs or information from their website.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:

The Commerce Clause of the United States Constitution²³ limits the ability of states to regulate commerce between the states.²⁴ The "Dormant Commerce Clause" represents the theory that, where Congress has not acted to regulate or deregulate a specific form of commerce between the states, it is presumed that Congress would prohibit unreasonable restrictions upon that form of interstate commerce.²⁵ Under this theory, Florida's ability to regulate businesses without a presence in Florida is limited. Therefore, the provisions of the bill may not apply to businesses outside the state.

B. RULE-MAKING AUTHORITY:

This bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

²³ Art. I, Sec. 8, U. S. CONST.

²⁴ *Maine v. Taylor*, 477 U.S. 131, 151 (1986).

²⁵ *United Haulers Ass'n, Inc. v. Oneida-Herkimer Solid Waste Mgmt. Auth.*, 550 U.S. 330, 338 (2007).

1 A bill to be entitled
 2 An act relating to criminal record information;
 3 creating s. 836.12, F.S.; defining the term "criminal
 4 record information"; prohibiting a person engaged in
 5 publishing or otherwise disseminating criminal record
 6 information from soliciting or accepting payment of a
 7 fee or other consideration to remove, correct, or
 8 modify such information; providing criminal penalties;
 9 providing an effective date.

10
 11 Be It Enacted by the Legislature of the State of Florida:

12
 13 Section 1. Section 836.12, Florida Statutes, is created to
 14 read:

15 836.12 Criminal record information.-

16 (1) As used in this section, the term "criminal record
 17 information" includes the following:

18 (a) Descriptions or notations of an arrest, a formal
 19 criminal charge, and the disposition of the criminal charge,
 20 including, but not limited to, any information made available
 21 under chapter 119;

22 (b) Photographs of a person taken pursuant to an arrest or
 23 other involvement in the criminal justice system; or

24 (c) Personal identifying information when published or
 25 disseminated in connection with information described in
 26 paragraph (a) or paragraph (b), including, but not limited to, a

27 person's name, address, date of birth, photograph, and social
28 security number or other government-issued identification
29 number.

30 (2) A person engaged in publishing or otherwise
31 disseminating criminal record information through a print or
32 electronic medium who solicits or accepts payment of a fee or
33 other consideration to remove, correct, or modify such criminal
34 record information commits a misdemeanor of the first degree,
35 punishable as provided in s. 775.082 or s. 775.083.

36 Section 2. This act shall take effect October 1, 2014.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Criminal Justice
 2 Subcommittee
 3 Representative Trujillo offered the following:

Amendment (with title amendment)

6 Remove everything after the enacting clause and insert:
 7 Section 1. Subsection (12) is added to section 951.23,
 8 Florida Statutes, to read:

9 951.23 County and municipal detention facilities;
 10 definitions; administration; standards and requirements.-

(12) ARREST BOOKING PHOTOGRAPHS

12 (a) A county or municipal detention facility may not
 13 electronically publish or disseminate an arrest booking
 14 photograph of any arrestee who is charged with but not yet
 15 convicted of a criminal offense. This paragraph does not apply
 16 to the electronic publication or dissemination of arrest booking
 17 photographs between criminal justice agencies.



Amendment No. 1

- 18 (b) For purposes of this subsection:
- 19 1. "Arrest booking photograph" means any photograph of an
- 20 arrestee taken for the purpose of recording the arrestee's image
- 21 as part of the arrest and booking process.
- 22 2. "Criminal justice agency" has the same meaning as
- 23 provided in s. 943.045, and includes county and municipal
- 24 detention facilities.
- 25 (c) Nothing in this subsection shall be construed to
- 26 restrict public access to records as provided by s. 119.07.
- 27 Section 2. This act shall take effect October 1, 2014.

T I T L E A M E N D M E N T

32 Remove everything before the enacting clause and insert:

33 An act relating to arrest booking photographs; amending s.

34 951.23, F.S.; prohibiting a county or municipal detention

35 facility from electronically publishing or disseminating arrest

36 booking photographs of certain arrestees; providing an

37 exception; providing definitions; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 485 Sexual Misconduct with Students by Authority Figures
SPONSOR(S): Raburn
TIED BILLS: IDEN./SIM. BILLS: SB 698

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee		Cunningham <i>JM</i>	Cunningham <i>JM</i>
2) Justice Appropriations Subcommittee			
3) Judiciary Committee			

SUMMARY ANALYSIS

Section 943.0435, F.S., lists numerous offenses that qualify a person as a sexual offender (e.g., sexual battery, lewd or lascivious offenses, video voyeurism, etc.). These offenses range from third degree felonies to capital felonies, and most are ranked between Levels 6 and Level 9 in the Offense Severity Ranking Chart.

The bill reclassifies the offenses listed in s. 943.0435, F.S., if the offense is committed by an authority figure of an educational institution against a student of the educational institution. The offenses are reclassified as follows:

- Third degree felonies are reclassified as second degree felonies;
- Second degree felonies are reclassified as first degree felonies; and
- First degree felonies are reclassified as life felonies.

The bill also requires a reclassified offense to be ranked one level higher in the Offense Severity Ranking Chart, and provides the following definitions:

- "Authority figure" means a school officer, a teacher or other instructional person, an administrator or other school administrative person, a school volunteer, an educational support employee, or an education service provider who is employed by, under contract with, working at, or providing volunteer services to an educational institution;
- "Educational institution" means an entity providing instructional programs of study by means of regular classes, activities, or courses, including virtual courses, to students in early learning programs or in prekindergarten through grade 12; and
- "Student" means a child who is enrolled in early learning or prekindergarten through grade 12.

On January 30, 2014, the Criminal Justice Impact Conference determined that this bill will have an insignificant prison bed impact on the Department of Corrections.

The bill is effective October 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Criminal Penalties and the Ranking Chart

Sections 775.082 and 775.083, F.S., establish the following penalties applicable to felony offenses:

- A capital felony must be punished by death if a sentencing proceeding results in findings by the court that the person must be punished by death, otherwise the person must be punished by life imprisonment and is ineligible for parole;
- A life felony committed on or after July 1, 1995, is punishable by a term of imprisonment for life or by imprisonment for a term of years not exceeding life imprisonment and a \$15,000 fine;
- A first degree felony is punishable by up to 30 years imprisonment and a \$10,000 fine;
- A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine; and
- A third degree felony is punishable by up to 5 years imprisonment and a \$5,000 fine.

The Criminal Punishment Code applies to sentencing for felony offenses committed on or after October 1, 1998.¹ Criminal offenses are ranked in the Offense Severity Ranking Chart from Level 1 (least severe) to Level 10 (most severe), and are assigned points based on the severity of the offense.² If an offense is not listed in the ranking chart, it defaults to a ranking based on the degree of the felony.³

A defendant's sentence is calculated based on points assigned for factors including: the offense for which the defendant is being sentenced; injury to the victim; additional offenses that the defendant committed at the time of the primary offense; the defendant's prior record, and other aggravating factors.⁴ A defendant's total sentence points are then entered into a mathematical computation that determines the defendant's lowest permissible sentence.⁵ The permissible sentence for an offense ranges from the calculated lowest permissible sentence to the statutory maximum for the primary offense (the statutory maximum sentences for felonies are described above).⁶

Penalties for Specified Sexual Offenses

Section 943.0435, F.S., contains a list of offenses that qualify a person as a sexual offender. The following chart describes each of these offenses, the felony degree of the offense, and the where the offense is ranked in the Offense Severity Ranking Chart.

Offense	Felony Degree	Ranking
Section 787.01(2), F.S. - Kidnapping (minor victim, offender not a parent)	1st	9 or 10
Section 787.01(3), F.S. - Kidnapping (child under 13 w/ sex offense, offender not a parent)	Life	10
Section 787.02(2), F.S. - False Imprisonment (minor victim, offender not a parent)	3rd	6
Section 787.02(3), F.S. - False Imprisonment (child under 13 w/ sex offense, offender not a parent)	1st	9
Section 787.025(2)(c), F.S. - Luring or Enticing a Child (offender 18+ w/ previous sex offense and not a parent, victim under 12)	3rd	NR (defaults to Level 1)

¹ Section 921.002, F.S.

² Section 921.0022, F.S.

³ Section 921.0023, F.S.

⁴ Section 921.0024, F.S.

⁵ *Id.* Section 921.0026, F.S., prohibits a judge from imposing a sentence below the lowest permissible sentence unless the judge makes written findings that there are "circumstances or factors that reasonably justify the downward departure."

⁶ Section 921.0024(2), F.S.

Section 787.06(3)(b), F.S. - Human Trafficking (using coercion for commercial sexual activity)	1st	8
Section 787.06(3)(d), F.S. - Human Trafficking (using coercion for commercial sexual activity of any individual who is an unauthorized alien)	1st	9
Section 787.06(3)(f), F.S. - Human Trafficking (using coercion for commercial sexual activity who does so by the transfer or transport of any individual from outside this state to within the state)	1st	8
Section 787.06(3)(g), F.S. - Human Trafficking (for commercial sexual activity in which any child under 18 is involved)	1st	9
Section 787.06(3)(h), F.S. - Human Trafficking (for commercial sexual activity in which any child under 15 is involved)	Life	10
Section 794.011(2)(a), F.S. - Sexual Battery (offender 18+, victim under 12)	Capital	NR
Section 794.011(2)(b), F.S. - Sexual Battery (offender under 18, victim under 12)	Life	9
Section 794.011(3), F.S. - Sexual Battery (victim 12+, no consent, deadly force)	Life	10
Section 794.011(4), F.S. - Sexual Battery (victim 12+, no consent, special circumstances)	1st	9
Section 794.011(5), F.S. - Sexual Battery (victim 12+, no consent, no deadly force)	2nd	8
Section 794.011(8)(a), F.S. - Sexual Battery (victim under 18, offender in a position of familial or custodial authority and solicits victim to engage in sexual battery)	3rd	6
Section 794.011(8)(b), F.S. - Sexual Battery (victim 12+ but under 18, offender in a position of familial or custodial authority and engages in sexual battery)	1st	9
Section 794.011(8)(c), F.S. - Sexual Battery (victim under 12, offender 18+ in a position of familial or custodial authority and engages in sexual battery)	Capital	NR
Section 794.011(8)(c), F.S. - Sexual Battery (victim under 12, offender under 18 in a position of familial or custodial authority and engages in sexual battery)	Life	NR (defaults to Level 10)
Section 794.05, F.S. - Sexual Activity with Certain Minors (offender 24+ engages in sexual activity with victim 16 or 17)	2nd	6
Section 796.03, F.S. - Procuring person under 18 for prostitution	2nd	7
Section 796.035, F.S. - Selling or buying of minors into sex trafficking or prostitution (by parent, guardian, etc.)	1st	9
Section 800.04(4), F.S. - Lewd or Lascivious Battery	2nd	8
Section 800.04(5)(b), F.S. - Lewd or Lascivious Molestation (offender 18+, victim under 12)	Life	9
Section 800.04(5)(c), F.S. - Lewd or Lascivious Molestation (offender under 18 and victim under 12, offender 18+ and victim age 12-15)	2nd	7
Section 800.04(5)(d), F.S. - Lewd or Lascivious Molestation (offender under 18 and victim age 12-16)	3rd	6
Section 800.04(6)(b), F.S. - Lewd or Lascivious Conduct (offender 18+)	2nd	6
Section 800.04(6)(c), F.S. - Lewd or Lascivious Conduct (offender under 18)	3rd	5
Section 800.04(7)(b), F.S. - Lewd or Lascivious Exhibition (offender 18+)	2nd	5
Section 800.04(7)(c), F.S. - Lewd or Lascivious Exhibition (offender under 18)	3rd	4

Section 810.145(8)(a), F.S. - Video Voyeurism (offender 18+ responsible for welfare of child under 16, offender 18+ employed at a school and victim is a student, offender 24+ and victim under 16)	3rd	NR (defaults to Level 1)
Section 810.145(8)(b), F.S. - Video Voyeurism (w/ pervious voyeurism conviction)	2nd	6
Section 825.1025(2), F.S. - Lewd or Lascivious Battery upon Elderly/Disabled	2nd	8
Section 825.1025(3), F.S. - Lewd or Lascivious Molestation upon Elderly/Disabled	3rd	6
Section 825.1025(4), F.S. - Lewd or Lascivious Exhibition in presence of Elderly/Disabled	3rd	5
Section 827.071(2), F.S. - Using child in a sexual performance, or being a parent, guardian, or custodian of child and consenting to the participation of child in a sexual performance.	2nd	6
Section 827.071(3), F.S. - Promoting a sexual performance by a child	2nd	6
Section 827.071(4), F.S. - Possess with the intent to promote any picture, etc. which includes any sexual conduct by a child	2nd	5
Section 827.071(5), F.S. - Possess any picture, etc. which includes any sexual conduct by a child	3rd	5
Section 847.0133, F.S. - Selling, renting, loaning, giving away, distributing, transmitting, or showing any obscene material to a minor.	3rd	NR (defaults to Level 10)
Section 847.0135(2), F.S. - Computer pornography	3rd	6
Section 847.0135(3), F.S. - Using computer to solicit, lure, entice, etc. a child to commit a sex act or a parent to consent to a child's participation in a sex act	3rd	7
Section 847.0135(3), F.S. - Using computer to solicit, lure, entice, etc. a child to commit a sex act or a parent to consent to a child's participation in a sex act (while misrepresenting one's age)	2nd	7
Section 847.0135(4), F.S. - Traveling to Meet a Minor	2nd	7
Section 847.0135(5), F.S. - Committing certain sex acts live over computer knowing it's being viewed by victim under 16 (offender 18+)	2nd	5
Section 847.0135(5), F.S. - Committing certain sex acts live over computer knowing it's being viewed by victim under 16 (offender under 18)	3rd	4
Section 847.0137, F.S. - Transmitting Child Pornography	3rd	5
Section 847.0138, F.S. - Transmitting Material Harmful to Minors	3rd	5
Section 847.0145, F.S. - Selling or Buying of Minors	1st	9
Section 985.701(1), F.S. - Sexual Misconduct with a Juvenile Offender	2nd	NR (defaults to Level 4)

Effect of the Bill

The bill reclassifies the offenses listed in the above chart if the offense is committed by an authority figure of an educational institution against a student of the educational institution. The offenses are reclassified as follows:

- Third degree felonies are reclassified as second degree felonies;
- Second degree felonies are reclassified as first degree felonies; and
- First degree felonies are reclassified as life felonies.

The bill also requires a reclassified offense to be ranked one level higher in the Offense Severity Ranking Chart.

The bill provides the following definitions:

- "Authority figure" means a school officer, a teacher or other instructional person, an administrator or other school administrative person, a school volunteer, an educational support employee, or an education service provider who is employed by, under contract with, working at, or providing volunteer services to an educational institution;
- "Educational institution" means an entity providing instructional programs of study by means of regular classes, activities, or courses, including virtual courses, to students in early learning programs or in prekindergarten through grade 12; and
- "Student" means a child who is enrolled in early learning or prekindergarten through grade 12.

B. SECTION DIRECTORY:

Section 1. Cites the act as the "Stop Harassing Underage Teens Act."

Section 2. Creates s. 775.0862, F.S., relating to sexual battery offenses against students by authority figures; reclassification.

Section 3. Amends s. 921.0022, F.S., relating to criminal punishment code; offense severity ranking chart.

Section 4. Provides an effective date of October 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have any impact on state revenues.

2. Expenditures:

On January 30, 2014, the Criminal Justice Impact Conference determined that this bill will have an insignificant prison bed impact on the Department of Corrections.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

The bill does not appear to have any impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

1. The reference to the offenses in s. 775.21(4)(a)1., F.S., is unnecessary. All of the offenses listed in this statute are contained in s. 943.0435(1)(a)1.a., F.S., which the bill also references.
2. The bill reclassifies certain sex offenses if committed by an authority figure of an educational institution against a student of the educational institution. Some of these offenses already require that the offense be committed by a person with some type of custodial authority over the victim.⁷ For example, video voyeurism is a third degree felony (if committed by someone 19 or older), but is a second degree felony if committed by a person 18 or older who is employed at a school and who commits the offense against a student of the school.

"The Fifth Amendment's double jeopardy clause prohibits prosecuting an individual for...multiple punishments for the same offense." However, reclassification "does not create a new and separate offense, but changes the degree of the felony already charged."⁸ As such, the bill does not appear to raise double jeopardy concerns. However, since the Legislature has already specifically created criminal offenses involving offenders with custodial authority over their victims, it is questionable whether the bill's reclassification provisions should apply to these offenses.

3. The bill's definitions of the terms "authority figure," "educational institution," and "student" are unclear as to who they include. This could be resolved by using existing statutory definitions found in the education code.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

⁷ These offenses include ss. 794.011(8)(a), (b), and (c), 796.035, 810.145(8)(a), 827.071(2), and 847.0135(3), F.S.

⁸ *Green v. State*, 84 So.3d 356 (Fla.App. 1 Dist. 2012).

1 A bill to be entitled
 2 An act relating to sexual misconduct with students by
 3 authority figures; providing a short title; creating s.
 4 775.0862, F.S.; providing definitions; providing for
 5 reclassification of specified sexual offenses committed
 6 against students by an authority figure; providing for
 7 severity ranking of offenses; amending s. 921.0022, F.S.;
 8 providing for application of the severity ranking chart of
 9 the Criminal Punishment Code; providing an effective date.

10
 11 Be It Enacted by the Legislature of the State of Florida:

12
 13 Section 1. This act may be cited as the "Stop Harassing
 14 Underage Teens Act."

15 Section 2. Section 775.0862, Florida Statutes, is created
 16 to read:

17 775.0862 Sexual battery offenses against students by
 18 authority figures; reclassification.-

19 (1) For purposes of this section, the term:

20 (a) "Authority figure" means a school officer, a teacher
 21 or other instructional person, an administrator or other school
 22 administrative person, a school volunteer, an educational
 23 support employee, or an education service provider who is
 24 employed by, under contract with, working at, or providing
 25 volunteer services to an educational institution.

26 (b) "Educational institution" means an entity providing
 27 instructional programs of study by means of regular classes,
 28 activities, or courses, including virtual courses, to students
 29 in early learning programs or in prekindergarten through grade
 30 12.

31 (c) "Student" means a child who is enrolled in early
 32 learning or prekindergarten through grade 12.

33 (2) The felony degree of a violation of:

34 (a) An offense listed in s. 775.21(4) (a)1.; or

35 (b) An offense listed in s. 943.0435(1) (a)1.a,

36
 37 shall be, unless the offense falls within s. 794.011(4) (g),
 38 reclassified as provided in this section if the offense is
 39 committed by an authority figure of an educational institution
 40 against a student of the educational institution.

41 (3) (a) In the case of a felony of the third degree, the
 42 offense is reclassified to a felony of the second degree.

43 (b) In the case of a felony of the second degree, the
 44 offense is reclassified to a felony of the first degree.

45 (c) In the case of a felony of the first degree, the
 46 offense is reclassified to a life felony.

47
 48 For purposes of sentencing under chapter 921 and determining
 49 incentive gain-time eligibility under chapter 944, a felony
 50 offense that is reclassified under this subsection is ranked one

51 level above the ranking under s. 921.0022 or s. 921.0023 of the
 52 offense committed.

53 Section 3. Subsection (2) of section 921.0022, Florida
 54 Statutes, is amended to read:

55 921.0022 Criminal Punishment Code; offense severity
 56 ranking chart.—

57 (2) The offense severity ranking chart has 10 offense
 58 levels, ranked from least severe, which are level 1 offenses, to
 59 most severe, which are level 10 offenses, and each felony
 60 offense is assigned to a level according to the severity of the
 61 offense. For purposes of determining which felony offenses are
 62 specifically listed in the offense severity ranking chart and
 63 which severity level has been assigned to each of these
 64 offenses, the numerical statutory references in the left column
 65 of the chart and the felony degree designations in the middle
 66 column of the chart are controlling; the language in the right
 67 column of the chart is provided solely for descriptive purposes.
 68 Reclassification of the degree of the felony through the
 69 application of s. 775.0845, s. 775.0861, s. 775.0862, s.
 70 775.087, s. 775.0875, s. 794.023, or any other law that provides
 71 an enhanced penalty for a felony offense, to any offense listed
 72 in the offense severity ranking chart in this section shall not
 73 cause the offense to become unlisted and is not subject to the
 74 provisions of s. 921.0023.

75 Section 4. This act shall take effect October 1, 2014.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Criminal Justice
 2 Subcommittee

3 Representative Raburn offered the following:

Amendment

6 Remove lines 17-40 and insert:

7 775.0862 Sexual offenses against students by authority
 8 figures; reclassification.-

9 (1) For purposes of this section, the term:

10 (a) "Authority figure" means a person over the age of 18
 11 employed by, volunteering at, or under contract with a school.

12 (b) "School" has the same meaning as provided in s.
 13 1003.01 and includes a private school as defined in s. 1002.01,
 14 a voluntary prekindergarten education program as described in s.
 15 1002.53(3), early learning programs, a public school as
 16 described in s. 402.3025(1), the Florida School for the Deaf and



Amendment No. 1

17 | the Blind, the Florida Virtual School as established under s.
18 | 1002.37, and a K-8 Virtual School as established under s.
19 | 1002.415, but does not include facilities dedicated exclusively
20 | to the education of adults.

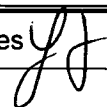
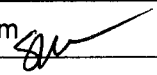
21 | (c) "Student" means a person under the age of 18 who is
22 | enrolled at a school.

23 | (2) The felony degree of a violation of an offense listed
24 | in s. 943.0435(1)(a)1.a, shall be, unless the offense is a
25 | violation of s. 794.011(4)(g) or s. 810.145(8)(a)2.,
26 | reclassified as provided in this section if the offense is
27 | committed by an authority figure of a school against a student
28 | of the school.

29

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 641 Computer Crimes
SPONSOR(S): La Rosa
TIED BILLS: HB 643 IDEN./SIM. BILLS: CS/SB 364

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee		Jones 	Cunningham 
2) Justice Appropriations Subcommittee			
3) Judiciary Committee			

SUMMARY ANALYSIS

Chapter 815, F.S., entitled the "Florida Computer Crimes Act," was created in 1978 in recognition of growing computer-related crime. The chapter establishes legislative intent, and a variety of computer-related offenses and definitions

The bill adds legislative intent language that recognizes that the proliferation of new technologies impact computer-related crimes. To this end, the bill amends the definition of computer network and creates a definition of the term *electronic device*, which means "a device that is capable of communicating across a computer network with other computers or devices for the purpose of transmitting, receiving, or storing data."

The bill also:

- Creates new computer-related offenses and expands the application of various existing computer-related crimes to include electronic devices;
- Creates an exception to computer-related offenses by specifying they do not apply to persons who act pursuant to a search warrant, an exception to a search warrant, or when acting within the scope of his or her employment;
- Expands the entities that can bring a civil action against persons convicted of computer-related offenses by including owners and lessees of electronic devices; and
- Adds electronic devices to the list of items subject to forfeiture if used in computer-related offenses.

The bill also creates new second and third degree felony offenses relating to public utilities.

The bill may have a negative prison and jail bed impact because it expands existing offenses in ss. 815.04 and 815.06, F.S. and creates new first and second degree felony offenses relating to public utilities.

The bill is effective October 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

The Florida Computer Crime Act

Chapter 815, F.S., entitled the "Florida Computer Crimes Act," was created in 1978¹ in recognition of growing computer-related crime. The chapter establishes legislative intent, and a variety of computer-related offenses and definitions.

Legislative Intent

Currently, s. 815.02, F.S., provides that the Legislature finds and declares that:

- Computer-related crime is a growing problem in government as well as in the private sector;
- Computer-related crime occurs at great cost to the public since losses for each incident of computer crime tend to be far greater than the losses associated with each incident of other white collar crime;
- The opportunities for computer-related crimes in financial institutions, government programs, government records, and other business enterprises through the introduction of fraudulent records into a computer system, the unauthorized use of computer facilities, the alteration or destruction of computerized information or files, and the stealing of financial instruments, data, and other assets are great; and
- While various forms of computer crime might possibly be the subject of criminal charges based on other provisions of law, it is appropriate and desirable that a supplemental and additional statute be provided which proscribes various forms of computer abuse.

Effect of the Bill

The bill amends s. 815.02, F.S., to add additional legislative intent language, which states that:

- The proliferation of new technology has led to the integration of computer systems in most sectors of the marketplace through the creation of computer networks, greatly extending the reach of computer crime.

Definitions

Section 815.03, F.S., provides numerous definitions that apply to ch. 815, F.S. For example, s. 815.03(4), F.S., defines *computer network* to mean "any system that provides communications between one or more computer systems and its input or output devices, including, but not limited to, display terminals and printers that are connected by telecommunication facilities."

Effect of the Bill

The bill amends the definition of *computer network* to mean "a system that provides a medium for communication between one or more computer systems or electronic devices, including communication with an input or output device such as a display terminal, printer, or other electronic equipment that is connected to the computer systems or electronic devices by physical or wireless telecommunication facilities."

The bill creates a definition of the term *electronic device*, which means "a device that is capable of communicating across a computer network with other computers or devices for the purpose of transmitting, receiving, or storing data."

Offenses Against Intellectual Property

Section 815.04(1) and (2), F.S., make it a third degree felony² for a person to:

¹ Chapter 78-92, L.O.F.

² A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

- (1) Willfully, knowingly, and without authorization modify data, programs, or supporting documentation residing or existing internal or external to a computer, computer system, or computer network; or
- (2) Willfully, knowingly, and without authorization destroy data, programs, or supporting documentation residing or existing internal or external to a computer, computer system, or computer network.

It is a second degree felony³ if any of the above offenses are committed for the purpose of devising or executing any scheme or artifice to defraud or to obtain any property.

Effect of the Bill

The bill expands the application of s. 815.04(1) and (2), F.S., by prohibiting a person from modifying or destroying data, etc. located on a computer, computer system, computer network, *or an electronic device*.

Offenses Against Computer Users

Criminal Penalties

Section 815.06(1), F.S., makes it a third degree felony for a person to willfully, knowingly, and without authorization:

- (a) Access or cause to be accessed any computer, computer system, or computer network;
- (b) Disrupt or deny or cause the denial of computer system services to an authorized user of such computer system services, which, in whole or part, is owned by, under contract to, or operated for, on behalf of, or in conjunction with another;
- (c) Destroy, take, injure, or damage equipment or supplies used or intended to be used in a computer, computer system, or computer network;
- (d) Destroy, injure, or damage any computer, computer system, or computer network; or
- (e) Introduce any computer contaminant into any computer, computer system, or computer network.

It is a second degree felony if a person violates subsection (1) and the person:

- Damages a computer, computer equipment, computer supplies, a computer system, or a computer network, and the monetary damage or loss incurred as a result of the violation is \$5,000 or greater;
- Commits the offense for the purpose of devising or executing any scheme or artifice to defraud or obtain property; or
- Interrupts or impairs a governmental operation or public communication, transportation, or supply of water, gas, or other public service.⁴

It is a first degree felony⁵ if a person violates subsection (1) and the violation endangers human life.⁶

Section 815.06(3), F.S., makes it a first degree misdemeanor⁷ for a person to willfully, knowingly, and without authorization modify equipment or supplies used or intended to be used in a computer, computer system, or computer network.

None of the criminal penalties apply to a person who accesses his or her employer's computer system, computer network, computer program, or computer data when acting within the scope of his or her lawful employment.⁸

³ A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. Sections 775.082 and 775.083, F.S.

⁴ Section 815.06(2)(b), F.S.

⁵ A first degree felony is punishable by up to 30 years imprisonment and a \$10,000 fine. Sections 775.082 and 775.083, F.S.

⁶ Section 815.06(2)(c), F.S.

⁷ A first degree misdemeanor is punishable by up to one year in county jail and a \$1,000 fine. Sections 775.082 and 775.083, F.S.

⁸ Section 815.06(6), F.S.

Civil Remedies and Forfeiture

Currently, the owner or lessee of the computer, computer system, computer network, computer program, computer equipment, computer supplies, or computer data is authorized to bring a civil action against any person convicted under s. 815.06, F.S., for compensatory damages.⁹ In such actions, the court may award reasonable attorney's fees to the prevailing party.¹⁰

For purpose of determining where a civil (or criminal) action may be brought, s. 816.06(7), F.S., specifies that in instances where a person causes the access to a computer, computer system, or computer network in one jurisdiction from another jurisdiction, the person is deemed to have personally accessed the computer, computer system, or computer network in both jurisdictions.

Additionally, any computer, computer system, computer network, computer software, or computer data owned by a defendant which is used during the commission of any violation s. 815.06, F.S., or any computer owned by a defendant which is used as a repository for the storage of software or data obtained in violation of s. 815.06, F.S., is subject to forfeiture as provided under ss. 932.701-932.704, F.S.¹¹

Effect of the Bill

Criminal Penalties

The bill renumbers s. 815.06(1), F.S., to s. 815.06(2), F.S., and expands the application of the statute to include electronic devices and to include additional prohibited acts. Specifically, the bill:

- Amends paragraph (a) to prohibit a person from accessing, or causing to be accessed, any computer, computer system, computer network, or *electronic device*, with knowledge that the access is unauthorized;
- Amends paragraph (b) to prohibit a person from disrupting or denying or causing the denial of *the ability to transmit data to or from* an authorized user of a computer system or *computer network services*;
- Amends paragraphs (c) and (d) to include *electronic devices* in the list of property a person is prohibited from destroying, taking, injuring, or damaging;
- Amends paragraph (e) to include *electronic devices* in the list of property a person is prohibited from introducing contaminants into; and
- Creates paragraph (f) which prohibits a person from willfully, knowingly, and without authorization engaging in audio or video surveillance of an individual without that individual's knowledge by accessing any inherent feature or component of a computer, computer system, computer network, or electronic device, including accessing the data or information of a computer, computer system, computer network, or electronic device that is stored by a third party.

The bill also expands the instances in which the penalty for violating s. 815.06, F.S., is increased to a second degree felony. Specifically, the bill makes it a second degree felony if a person commits any of the above-described acts and the person:

- Intentionally interrupts the transmittal of data to or from, or gains unauthorized access to, a computer, computer system, computer network, or electronic device belonging to any mode of public or private transit, as defined in s. 341.031, F.S.

The bill also adds another instance in which the penalty for violating s. 815.06, F.S., is increased to a first degree felony. Specifically, the bill makes it a first degree felony if a person commits any of the above-described acts and the violation disrupts a computer, computer system, computer network, or electronic device that affects medical equipment used in the direct administration of medical care or treatment to a person.

⁹ Section 815.06(4), F.S.

¹⁰ *Id.*

¹¹ Section 815.06(5), F.S.

The bill broadens the application of the misdemeanor offense by prohibiting persons from modifying equipment or supplies used or intended to be used in a computer, computer system, computer network, or *electronic device*.

The bill broadens the current exception by specifying that the offenses in s. 815.06, F.S., do not apply to a person who accesses his or her employer's computer system, computer network, computer program, computer data, or *electronic device* when acting within the scope of his or her lawful employment. The bill also creates an additional exception for persons who act pursuant to a search warrant, an exception to a search warrant, or when acting within the scope of his or her employment.

The bill defines the term person as:

- An individual;
- A partnership, corporation, association, or other entity doing business in this state, or an officer, agent, or employee of such an entity; or
- An officer, employee, or agent of the state or a county, municipality, special district, or other political subdivision whether executive, judicial, or legislative, including, but not limited to, a department, division, bureau, commission, authority, district, or agency thereof.

Civil Remedies and Forfeiture

The bill expands the entities that can bring a civil action against persons convicted of s. 815.06, F.S., by including owners and lessees of *electronic devices*.

For purpose of determining where a civil (or criminal) action may be brought, the bill specifies that in instances where a person causes the access to a computer, computer system, computer network, or *electronic device* in one jurisdiction from another jurisdiction, the person is deemed to have personally accessed the computer, computer system, computer network, or *electronic device* in both jurisdictions.

The bill adds *electronic devices* to the list of items subject to forfeiture if used in a violation of s. 815.06, F.S.

Offenses Against Public Utilities.

Currently, ch. 815, F.S., does not include any offenses relating to public utilities.

Effect of the Bill

The bill creates s. 815.061, F.S., to make it a third degree felony for a person to willfully, knowingly, and without authorization gain access to a computer, computer system, computer network, or electronic device owned, operated, or used by a public utility while knowing that such access is unauthorized.

The bill makes it a second degree felony for a person to physically tamper with, insert software into, or otherwise transmit commands or electronic communications to a computer, computer system, computer network, or electronic device which cause a disruption in any service delivered by a public utility.

The bill defines term *public utility*, in accordance with s. 366.02, F.S., to include every person, corporation, partnership, association, or other legal entity and their lessees, trustees, or receivers supplying electricity or gas (natural, manufactured, or similar gaseous substance) to or for the public within this state.¹²

¹² Section 366.02, F.S., provides that the term public utility does not include: either a cooperative now or hereafter organized and existing under the Rural Electric Cooperative Law of the state; a municipality or any agency thereof; any dependent or independent special natural gas district; any natural gas transmission pipeline company making only sales or transportation delivery of natural gas at wholesale and to direct industrial consumers; any entity selling or arranging for sales of natural gas which neither owns nor operates natural gas transmission or distribution facilities within the state; or a person supplying liquefied petroleum gas, in either liquid or gaseous form, irrespective of the method of distribution or delivery, or owning or operating facilities beyond the outlet of a meter through which natural gas is supplied for compression and delivery into motor vehicle fuel tanks or other transportation containers, unless such person also supplies electricity or manufactured or natural gas.

B. SECTION DIRECTORY:

Section 1. Amends s. 815.02, F.S., relating to legislative intent.

Section 2. Amends s. 815.03, F.S., relating to definitions.

Section 3. Amends s. 815.04, F.S., relating to offenses against intellectual property; public records exemption.

Section 4. Amends s. 815.06, F.S., relating to offenses against computer users.

Section 5. Creates s. 815.061, F.S., relating to offenses against public utilities.

Section 6. Provides an effective date of October 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have any impact on state revenues.

2. Expenditures:

The Criminal Justice Impact Conference has not yet met to determine the prison bed impact of the bill. However, the bill may have a negative prison bed impact on the Department of Corrections because the bill:

- Expands existing first, second, and third degree felony offenses in ss. 815.04 and 815.06, F.S.; and
- Creates new first and second degree felony offenses relating to public utilities.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

The bill may have a jail bed impact in that it broadens the application of the first degree misdemeanor offense in s. 815.06, F.S.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create the need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

- 1) Line 158: The new language only uses the term "he" when referring to a person committing the offense. The language should be "he or she."
- 2) Line 133: The bill amends s. 815.04(1) and (2), F.S., to include an *electronic device* as a storage location. It appears that this change should also be made to subsection (3) of the statute.
- 3) Line 165: The reference to "such" computer system is no longer accurate and should be changed to refer to "a" computer system.
- 4) Lines 183-186: The bill creates a new exception to the criminal offenses in s. 815.06, F.S. This provision should be included in s. 815.06(7), F.S., which currently contains such exceptions.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to computer crimes; amending s.
3 815.02, F.S.; revising legislative findings; amending
4 s. 815.03, F.S.; defining terms; amending s. 815.04,
5 F.S.; providing that a person who willfully,
6 knowingly, and without authorization modifies or
7 destroys data, programs, or supporting documentation
8 residing or existing internal or external to a
9 computer network or electronic device commits an
10 offense against intellectual property; providing
11 criminal penalties; amending s. 815.06, F.S.; defining
12 terms; providing that a person who willfully,
13 knowingly, and without authorization accesses a
14 computer network or electronic device, disrupts the
15 ability to transmit data to or from a computer network
16 or electronic device, damages a computer network or
17 electronic device, or engages in the audio or video
18 surveillance of an individual without the individual's
19 knowledge by accessing a computer network or
20 electronic device commits an offense against the users
21 of computer networks and electronic devices; providing
22 exceptions; providing criminal penalties; creating s.
23 815.061, F.S.; defining the term "public utility";
24 prohibiting a person from willfully, knowingly, and
25 without authorization engaging in specified activities
26 against a computer, computer system, computer network,

27 or electronic device owned, operated, or used by a
 28 public utility; providing criminal penalties;
 29 providing an effective date.

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

32
 33 Section 1. Present subsection (4) of section 815.02,
 34 Florida Statutes, is redesignated as subsection (5), and a new
 35 subsection (4) is added to that section, to read:

36 815.02 Legislative intent.—The Legislature finds and
 37 declares that:

38 (4) The proliferation of new technology has led to the
 39 integration of computer systems in most sectors of the
 40 marketplace through the creation of computer networks, greatly
 41 extending the reach of computer crime.

42 Section 2. Section 815.03, Florida Statutes, is amended to
 43 read:

44 815.03 Definitions.—As used in this chapter, unless the
 45 context clearly indicates otherwise:

46 (1) "Access" means to approach, instruct, communicate
 47 with, store data in, retrieve data from, or otherwise make use
 48 of any resources of a computer, computer system, or computer
 49 network.

50 (2) "Computer" means an internally programmed, automatic
 51 device that performs data processing.

52 (3) "Computer contaminant" means any set of computer

53 instructions designed to modify, damage, destroy, record, or
 54 transmit information within a computer, computer system, or
 55 computer network without the intent or permission of the owner
 56 of the information. The term includes, but is not limited to, a
 57 group of computer instructions, commonly called viruses or
 58 worms, which are self-replicating or self-propagating and which
 59 are designed to contaminate other computer programs or computer
 60 data; consume computer resources; modify, destroy, record, or
 61 transmit data; or in some other fashion usurp the normal
 62 operation of the computer, computer system, or computer network.

63 (4) "Computer network" means a system that provides a
 64 medium for communication between one or more computer systems or
 65 electronic devices, including communication with an input or
 66 output device such as a display terminal, printer, or other
 67 electronic equipment that is connected to the computer systems
 68 or electronic devices by physical or wireless telecommunication
 69 facilities ~~any system that provides communications between one~~
 70 ~~or more computer systems and its input or output devices,~~
 71 ~~including, but not limited to, display terminals and printers~~
 72 ~~that are connected by telecommunication facilities.~~

73 (5) "Computer program or computer software" means a set of
 74 instructions or statements and related data which, when executed
 75 in actual or modified form, cause a computer, computer system,
 76 or computer network to perform specified functions.

77 (6) "Computer services" include, but are not limited to,
 78 computer time; data processing or storage functions; or other

79 uses of a computer, computer system, or computer network.

80 (7) "Computer system" means a device or collection of
 81 devices, including support devices, one or more of which contain
 82 computer programs, electronic instructions, or input data and
 83 output data, and which perform functions, including, but not
 84 limited to, logic, arithmetic, data storage, retrieval,
 85 communication, or control. The term does not include calculators
 86 that are not programmable and that are not capable of being used
 87 in conjunction with external files.

88 (8) "Data" means a representation of information,
 89 knowledge, facts, concepts, computer software, computer
 90 programs, or instructions. Data may be in any form, in storage
 91 media or stored in the memory of the computer, or in transit or
 92 presented on a display device.

93 (9) "Electronic device" means a device that is capable of
 94 communicating across a computer network with other computers or
 95 devices for the purpose of transmitting, receiving, or storing
 96 data.

97 ~~(10)~~~~(9)~~ "Financial instrument" means any check, draft,
 98 money order, certificate of deposit, letter of credit, bill of
 99 exchange, credit card, or marketable security.

100 ~~(11)~~~~(10)~~ "Intellectual property" means data, including
 101 programs.

102 ~~(12)~~~~(11)~~ "Property" means anything of value as defined in
 103 s. 812.012 and includes, but is not limited to, financial
 104 instruments, information, including electronically produced data

105 and computer software and programs in ~~either~~ machine-readable or
 106 human-readable form, and any other tangible or intangible item
 107 of value.

108 Section 3. Section 815.04, Florida Statutes, is amended to
 109 read:

110 815.04 Offenses against intellectual property; public
 111 records exemption.—

112 (1) A person who ~~whoever~~ willfully, knowingly, and without
 113 authorization modifies data, programs, or supporting
 114 documentation residing or existing internal or external to a
 115 computer, computer system, ~~or~~ computer network, or electronic
 116 device commits an offense against intellectual property.

117 (2) A person who ~~whoever~~ willfully, knowingly, and without
 118 authorization destroys data, programs, or supporting
 119 documentation residing or existing internal or external to a
 120 computer, computer system, ~~or~~ computer network, or electronic
 121 device commits an offense against intellectual property.

122 (3)(a) Data, programs, or supporting documentation which
 123 is a trade secret as defined in s. 812.081 which resides or
 124 exists internal or external to a computer, computer system, or
 125 computer network which is held by an agency as defined in
 126 chapter 119 is confidential and exempt from the provisions of s.
 127 119.07(1) and s. 24(a), Art. I of the State Constitution.

128 (b) A person who ~~whoever~~ willfully, knowingly, and without
 129 authorization discloses or takes data, programs, or supporting
 130 documentation which is a trade secret as defined in s. 812.081

131 or is confidential as provided by law residing or existing
 132 internal or external to a computer, computer system, or computer
 133 network commits an offense against intellectual property.

134 (4) (a) Except as otherwise provided in this subsection, an
 135 offense against intellectual property is a felony of the third
 136 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 137 775.084.

138 (b) If the offense is committed for the purpose of
 139 devising or executing any scheme or artifice to defraud or to
 140 obtain any property, ~~then the person commits~~ offender is guilty
 141 ~~of~~ a felony of the second degree, punishable as provided in s.
 142 775.082, s. 775.083, or s. 775.084.

143 Section 4. Section 815.06, Florida Statutes, is amended to
 144 read:

145 815.06 Offenses against ~~computer~~ users of computer
 146 networks and electronic devices.—

147 (1) As used in this section, the term "person" means:

148 (a) An individual;

149 (b) A partnership, corporation, association, or other
 150 entity doing business in this state, or an officer, agent, or
 151 employee of such an entity; or

152 (c) An officer, employee, or agent of the state or a
 153 county, municipality, special district, or other political
 154 subdivision whether executive, judicial, or legislative,
 155 including, but not limited to, a department, division, bureau,
 156 commission, authority, district, or agency thereof.

157 (2) A person commits an offense against users of computer
 158 networks or electronic devices if he ~~whoever~~ willfully,
 159 knowingly, and without authorization:

160 (a) Accesses or causes to be accessed any computer,
 161 computer system, ~~or~~ computer network, or electronic device with
 162 knowledge that such access is unauthorized;

163 (b) Disrupts or denies or causes the denial of the ability
 164 to transmit data ~~computer system services~~ to or from an
 165 authorized user of such computer system or computer network
 166 services, which, in whole or in part, is owned by, under
 167 contract to, or operated for, on behalf of, or in conjunction
 168 with another;

169 (c) Destroys, takes, injures, or damages equipment or
 170 supplies used or intended to be used in a computer, computer
 171 system, ~~or~~ computer network, or electronic device;

172 (d) Destroys, injures, or damages any computer, computer
 173 system, ~~or~~ computer network, or electronic device; ~~or~~

174 (e) Introduces any computer contaminant into any computer,
 175 computer system, ~~or~~ computer network, or electronic device; or

176 (f) Engages in audio or video surveillance of an
 177 individual without that individual's knowledge by accessing any
 178 inherent feature or component of a computer, computer system,
 179 computer network, or electronic device, including accessing the
 180 data or information of a computer, computer system, computer
 181 network, or electronic device that is stored by a third party.
 182

183 This section does not apply to a person who has acted pursuant
 184 to a search warrant or to an exception to a search warrant
 185 authorized by law or when acting within the scope of his or her
 186 lawful employment ~~commits an offense against computer users.~~

187 (3)-(2)(a) Except as provided in paragraphs (b) and (c), a
 188 person who ~~whoever~~ violates subsection (2) ~~(1)~~ commits a felony
 189 of the third degree, punishable as provided in s. 775.082, s.
 190 775.083, or s. 775.084.

191 (b) A person commits a felony of the second degree,
 192 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,
 193 if he or she ~~whoever~~ violates subsection (2) ~~(1)~~ and:

194 1. Damages a computer, computer equipment or supplies,
 195 ~~computer supplies,~~ a computer system, or a computer network, and
 196 the ~~monetary~~ damage or loss ~~incurred as a result of the~~
 197 violation is at least \$5,000 or greater;

198 2. Commits the offense for the purpose of devising or
 199 executing any scheme or artifice to defraud or obtain property;
 200 ~~or~~

201 3. Interrupts or impairs a governmental operation or
 202 public communication, transportation, or supply of water, gas,
 203 or other public service; or

204 4. Intentionally interrupts the transmittal of data to or
 205 from, or gains unauthorized access to, a computer, computer
 206 system, computer network, or electronic device belonging to any
 207 mode of public or private transit, as defined in s. 341.031,
 208

209 ~~commits a felony of the second degree, punishable as provided in~~
 210 ~~s. 775.082, s. 775.083, or s. 775.084.~~

211 (c) A person who ~~whoever~~ violates subsection (2) ~~(1)~~ and
 212 ~~the violation endangers human life~~ commits a felony of the first
 213 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 214 775.084, if the violation:

- 215 1. Endangers human life; or
- 216 2. Disrupts a computer, computer system, computer network,
 217 or electronic device that affects medical equipment used in the
 218 direct administration of medical care or treatment to a person.

219 ~~(4)(3)~~ A person who ~~whoever~~ willfully, knowingly, and
 220 without authorization modifies equipment or supplies used or
 221 intended to be used in a computer, computer system, ~~or~~ computer
 222 network, or electronic device commits a misdemeanor of the first
 223 degree, punishable as provided in s. 775.082 or s. 775.083.

224 ~~(5)(4)~~(a) In addition to any other civil remedy available,
 225 the owner or lessee of the computer, computer system, computer
 226 network, computer program, computer equipment or supplies,
 227 electronic device, ~~computer supplies,~~ or computer data may bring
 228 a civil action against a ~~any~~ person convicted under this section
 229 for compensatory damages.

230 (b) In an ~~any~~ action brought under this subsection, the
 231 court may award reasonable attorney ~~attorney's~~ fees to the
 232 prevailing party.

233 ~~(6)(5)~~ A ~~Any~~ computer, computer system, computer network,
 234 computer software, ~~or~~ computer data, or electronic device owned

235 | by a defendant which is used during the commission of a any
 236 | violation of this section or a any computer or electronic device
 237 | owned by the defendant which is used as a repository for the
 238 | storage of software or data obtained in violation of this
 239 | section is subject to forfeiture as provided under ss. 932.701-
 240 | 932.704.

241 | (7)(6) This section does not apply to a any person who
 242 | accesses his or her employer's computer system, computer
 243 | network, computer program, ~~or~~ computer data, or electronic
 244 | device when acting within the scope of his or her lawful
 245 | employment.

246 | (8)(7) For purposes of bringing a civil or criminal action
 247 | under this section, a person who causes, by any means, the
 248 | access to a computer, computer system, ~~or~~ computer network, or
 249 | electronic device in one jurisdiction from another jurisdiction
 250 | is deemed to have personally accessed the computer, computer
 251 | system, ~~or~~ computer network, or electronic device in both
 252 | jurisdictions.

253 | Section 5. Section 815.061, Florida Statutes, is created
 254 | to read:

255 | 815.061 Offenses against public utilities.-

256 | (1) As used in this section, the term "public utility" has
 257 | the same meaning as in s. 366.02.

258 | (2) A person may not willfully, knowingly, and without
 259 | authorization:

260 | (a) Gain access to a computer, computer system, computer

261 network, or electronic device owned, operated, or used by a
 262 public utility while knowing that such access is unauthorized.

263 (b) Physically tamper with, insert software into, or
 264 otherwise transmit commands or electronic communications to a
 265 computer, computer system, computer network, or electronic
 266 device which cause a disruption in any service delivered by a
 267 public utility.

268 (3) (a) A person who violates paragraph (2) (a) commits a
 269 felony of the third degree, punishable as provided in s.
 270 775.082, s. 775.083, or s. 775.084.

271 (b) A person who violates paragraph (2) (b) commits a
 272 felony of the second degree, punishable as provided in s.
 273 775.082, s. 775.083, or s. 775.084.

274 Section 6. This act shall take effect October 1, 2014.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Criminal Justice
 2 Subcommittee

3 Representative La Rosa offered the following:

Amendment (with title amendment)

Remove lines 122-274 and insert:

7 (3)(a) Data, programs, or supporting documentation which
 8 is a trade secret as defined in s. 812.081 which resides or
 9 exists internal or external to a computer, computer system, or
 10 computer network which is held by an agency as defined in
 11 chapter 119 is confidential and exempt from the provisions of s.
 12 119.07(1) and s. 24(a), Art. I of the State Constitution.

13 (4)(b) A person who ~~Whoever~~ willfully, knowingly, and
 14 without authorization discloses or takes data, programs, or
 15 supporting documentation that ~~which~~ is a trade secret as defined
 16 in s. 812.081 or is confidential as provided by law residing or
 17 existing internal or external to a computer, computer system, or



Amendment No. 1

18 computer network, or electronic device commits an offense
19 against intellectual property.

20 (5)-(4)(a) Except as otherwise provided in this subsection,
21 an offense against intellectual property is a felony of the
22 third degree, punishable as provided in s. 775.082, s. 775.083,
23 or s. 775.084.

24 (b) If the offense is committed for the purpose of
25 devising or executing any scheme or artifice to defraud or to
26 obtain any property, ~~then the person commits~~ ~~offender is guilty~~
27 ~~of~~ a felony of the second degree, punishable as provided in s.
28 775.082, s. 775.083, or s. 775.084.

29 Section 4. Section 815.06, Florida Statutes, is amended to
30 read:

31 815.06 Offenses against ~~computer~~ users of computer
32 networks and electronic devices.-

33 (1) As used in this section, the term "person" means:

34 (a) An individual;

35 (b) A partnership, corporation, association, or other
36 entity doing business in this state, or an officer, agent, or
37 employee of such an entity; or

38 (c) An officer, employee, or agent of the state or a
39 county, municipality, special district, or other political
40 subdivision whether executive, judicial, or legislative,
41 including, but not limited to, a department, division, bureau,
42 commission, authority, district, or agency thereof.

43 (2) A person commits an offense against users of computer



Amendment No. 1

44 networks or electronic devices if he or she ~~Whoever~~ willfully,
45 knowingly, and without authorization:

46 (a) Accesses or causes to be accessed any computer,
47 computer system, ~~or~~ computer network, or electronic device with
48 knowledge that such access is unauthorized;

49 (b) Disrupts or denies or causes the denial of the ability
50 to transmit data ~~computer system services~~ to or from an
51 authorized user of a ~~such~~ computer system or computer network
52 services, which, in whole or in part, is owned by, under
53 contract to, or operated for, on behalf of, or in conjunction
54 with another;

55 (c) Destroys, takes, injures, or damages equipment or
56 supplies used or intended to be used in a computer, computer
57 system, ~~or~~ computer network, or electronic device;

58 (d) Destroys, injures, or damages any computer, computer
59 system, ~~or~~ computer network, or electronic device; ~~or~~

60 (e) Introduces any computer contaminant into any computer,
61 computer system, ~~or~~ computer network, or electronic device; or

62 (f) Engages in audio or video surveillance of an
63 individual without that individual's knowledge by accessing any
64 inherent feature or component of a computer, computer system,
65 computer network, or electronic device, including accessing the
66 data or information of a computer, computer system, computer
67 network, or electronic device that is stored by a third party
68 ~~commits an offense against computer users.~~

69 (3)-(2)(a) Except as provided in paragraphs (b) and (c), a



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70 person who ~~whoever~~ violates subsection (2) ~~(1)~~ commits a felony
71 of the third degree, punishable as provided in s. 775.082, s.
72 775.083, or s. 775.084.

73 (b) A person commits a felony of the second degree,
74 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,
75 if he or she ~~Whoever~~ violates subsection (2) ~~(1)~~ and:

76 1. Damages a computer, computer equipment or supplies,
77 ~~computer supplies,~~ a computer system, or a computer network, and
78 the ~~monetary~~ damage or loss ~~incurred as a result of the~~
79 ~~violation~~ is at least \$5,000 or greater;

80 2. Commits the offense for the purpose of devising or
81 executing any scheme or artifice to defraud or obtain property;
82 ~~or~~

83 3. Interrupts or impairs a governmental operation or
84 public communication, transportation, or supply of water, gas,
85 or other public service; or

86 4. Intentionally interrupts the transmittal of data to or
87 from, or gains unauthorized access to, a computer, computer
88 system, computer network, or electronic device belonging to any
89 mode of public or private transit, as defined in s. 341.031,
90 ~~commits a felony of the second degree, punishable as provided in~~
91 ~~s. 775.082, s. 775.083, or s. 775.084.~~

92 (c) A person who ~~Whoever~~ violates subsection (2) ~~(1)~~ and
93 ~~the violation endangers human life~~ commits a felony of the first
94 degree, punishable as provided in s. 775.082, s. 775.083, or s.
95 775.084, if the violation:



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96 1. Endangers human life; or

97 2. Disrupts a computer, computer system, computer network,
98 or electronic device that affects medical equipment used in the
99 direct administration of medical care or treatment to a person.

100 ~~(4)(3)~~ A person who ~~Whoever~~ willfully, knowingly, and
101 without authorization modifies equipment or supplies used or
102 intended to be used in a computer, computer system, ~~or~~ computer
103 network, or electronic device commits a misdemeanor of the first
104 degree, punishable as provided in s. 775.082 or s. 775.083.

105 ~~(5)(4)~~(a) In addition to any other civil remedy available,
106 the owner or lessee of the computer, computer system, computer
107 network, computer program, computer equipment or supplies,
108 electronic device, computer supplies, or computer data may bring
109 a civil action against a any person convicted under this section
110 for compensatory damages.

111 (b) In an any action brought under this subsection, the
112 court may award reasonable attorney ~~attorney's~~ fees to the
113 prevailing party.

114 ~~(6)(5)~~ A Any computer, computer system, computer network,
115 computer software, ~~or~~ computer data, or electronic device owned
116 by a defendant which is used during the commission of a any
117 violation of this section or a any computer or electronic device
118 owned by the defendant which is used as a repository for the
119 storage of software or data obtained in violation of this
120 section is subject to forfeiture as provided under ss. 932.701-
121 932.704.



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122 (7)~~(6)~~ This section does not apply to a any person who:

123 (a) accesses his or her employer's computer system,
124 computer network, computer program, ~~or~~ computer data, or
125 electronic device when acting within the scope of his or her
126 lawful employment; or

127 (b) Has acted pursuant to a search warrant or to an
128 exception to a search warrant authorized by law or when acting
129 within the scope of his or her lawful employment.

130 (8)~~(7)~~ For purposes of bringing a civil or criminal action
131 under this section, a person who causes, by any means, the
132 access to a computer, computer system, ~~or~~ computer network, or
133 electronic device in one jurisdiction from another jurisdiction
134 is deemed to have personally accessed the computer, computer
135 system, ~~or~~ computer network, or electronic device in both
136 jurisdictions.

137 Section 5. Section 815.061, Florida Statutes, is created
138 to read:

139 815.061 Offenses against public utilities.-

140 (1) As used in this section, the term "public utility"
141 includes each public utility and electric utility as those terms
142 are defined in s. 366.02; each utility as defined in s. 367.021;
143 each natural gas transmission company as defined in s. 368.103;
144 each person, corporation, partnership, association, public
145 agency, municipality, cooperative, gas district, or other legal
146 entity and their lessees, trustees, or receivers, now or
147 hereafter owning, operating, managing, or controlling gas



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148 transmission or distribution facilities or any other facility
149 supplying or storing natural or manufactured gas or liquefied
150 gas with air admixture or any similar gaseous substances by
151 pipeline to or for the public within this state; and any
152 separate legal entity created under s. 163.01 and composed of
153 any of the entities described in this subsection for the purpose
154 of providing utility services in this state, including wholesale
155 power and electric transmission services.

156 (2) A person may not willfully, knowingly, and without
157 authorization:

158 (a) Gain access to a computer, computer system, computer
159 network, or electronic device owned, operated, or used by a
160 public utility while knowing that such access is unauthorized.

161 (b) Physically tamper with, insert software into, or
162 otherwise transmit commands or electronic communications to a
163 computer, computer system, computer network, or electronic
164 device which cause a disruption in any service delivered by a
165 public utility.

166 (3) (a) A person who violates paragraph (2) (a) commits a
167 felony of the third degree, punishable as provided in s.
168 775.082, s. 775.083, or s. 775.084.

169 (b) A person who violates paragraph (2) (b) commits a
170 felony of the second degree, punishable as provided in s.
171 775.082, s. 775.083, or s. 775.084.

172



Amendment No. 1

173 Section 6. Paragraphs (a) and (c) of subsection (3) of
174 section 921.0022, Florida Statutes, are amended to read:

175 921.0022 Criminal Punishment Code; offense severity
176 ranking chart.—

177 (3) OFFENSE SEVERITY RANKING CHART

178 (a) LEVEL 1

179

Florida Statute	Felony Degree	Description
24.118(3)(a)	3rd	Counterfeit or altered state lottery ticket.
212.054(2)(b)	3rd	Discretionary sales surtax; limitations, administration, and collection.
212.15(2)(b)	3rd	Failure to remit sales taxes, amount greater than \$300 but less than \$20,000.
316.1935(1)	3rd	Fleeing or attempting to elude law enforcement officer.
319.30(5)	3rd	Sell, exchange, give away certificate of title or

180

181

182

183

184



Amendment No. 1

185			identification number plate.
	319.35(1)(a)	3rd	Tamper, adjust, change, etc., an odometer.
186			
	320.26(1)(a)	3rd	Counterfeit, manufacture, or sell registration license plates or validation stickers.
187			
	322.212 (1)(a)-(c)	3rd	Possession of forged, stolen, counterfeit, or unlawfully issued driver's license; possession of simulated identification.
188			
	322.212(4)	3rd	Supply or aid in supplying unauthorized driver's license or identification card.
189			
	322.212(5)(a)	3rd	False application for driver's license or identification card.
190			
	414.39(2)	3rd	Unauthorized use, possession, forgery, or alteration of food assistance program, Medicaid ID, value greater than \$200.



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191 414.39(3)(a) 3rd Fraudulent misappropriation of
public assistance funds by
employee/official, value more
than \$200.

192 443.071(1) 3rd False statement or
representation to obtain or
increase reemployment
assistance benefits.

193 509.151(1) 3rd Defraud an innkeeper, food or
lodging value greater than
\$300.

194 517.302(1) 3rd Violation of the Florida
Securities and Investor
Protection Act.

195 562.27(1) 3rd Possess still or still
apparatus.

196 713.69 3rd Tenant removes property upon
which lien has accrued, value
more than \$50.

197



Amendment No. 1

198	812.014(3)(c)	3rd	Petit theft (3rd conviction); theft of any property not specified in subsection (2).
199	812.081(2)	3rd	Unlawfully makes or causes to be made a reproduction of a trade secret.
200	815.04 (5) (4)(a)	3rd	Offense against intellectual property (i.e., computer programs, data).
201	817.52(2)	3rd	Hiring with intent to defraud, motor vehicle services.
202	817.569(2)	3rd	Use of public record or public records information to facilitate commission of a felony.
203	826.01	3rd	Bigamy.
204	828.122(3)	3rd	Fighting or baiting animals.
	831.04(1)	3rd	Any erasure, alteration, etc., of any replacement deed, map,



Amendment No. 1

			plat, or other document listed in s. 92.28.
205			
	831.31(1)(a)	3rd	Sell, deliver, or possess counterfeit controlled substances, all but s. 893.03(5) drugs.
206			
	832.041(1)	3rd	Stopping payment with intent to defraud \$150 or more.
207			
	832.05(2)(b) & (4)(c)	3rd	Knowing, making, issuing worthless checks \$150 or more or obtaining property in return for worthless check \$150 or more.
208			
	838.15(2)	3rd	Commercial bribe receiving.
209			
	838.16	3rd	Commercial bribery.
210			
	843.18	3rd	Fleeing by boat to elude a law enforcement officer.
211			
	847.011(1)(a)	3rd	Sell, distribute, etc., obscene, lewd, etc., material

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Amendment No. 1

(2nd conviction).

212

849.01 3rd Keeping gambling house.

213

849.09(1)(a)-(d) 3rd Lottery; set up, promote, etc.,
or assist therein, conduct or
advertise drawing for prizes,
or dispose of property or money
by means of lottery.

214

849.23 3rd Gambling-related machines;
"common offender" as to
property rights.

215

849.25(2) 3rd Engaging in bookmaking.

216

860.08 3rd Interfere with a railroad
signal.

217

860.13(1)(a) 3rd Operate aircraft while under
the influence.

218

893.13(2)(a)2. 3rd Purchase of cannabis.

219

893.13(6)(a) 3rd Possession of cannabis (more
than 20 grams).



Amendment No. 1

220

934.03 (1) (a) 3rd Intercepts, or procures any
other person to intercept, any
wire or oral communication.

221

222 (c) LEVEL 3

223

Florida Statute	Felony Degree	Description
--------------------	------------------	-------------

224

119.10 (2) (b)	3rd	Unlawful use of confidential information from police reports.
----------------	-----	---

225

316.066 (3) (b) - (d)	3rd	Unlawfully obtaining or using confidential crash reports.
--------------------------	-----	--

226

316.193 (2) (b)	3rd	Felony DUI, 3rd conviction.
-----------------	-----	-----------------------------

227

316.1935 (2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.
--------------	-----	--

228

319.30 (4)	3rd	Possession by junkyard of motor vehicle with identification
------------	-----	--



Amendment No. 1

229 number plate removed.

230 319.33(1)(a) 3rd Alter or forge any certificate
of title to a motor vehicle or
mobile home.

231 319.33(1)(c) 3rd Procure or pass title on stolen
vehicle.

232 319.33(4) 3rd With intent to defraud,
possess, sell, etc., a blank,
forged, or unlawfully obtained
title or registration.

233 327.35(2)(b) 3rd Felony BUI.

234 328.05(2) 3rd Possess, sell, or counterfeit
fictitious, stolen, or
fraudulent titles or bills of
sale of vessels.

235 328.07(4) 3rd Manufacture, exchange, or
possess vessel with counterfeit
or wrong ID number.

376.302(5) 3rd Fraud related to reimbursement



Amendment No. 1

236
379.2431 3rd for cleanup expenses under the
(1) (e) 5. Inland Protection Trust Fund.

237
379.2431 3rd Taking, disturbing, mutilating,
(1) (e) 6. destroying, causing to be
destroyed, transferring,
selling, offering to sell,
molesting, or harassing marine
turtles, marine turtle eggs, or
marine turtle nests in
violation of the Marine Turtle
Protection Act.

238
400.9935 (4) 3rd Soliciting to commit or
conspiring to commit a
violation of the Marine Turtle
Protection Act.

239
440.1051 (3) 3rd Operating a clinic without a
license or filing false license
application or other required
information.

False report of workers'
compensation fraud or
retaliation for making such a



Amendment No. 1

240			report.
	501.001(2)(b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
241			
	624.401(4)(a)	3rd	Transacting insurance without a certificate of authority.
242			
	624.401(4)(b)1.	3rd	Transacting insurance without a certificate of authority; premium collected less than \$20,000.
243			
	626.902(1)(a) & (b)	3rd	Representing an unauthorized insurer.
244			
	697.08	3rd	Equity skimming.
245			
	790.15(3)	3rd	Person directs another to discharge firearm from a vehicle.
246			
	796.05(1)	3rd	Live on earnings of a prostitute.

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247
806.10(1) 3rd Maliciously injure, destroy, or
interfere with vehicles or
equipment used in firefighting.

248
806.10(2) 3rd Interferes with or assaults
firefighter in performance of
duty.

249
810.09(2)(c) 3rd Trespass on property other than
structure or conveyance armed
with firearm or dangerous
weapon.

250
812.014(2)(c)2. 3rd Grand theft; \$5,000 or more but
less than \$10,000.

251
812.0145(2)(c) 3rd Theft from person 65 years of
age or older; \$300 or more but
less than \$10,000.

252
815.04 (5) ~~(4)~~ (b) 2nd Computer offense devised to
defraud or obtain property.

253
817.034(4)(a)3. 3rd Engages in scheme to defraud
(Florida Communications Fraud



Amendment No. 1

254 Act), property valued at less
than \$20,000.

255 817.233 3rd Burning to defraud insurer.

256 817.234 3rd Unlawful solicitation of
(8) (b) - (c) persons involved in motor
vehicle accidents.

257 817.234 (11) (a) 3rd Insurance fraud; property value
less than \$20,000.

258 817.236 3rd Filing a false motor vehicle
insurance application.

259 817.2361 3rd Creating, marketing, or
presenting a false or
fraudulent motor vehicle
insurance card.

260 817.413 (2) 3rd Sale of used goods as new.

261 817.505 (4) 3rd Patient brokering.

828.12 (2) 3rd Tortures any animal with intent
to inflict intense pain,

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262			serious physical injury, or death.
	831.28(2)(a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument.
263			
	831.29	2nd	Possession of instruments for counterfeiting drivers' licenses or identification cards.
264			
	838.021(3)(b)	3rd	Threatens unlawful harm to public servant.
265			
	843.19	3rd	Injure, disable, or kill police dog or horse.
266			
	860.15(3)	3rd	Overcharging for repairs and parts.
267			
	870.01(2)	3rd	Riot; inciting or encouraging.
268			
	893.13(1)(a)2.	3rd	Sell, manufacture, or deliver cannabis (or other s.



Amendment No. 1

269 893.03(1)(c), (2)(c)1.,
(2)(c)2., (2)(c)3., (2)(c)5.,
(2)(c)6., (2)(c)7., (2)(c)8.,
(2)(c)9., (3), or (4) drugs).

270 893.13(1)(d)2. 2nd Sell, manufacture, or deliver
s. 893.03(1)(c), (2)(c)1.,
(2)(c)2., (2)(c)3., (2)(c)5.,
(2)(c)6., (2)(c)7., (2)(c)8.,
(2)(c)9., (3), or (4) drugs
within 1,000 feet of
university.

271 893.13(1)(f)2. 2nd Sell, manufacture, or deliver
s. 893.03(1)(c), (2)(c)1.,
(2)(c)2., (2)(c)3., (2)(c)5.,
(2)(c)6., (2)(c)7., (2)(c)8.,
(2)(c)9., (3), or (4) drugs
within 1,000 feet of public
housing facility.

272 893.13(6)(a) 3rd Possession of any controlled
substance other than felony
possession of cannabis.

893.13(7)(a)8. 3rd Withhold information from



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273 practitioner regarding previous
receipt of or prescription for
a controlled substance.

274 893.13(7)(a)9. 3rd Obtain or attempt to obtain
controlled substance by fraud,
forgery, misrepresentation,
etc.

275 893.13(7)(a)10. 3rd Affix false or forged label to
package of controlled
substance.

276 893.13(7)(a)11. 3rd Furnish false or fraudulent
material information on any
document or record required by
chapter 893.

893.13(8)(a)1. 3rd Knowingly assist a patient,
other person, or owner of an
animal in obtaining a
controlled substance through
deceptive, untrue, or
fraudulent representations in
or related to the
practitioner's practice.



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277

893.13(8)(a)2. 3rd Employ a trick or scheme in the practitioner's practice to assist a patient, other person, or owner of an animal in obtaining a controlled substance.

278

893.13(8)(a)3. 3rd Knowingly write a prescription for a controlled substance for a fictitious person.

279

893.13(8)(a)4. 3rd Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.

280

918.13(1)(a) 3rd Alter, destroy, or conceal investigation evidence.

281

944.47
(1)(a)1.-2. 3rd Introduce contraband to correctional facility.

282



Amendment No. 1

944.47(1) (c) 2nd Possess contraband while upon the grounds of a correctional institution.

283

985.721 3rd Escapes from a juvenile facility (secure detention or residential commitment facility).

284

285 Section 7. This act shall take effect October 1, 2014

286

287

288

289

290

T I T L E A M E N D M E N T

291

Remove lines 10-28 and insert:

292

offense against intellectual property; providing that a person

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who willfully, knowingly, and without authorization discloses or

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takes data, programs, or supporting documentation that is a

295

trade secret or is confidential as provided by law residing or

296

existing internal or external to a computer, computer system,

297

computer network, or electronic device commits an offense

298

against intellectual property; providing criminal penalties;

299

amending s. 815.06, F.S.; defining terms; providing that a

300

person who willfully, knowingly, and without authorization

301

accesses a computer network or electronic device, disrupts the



Amendment No. 1

302 ability to transmit data to or from a computer network or
303 electronic device, damages a computer network or electronic
304 device, or engages in the audio or video surveillance of an
305 individual without the individual's knowledge by accessing a
306 computer network or electronic device commits an offense against
307 the users of computer networks and electronic devices; providing
308 exceptions; providing criminal penalties; creating s. 815.061,
309 F.S.; defining the term "public utility"; prohibiting a person
310 from willfully, knowingly, and without authorization engaging in
311 specified activities against a computer, computer system,
312 computer network, or electronic device owned, operated, or used
313 by a public utility; providing criminal penalties; amending s.
314 921.0022(3)(a) and (c), F.S., relating to the Criminal
315 Punishment Code, to incorporate the amendment made to s 815.04,
316 F.S., in a reference thereto;

317

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 643 Pub. Rec./Trade Secrets/Computers
SPONSOR(S): La Rosa
TIED BILLS: HB 641 **IDEN./SIM. BILLS:** SB 366

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee		Jones <i>YJ</i>	Cunningham <i>su</i>
2) Government Operations Subcommittee			
3) Judiciary Committee			

SUMMARY ANALYSIS

Both the Florida Constitution and Florida Statutes guarantee every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. Currently, s. 815.04(3)(a), F.S., provides a public records exemption for data, programs, or supporting documentation that is a trade secret and resides or exists internal or external to a computer, computer system, or computer network and that is held by an agency.

The bill is linked to HB 641, which, in part, creates and defines the term *electronic device* to mean a device that is capable of communicating across a computer network with other computers or devices for the purpose of transmitting, receiving, or storing data.

The bill amends s. 815.04(3)(a), F.S., to apply the public records exemption to data, programs, or supporting documentation that is a trade secret, that is held by an agency, and that resides or exists internal or external to a computer, computer system, computer network or *electronic device*.

The bill repeals the exemption on October 2, 2019, unless reviewed and saved from repeal by the Legislature. It also provides the following statement of public necessity as required by the Florida Constitution.

The bill also expands the application of s. 815.04(3)(b), F.S., by prohibiting a person from disclosing or taking data, etc. that is a trade secret or that is confidential that is residing or existing on a computer, computer system, computer network, or *electronic device*.

The Criminal Justice Impact Conference has not yet met to determine the prison bed impact of the bill. However, the bill may have a negative prison bed impact on the Department of Corrections because the bill expands the second and third degree felony offenses in s. 815.04(3)(b), F.S.

Article I, s. 24(c) of the State Constitution, requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record or public meeting exemption. The bill expands current public record exemptions; thus, it requires a two-thirds vote for final passage

The bill provides an effective date linked to the passage of HB 641, or similar legislation.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Public Records Laws

Florida Constitution

Article I, Section 24(a), of the Florida Constitution sets forth the state's public policy regarding access to government records. The section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government.¹

The Legislature, however, may provide by general law passed by two-thirds vote of each chamber for the exemption of records from the requirements of Article I, Section 24 of the Florida Constitution, provided the exemption:

- States with specificity the public necessity justifying the exemption (public necessity statement); and
- Is no broader than necessary to meet that public purpose.²

Florida Statutes

Florida Statutes also address the public policy regarding access to government records through a variety of statutes in ch. 119, F.S. Currently, s. 119.07, F.S., guarantees every person a right to inspect, examine, and copy any state, county, or municipal record, unless the record is exempt.

The Open Government Sunset Review Act³ provides that a public record exemption may be created or maintained only if it serves an identifiable public purpose and the "[l]egislature finds that the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exemption."⁴ However, the exemption may be no broader than is necessary to meet one of the following purposes:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
- Protects sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision; or
- Protects trade or business secrets.⁵

Trade Secrets

Section 815.04(3)(a), F.S., provides a public records exemption for data, programs, or supporting documentation that is a trade secret⁶ and resides or exists internal or external to a computer, computer system, or computer network is held by an agency.⁷

¹ Article 1, Sec. 24(a), FLA. CONST.

² Article 1, Sec. 24(c), FLA. CONST.

³ Section 119.15, F.S.

⁴ *Id.*

⁵ *Id.*

⁶ Section 812.081, F.S., defines a "trade secret" as the whole or any portion or phase of any formula, pattern, device, combination of devices, or compilation of information which is for use, or is used, in the operation of a business and which provides the business an advantage, or an opportunity to obtain an advantage, over those who do not know or use it. "Trade secret" includes any scientific, technical, or commercial information, including any design, process, procedure, list of suppliers, list of customers, business code, or improvement thereof. Irrespective of novelty, invention, patentability, the state of the prior art, and the level of skill in the business, art, or field to which the subject matter pertains, a trade secret is considered to be: a Secret; Of value; For use or in use by the business; and Of advantage to the business, or providing an opportunity to obtain an advantage, over those who do not know or use it.

⁷ Section 119.011, F.S., defines a "agency" to mean any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this

It is a third degree felony⁸ for a person to willfully, knowingly, and without authorization disclose or take data, programs, or supporting documentation which is a trade secret or is confidential as provided by law residing or existing internal or external to a computer, computer system, or computer network commits an offense against intellectual property.⁹ It is a second degree felony¹⁰ if this offense is committed for the purpose of devising or executing any scheme or artifice to defraud or to obtain any property.¹¹

Effect of the Bill

The bill is linked to HB 641, which, in part, creates and defines the term *electronic device* to mean a device that is capable of communicating across a computer network with other computers or devices for the purpose of transmitting, receiving, or storing data.

The bill amends s. 815.04(3)(a), F.S., to apply the public records exemption to data, programs, or supporting documentation that is a trade secret, that is held by an agency, and that resides or exists internal or external to a computer, computer system, computer network or *electronic device*.

The bill repeals the exemption on October 2, 2019, unless reviewed and saved from repeal by the Legislature. It also provides the following statement of public necessity as required by the Florida Constitution:¹²

The Legislature finds that it is a public necessity that trade secrets and intellectual property be protected from disclosure by persons gaining unauthorized access into computer networks and electronic devices. Trade secrets and intellectual property are already afforded public records exemptions because of the immense importance of this type of proprietary information to the economic competition between this state and other states and nations. As technology continues to evolve, it is important that the existing public records exemption for trade secrets and intellectual property expand accordingly to encompass new technology used in association with sensitive trade secrets and intellectual property. Thus the Legislature declares that it is a public necessity that data, programs, and supporting documentation that are trade secrets which are held by an agency and which reside or exist internal or external to a computer, computer system, computer network, or electronic device be confidential and exempt from the requirements of s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution.

The bill also expands the application of s. 815.04(3)(b), F.S., by prohibiting a person from disclosing or taking data, etc. that is a trade secret or that is confidential that is residing or existing on a computer, computer system, computer network, or *electronic device*.

B. SECTION DIRECTORY:

Section 1. Amends s. 815.04, F.S., relating to offenses against intellectual property; public records exemptions.

Section 2. Provides a public necessity statement.

Section 3. Provides and effective date linked to the passage of HB 641, or similar legislation and their effective date.

chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.

⁸ A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

⁹ Section 815.04(3)(b) and (4)(a), F.S.

¹⁰ A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. Sections 775.082 and 775.083, F.S.

¹¹ Section 815.04(4)(b), F.S.

¹² Article I, Sec. 24(c), FLA. CONST.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have any impact on state revenues.

2. Expenditures:

The Criminal Justice Impact Conference has not yet met to determine the prison bed impact of the bill. However, the bill may have a negative prison bed impact on the Department of Corrections because the bill expands the second and third degree felony offenses in s. 815.04(3)(b), F.S.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

The bill does not appear to have any impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Line 33: The bill amends the offense against intellectual property to include an *electronic device* as a storage location for data, programs and supporting documentation of a trade secret. This revision may be better suited in HB 641.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

HB 643

2014

1 A bill to be entitled
 2 An act relating to public records; amending s. 815.04,
 3 F.S.; amending an exemption from public records
 4 requirements for data, programs, and supporting
 5 documentation that are trade secrets residing or
 6 existing internal or external to a computer, computer
 7 system, or computer network; expanding the exemption
 8 to include such trade secret information residing or
 9 existing internal or external to an electronic device;
 10 providing for legislative review and repeal of the
 11 exemption; providing a statement of public necessity;
 12 providing a contingent effective date.

13
 14 Be It Enacted by the Legislature of the State of Florida:

15
 16 Section 1. Subsection (3) of section 815.04, Florida
 17 Statutes, is amended to read:

18 815.04 Offenses against intellectual property; public
 19 records exemption.—

20 (3)(a) Data, programs, or supporting documentation that
 21 ~~which~~ is a trade secret as defined in s. 812.081, that is held
 22 by an agency as defined in chapter 119, and that ~~which~~ resides
 23 or exists internal or external to a computer, computer system,
 24 ~~or computer network, or electronic device~~ which is held by an
 25 ~~agency as defined in chapter 119~~ is confidential and exempt from
 26 the provisions of s. 119.07(1) and s. 24(a), Art. I of the State

27 Constitution.

28 (b) A person who ~~Whoever~~ willfully, knowingly, and without
 29 authorization discloses or takes data, programs, or supporting
 30 documentation that ~~which~~ is a trade secret as defined in s.
 31 812.081 or is confidential as provided by law residing or
 32 existing internal or external to a computer, computer system, ~~or~~
 33 computer network, or electronic device commits an offense
 34 against intellectual property.

35 (c) This subsection is subject to the Open Government
 36 Sunset Review Act in accordance with s. 119.15, and shall stand
 37 repealed on October 2, 2019, unless reviewed and saved from
 38 repeal through reenactment by the Legislature.

39 Section 2. The Legislature finds that it is a public
 40 necessity that trade secrets and intellectual property be
 41 protected from disclosure by persons gaining unauthorized access
 42 into computer networks and electronic devices. Trade secrets and
 43 intellectual property are already afforded public records
 44 exemptions because of the immense importance of this type of
 45 proprietary information to the economic competition between this
 46 state and other states and nations. As technology continues to
 47 evolve, it is important that the existing public records
 48 exemption for trade secrets and intellectual property expand
 49 accordingly to encompass new technology used in association with
 50 sensitive trade secrets and intellectual property. Thus the
 51 Legislature declares that it is a public necessity that data,
 52 programs, and supporting documentation that are trade secrets

HB 643

2014

53 which are held by an agency and which reside or exist internal
54 or external to a computer, computer system, computer network, or
55 electronic device be confidential and exempt from the
56 requirements of s. 119.07(1), Florida Statutes, and s. 24(a),
57 Article I of the State Constitution.

58 Section 3. This act shall take effect on the same date
59 that HB 641 or similar legislation takes effect, if such
60 legislation is adopted in the same legislative session or an
61 extension thereof and becomes a law.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Criminal Justice
 2 Subcommittee

3 Representative La Rosa offered the following:
 4

5 **Amendment**

6 Remove lines 28-33 and insert:

7 (b) Whoever willfully, knowingly, and without
 8 authorization discloses or takes data, programs, or supporting
 9 documentation which is a trade secret as defined in s. 812.081
 10 or is confidential as provided by law residing or existing
 11 internal or external to a computer, computer system, or computer
 12 network commits an offense
 13

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 697 Controlled Substances
SPONSOR(S): Ingram
TIED BILLS: IDEN./SIM. BILLS: SB 780

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee		Jones <i>jj</i>	Cunningham <i>sm</i>
2) Justice Appropriations Subcommittee			
3) Judiciary Committee			

SUMMARY ANALYSIS

In recent years, synthetic drugs have become a problem in Florida. Synthetic drugs, such as cannabinoids and phenethylamines, are industrial grade chemicals mixed to produce a "high" similar to what would be experienced when using illegal drugs such as marijuana, cocaine or methamphetamine.

In 2011, 2012, and 2013 numerous synthetic cannabinoids, cathinones, and phenethylamines were added to Schedule I of Florida's controlled substances schedules. Since the 2013 Legislative Session, new formulas of synthetic cannabinoids and phenethylamines have been developed that are made up of chemicals not covered by current law.

On October 9, 2013, Attorney General Pam Bondi filed an emergency rule that temporarily scheduled four synthetic cannabinoids in Schedule I. Since the Attorney General filed the emergency rule, the U.S. Department of Justice, Drug Enforcement Administration has federally scheduled two new synthetic phenethylamines that are currently not scheduled as controlled substances in Florida.

The bill adds four new synthetic cannabinoids and two new phenethylamines to Schedule I of Florida controlled substance schedules. As a result, the criminal penalties relating to the possession, sale, manufacture, delivery, etc. of controlled substances now apply to these synthetic substances.

The bill also adds three new phenethylamines to the list of substances included in the "trafficking in phenethylamines" statute.

According to the Florida Department of Law Enforcement (FDLE), state and local law enforcement crime labs may see an increase in evidence submissions. However, FDLE states the impact should be minimal and absorbed within their current budget. The bill may also have a negative prison and jail bed impact.

The bill is effective upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Scheduling Synthetic Drugs

Background

Chapter 893, F.S., sets forth the Florida Comprehensive Drug Abuse Prevention and Control Act and classifies controlled substances into five categories, known as schedules. These schedules are used to regulate the manufacture, distribution, preparation and dispensing of the substances listed therein. The distinguishing factors between the different drug schedules are the “potential for abuse”¹ of the substance listed therein and whether there is a currently accepted medical use for the substance. Schedule I substances have a high potential for abuse and have no currently accepted medical use in the United States.² Cannabis and heroin are examples of Schedule I drugs.³

Chapter 893, F.S., contains a variety of provisions criminalizing behavior related to controlled substances. Most of these provisions are found in s. 893.13, F.S., which criminalizes the possession, sale, purchase, manufacture, and delivery of controlled substances. The penalty for violating these provisions depends largely on what schedule the substance is listed in. Other factors, such as the quantity of controlled substance involved, can also affect the penalties for violating the criminal provisions of ch. 893, F.S.

In recent years synthetic drugs have emerged in Florida. Synthetic drugs, such as cannabinoids and phenethylamines, are industrial grade chemicals mixed to produce a “high” similar to what would be experienced when using illegal drugs such as marijuana, cocaine or methamphetamine.⁴ According to the Florida Department of Law Enforcement (FDLE), synthetic drugs “have no legitimate medical use and have a high potential for abuse.”⁵

Synthetic Cannabinoids

Synthetic cannabinoids (also known as “K2” or “Spice”) are chemically engineered substances that, when smoked or ingested, can produce a high similar to marijuana, without the delta-tetrahydrocannabinol (THC).⁶ The chemicals are a white powder that is often applied to a plant material to mimic marijuana.⁷ Synthetic cannabinoids have been developed over the last 30 years for research purposes to investigate the cannabinoid system.⁸ No legitimate non-research uses have been identified for synthetic cannabinoids and they have not been approved by the U.S. Food and Drug Administration for human consumption.⁹

¹ Section 893.035(3)(a), F.S., defines “potential for abuse” as a substance that has properties as a central nervous system stimulant or depressant or a hallucinogen that create a substantial likelihood of its being: used in amounts that create a hazard to the user’s health or the safety of the community; diverted from legal channels and distributed through illegal channels; or taken on the user’s own initiative rather than on the basis of professional medical advice.

² See, s. 893.03, F.S.

³ *Id.*

⁴ *Synthetic Narcotics*, FDLE Powerpoint Presentation before the House Criminal Justice Subcommittee, David Gross, January, 16, 2013 (on file with the Criminal Justice Subcommittee).

⁵ FDLE HB 697 Analysis (on file with the Criminal Justice Subcommittee).

⁶ *Supra* note 4.

⁷ *Id.*

⁸ *Schedules of Controlled Substances: Temporary Placement of Five Synthetic Cannabinoids Into Schedule I*, Federal Register, The Daily Journal of the United States Government, November 24, 2010, <http://www.federalregister.gov/articles/2010/11/24/2010-29600/schedules-of-controlled-substances-temporary-placement-of-five-synthetic-cannabinoids-into-schedule> (last visited on February 7, 2014).

⁹ *Supra* note 4.

Synthetic Phenethylamines

Phenethylamines are synthetic substances invented by Dr. Alexander Shulgin.¹⁰ Phenethylamines are known for their intense hallucinogenic effects.¹¹ The use of synthetic phenethylamines is highly dose sensitive and directly affects the human body's nervous system.¹² There has been a recent increase of synthetic phenethylamines production and use because of the recent regulation of cannabinoids and cathinones.¹³

Synthetic Drug Abuse

Despite being labeled "not for human consumption," synthetic cannabinoids, and phenethylamines are used as recreational drugs and have been marketed as legal and safer alternatives to illegal methods of getting "high."¹⁴ They can be found on the Internet, specialty smoke shops, and convenience stores.¹⁵ These substances are predominately being used by individuals between the ages of 16 and 30. There have been cases in Florida where these substances have caused individuals to behave inappropriately, and in some instances die.¹⁶

Recent Legislation

In 2011, 2012, and 2013, numerous synthetic cannabinoids, cathinones, and phenethylamines were added to Schedule I of Florida's controlled substances schedules.¹⁷ As a result, the criminal penalties relating to the possession, sale, manufacture, delivery, etc. of controlled substances now apply to these synthetic substances. For example:

- Possessing three grams or less of listed synthetic cannabinoids, is a first degree misdemeanor^{18,19} and
- It is a third degree felony²⁰ for a person knowingly sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, listed synthetic cannabinoids or phenethylamines.²¹

Recent Issues

Since the 2013 Legislative Session, new formulas of synthetic cannabinoids and phenethylamines have been developed that are made up of chemicals not covered by current law.²²

On October 9, 2013, Attorney General Pam Bondi filed an emergency rule²³ that temporarily scheduled four synthetic cannabinoids, in s. 893.03(1)(c), F.S.²⁴ The emergency rule expires on June 30 unless the Legislature adopts the provisions of the rule as an amendment to chapter 893, F.S. Since the Attorney General filed the emergency rule, the U.S. Department of Justice, Drug Enforcement

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Bath Salts" Receive Emergency Drug Scheduling*, Brief # 10-194, Public Florida Fusion Center, Unit Reporting: Office of Statewide Intelligence, January 26, 2011, http://www.fdle.state.fl.us/Content/BathSalts/FDLEBrief10_194BathSaltsPublic.pdf (last visited on February 7, 2014); FDLE HB 697 Analysis (on file with the Criminal Justice Subcommittee).

¹⁵ *Id.*

¹⁶ *Supra* note 4.

¹⁷ Chapters 2013-29, 2012-23, 2011-73, and 2011-90, L.O.F.

¹⁸ A first degree misdemeanor is punishable by up to a year in jail, a fine of up to \$1,000, or both. Sections 775.082 and 775.083, F.S.

¹⁹ Section 893.13(6)(b), F.S.

²⁰ A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

²¹ Section 893.13(1)(a)2., F.S.

²² *Supra* note 5.

²³ 2ER 13-1, Office of the Attorney General,

https://www.flrules.org/gateway/notice_Files.asp?ID=13661885 (last visited on February 7, 2014).

²⁴ Pursuant to s. 893.035, F.S., if the Attorney General finds that the scheduling of a substance in Schedule I of s. 893.03, F.S., on a temporary basis is necessary to avoid an imminent hazard to the public safety, she or he may by rule, and without regard to requirements in s. 893.035(5), F.S., regarding medical and scientific evaluation, schedule the substance in Schedule I if it is not listed in any other schedule in s. 893.03, F.S.

Administration has federally scheduled two new synthetic phenethylamines that are currently not scheduled as controlled substances in Florida.²⁵

Effect of the Bill

The bill amends s. 893.03(1)(c), F.S., to add the four synthetic cannabinoids temporarily scheduled by the Attorney General's emergency rule and the two phenethylamines now scheduled in federal law to Schedule I of Florida controlled substance schedules. The synthetic substances added are:

- AB-PINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide);
- AB-FUBINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide);
- ADB-PINACA (N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide);
- Fluoro ADBICA (N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(fluoropentyl)-1H-indole-3-carboxamide);
- 25B-NBOMe (4-bromo-2,5-dimethoxy-N-[(2-methoxyphenyl) methyl]-benzeneethanamine); and
- 2C-C-NBOMe (4-chloro-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine).

As a result, the criminal penalties relating to the possession, sale, manufacture, delivery, etc. of controlled substances now apply to these synthetic substances.

The bill reenacts ss. 893.13(1)-(6) and 921.0022(3)(b), (c), (e), and (g)-(i), F.S., to incorporate the amendments of s. 893.03, F.S.

Trafficking in Phenethylamines

A person trafficks in phenethylamines if they knowingly sell, purchase, manufacture, deliver, or bring into this state, or who is knowingly in actual or constructive possession of, 10 grams or more²⁶ individually or in any combination of or any mixture containing any substance in s. 893.135(1)(k), F.S.

Trafficking in phenethylamines is a first degree felony,²⁷ and if the amount trafficked is:

- 10 grams or more but less than 200 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of 3 years, and ordered to pay a fine of \$50,000;
- Is 200 grams or more, but less than 400 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of 7 years and ordered to pay a fine of \$100,000;
- Is 400 grams or more, the person shall be sentenced to a mandatory minimum term of imprisonment of 15 years and ordered to pay a fine of \$250,000.

Trafficking in phenethylamines is a capital felony²⁸ if a person knowingly manufactures or brings into this state *30 kilograms or more* of any of the substances in s. 893.135(1)(k)3., F.S., or in any combination of or any mixture containing any substance listed above and knows that the probable result of such manufacture or importation would be the death of any person.

"Molly" (short for "molecule") is often illicitly marketed as a pure form of "Ecstasy," which is a type of phenethylamines.²⁹ In Florida, "Molly" is most often composed of:

- Methydone (3,4-methylenedioxymethcathinone);

²⁵ FDLE HB 697 Analysis (on file with the Criminal Justice Subcommittee).

²⁶ Section 893.135(1)(k)2., provides if the amount is: 10 grams or more but less than 200 grams that person shall be sentenced to a mandatory minimum term of imprisonment of 3 years, and ordered to pay a fine of \$50,000; Is 200 grams or more, but less than 400 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years and ordered to pay a fine of \$100,000; Is 400 grams or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 years and ordered to pay a fine of \$250,000.

²⁷ A first degree felony is punishable by up to 30 years imprisonment and a \$10,000 fine. Sections 775.082 and 775.083, F.S.

²⁸ A capital felony is punished by death if the proceeding held to determine sentence according to the procedure set forth in s. 921.141, F.S., results in findings by the court that such person shall be punished by death, otherwise such person shall be punished by life imprisonment and a \$15,000 fine. Sections 775.082 and 775.083, F.S.

²⁹ *Id.*

- 3,4-Methylenedioxypropylone (MDPV); and
- Methylenedioxymethcathinone.

Molly is often sold as “bath salts” compounds and are similar in chemical structure to “Ecstasy.”³⁰ These substances pose significant health risks to users and are commonly imported from overseas via the Internet. The substances are then purchased for use in the U.S., particularly with intent to be distributed at clubs, parties and other social gatherings.³¹

Currently, the three substances most often found in “Molly” are not listed in s. 893.135(1)(k), F.S.

Effect of the Bill

The bill adds the following substances, and analogs or isomers thereto, to s. 893.135(1)(k), F.S.:

- 3,4-Methylenedioxymethcathinone;
- 3,4-Methylenedioxypropylone (MDPV); and
- Methylenedioxymethcathinone.

As a result, the criminal penalties provided in s. 893.135(1)(k), F.S., will apply to these substances.

B. SECTION DIRECTORY:

Section 1. Amends s. 893.03, F.S., relating to standards and schedules.

Section 2. Reenacts and amends s. 893.13, F.S., relating to prohibited acts; penalties.

Section 3. Amends s. 893.135, F.S., relating to trafficking; mandatory sentences; suspension or reduction of sentences; conspiracy to engage in trafficking.

Section 4. Reenacts s. 921.0022, F.S., relating to Criminal Punishment Code; offense severity ranking chart.

Section 5. The bill is effective upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have an impact on state revenues.

2. Expenditures:

The bill adds additional chemical substances to Schedule I of Florida’s controlled substance schedules. According to FDLE, this could potentially increase the number of evidence submissions into FDLE’s Crime Laboratory System.³² The lab system will need to acquire all of the required standards necessary to test the proposed chemical substances.³³ However, FDLE’s fiscal analysis states that the bill will have a minimal fiscal impact on FDLE and absorbed within their current budget.³⁴

The Criminal Justice Impact Conference has not met to determine the prison bed impact of this bill. However, during the 2013 legislative session, the Conference determined that HB 619, which is

³⁰ *Id.*

³¹ *Id.*

³² FDLE HB 697 Analysis (on file with the Criminal Justice Subcommittee).

³³ *Id.*

³⁴ *Id.*

similar to this bill, would have an insignificant negative prison bed impact. As a result, it is expected that the bill will have an insignificant negative prison bed impact on the Department of Corrections.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

Because the bill adds certain synthetic substances to s. 893.03, F.S., local agencies which fund and maintain their own crime lab with a chemistry section would potentially be facing a rise in evidence submissions associated with the additions of the proposed chemical substances.³⁵ This may also have a negative jail bed impact because possession of three grams or less of the newly added substances is a first degree misdemeanor.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

According to FDLE, the bill should have little impact on the private sector and would only affect those retailers who are currently profiting on the sale of chemical substances known to be abused by those seeking an altered mental state or 'high.'³⁶

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Lines 571 and 579: The bill adds the new synthetic cannabinoids and phenethylamines to s. 893.13(6)(b), F.S., which makes possession of less than 3 grams of *synthetic cannabinoids* a misdemeanor. As drafted, the bill cites to substances listed s. 893.03(1)(c)166.-175., F.S. The substances listed as 174. and 175. are not synthetic cannabinoids, but are synthetic phenethylamines. The bill should be amended to cite only to s. 893.03(1)(c)166.-173., F.S.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

³⁵ *Id.*

³⁶ *Id.*

1 A bill to be entitled
 2 An act relating to controlled substances; amending s.
 3 893.03, F.S.; adding to the list of Schedule I
 4 controlled substances specified materials, compounds,
 5 mixtures, or preparations that contain hallucinogenic
 6 substances, or any of their salts, isomers, and salts
 7 of isomers, if the existence of such salts, isomers,
 8 and salts of isomers is possible within the specific
 9 chemical designation; reenacting and amending s.
 10 893.13(1)-(6), F.S., relating to prohibited acts and
 11 penalties involving controlled substances, to
 12 incorporate the amendment made to s. 893.03, F.S., in
 13 a reference thereto; providing reduced penalties for
 14 possession of 3 grams or less of specified controlled
 15 substances; amending s. 893.135, F.S.; providing that
 16 a person who knowingly sells, purchases, manufactures,
 17 delivers, or brings into this state specified
 18 quantities of 3,4-Methylenedioxymethcathinone, 3,4-
 19 Methylenedioxypropylone (MDPV), or
 20 Methylmethcathinone, or who is knowingly in actual or
 21 constructive possession of specified quantities of
 22 3,4-Methylenedioxymethcathinone, 3,4-
 23 Methylenedioxypropylone (MDPV), or
 24 Methylmethcathinone, commits the offense of
 25 trafficking in Phenethylamines, a felony of the first
 26 degree; providing that a person who knowingly sells,

27 purchases, manufactures, delivers, or brings into this
 28 state specified quantities of 3,4-
 29 Methylenedioxymethcathinone, 3,4-
 30 Methylenedioxypropylone (MDPV), or
 31 Methylenedioxymethcathinone, or who is knowingly in actual or
 32 constructive possession of specified quantities of
 33 3,4-Methylenedioxymethcathinone, 3,4-
 34 Methylenedioxypropylone (MDPV), or
 35 Methylenedioxymethcathinone, commits the offense of capital
 36 manufacture or importation of Phenethylamines, a
 37 capital felony; providing criminal penalties;
 38 reenacting s. 921.0022(3)(b), (c), (e), and (g)-(i),
 39 F.S., relating to the Criminal Punishment Code, to
 40 incorporate the amendment made to ss. 893.03 and
 41 893.135, F.S., in a reference thereto; providing an
 42 effective date.

43
 44 Be It Enacted by the Legislature of the State of Florida:

45
 46 Section 1. Paragraph (c) of subsection (1) of section
 47 893.03, Florida Statutes, is amended to read:

48 893.03 Standards and schedules.—The substances enumerated
 49 in this section are controlled by this chapter. The controlled
 50 substances listed or to be listed in Schedules I, II, III, IV,
 51 and V are included by whatever official, common, usual,
 52 chemical, or trade name designated. The provisions of this

53 section shall not be construed to include within any of the
 54 schedules contained in this section any excluded drugs listed
 55 within the purview of 21 C.F.R. s. 1308.22, styled "Excluded
 56 Substances"; 21 C.F.R. s. 1308.24, styled "Exempt Chemical
 57 Preparations"; 21 C.F.R. s. 1308.32, styled "Exempted
 58 Prescription Products"; or 21 C.F.R. s. 1308.34, styled "Exempt
 59 Anabolic Steroid Products."

60 (1) SCHEDULE I.—A substance in Schedule I has a high
 61 potential for abuse and has no currently accepted medical use in
 62 treatment in the United States and in its use under medical
 63 supervision does not meet accepted safety standards. The
 64 following substances are controlled in Schedule I:

65 (c) Unless specifically excepted or unless listed in
 66 another schedule, any material, compound, mixture, or
 67 preparation that contains any quantity of the following
 68 hallucinogenic substances or that contains any of their salts,
 69 isomers, including optical, positional, or geometric isomers,
 70 and salts of isomers, if the existence of such salts, isomers,
 71 and salts of isomers is possible within the specific chemical
 72 designation:

- 73 1. Alpha-ethyltryptamine.
- 74 2. 2-Amino-4-methyl-5-phenyl-2-oxazoline (4-
 75 methylaminorex).
- 76 3. 2-Amino-5-phenyl-2-oxazoline (Aminorex).
- 77 4. 4-Bromo-2,5-dimethoxyamphetamine.
- 78 5. 4-Bromo-2,5-dimethoxyphenethylamine.

- 79 | 6. Bufotenine.
- 80 | 7. Cannabis.
- 81 | 8. Cathinone.
- 82 | 9. Diethyltryptamine.
- 83 | 10. 2,5-Dimethoxyamphetamine.
- 84 | 11. 2,5-Dimethoxy-4-ethylamphetamine (DOET).
- 85 | 12. Dimethyltryptamine.
- 86 | 13. N-Ethyl-1-phenylcyclohexylamine (PCE) (Ethylamine
- 87 | analog of phencyclidine).
- 88 | 14. N-Ethyl-3-piperidyl benzilate.
- 89 | 15. N-ethylamphetamine.
- 90 | 16. Fenethylamine.
- 91 | 17. N-Hydroxy-3,4-methylenedioxyamphetamine.
- 92 | 18. Ibogaine.
- 93 | 19. Lysergic acid diethylamide (LSD).
- 94 | 20. Mescaline.
- 95 | 21. Methcathinone.
- 96 | 22. 5-Methoxy-3,4-methylenedioxyamphetamine.
- 97 | 23. 4-methoxyamphetamine.
- 98 | 24. 4-methoxymethamphetamine.
- 99 | 25. 4-Methyl-2,5-dimethoxyamphetamine.
- 100 | 26. 3,4-Methylenedioxy-N-ethylamphetamine.
- 101 | 27. 3,4-Methylenedioxyamphetamine.
- 102 | 28. N-Methyl-3-piperidyl benzilate.
- 103 | 29. N,N-dimethylamphetamine.
- 104 | 30. Parahexyl.

- 105 31. Peyote.
- 106 32. N-(1-Phenylcyclohexyl)-pyrrolidine (PCPY) (Pyrrolidine
- 107 analog of phencyclidine).
- 108 33. Psilocybin.
- 109 34. Psilocyn.
- 110 35. *Salvia divinorum*, except for any drug product approved
- 111 by the United States Food and Drug Administration which contains
- 112 *Salvia divinorum* or its isomers, esters, ethers, salts, and
- 113 salts of isomers, esters, and ethers, if the existence of such
- 114 isomers, esters, ethers, and salts is possible within the
- 115 specific chemical designation.
- 116 36. Salvinorin A, except for any drug product approved by
- 117 the United States Food and Drug Administration which contains
- 118 Salvinorin A or its isomers, esters, ethers, salts, and salts of
- 119 isomers, esters, and ethers, if the existence of such isomers,
- 120 esters, ethers, and salts is possible within the specific
- 121 chemical designation.
- 122 37. Tetrahydrocannabinols.
- 123 38. 1-[1-(2-Thienyl)-cyclohexyl]-piperidine (TCP)
- 124 (Thiophene analog of phencyclidine).
- 125 39. 3,4,5-Trimethoxyamphetamine.
- 126 40. 3,4-Methylenedioxymethcathinone.
- 127 41. 3,4-Methylenedioxypyrovalerone (MDPV).
- 128 42. Methylmethcathinone.
- 129 43. Methoxymethcathinone.
- 130 44. Fluoromethcathinone.

- 131 | 45. Methylethcathinone.
- 132 | 46. 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-
- 133 | yl)phenol, also known as CP 47,497 and its dimethyloctyl (C8)
- 134 | homologue.
- 135 | 47. (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-
- 136 | methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo [c]chromen-1-ol,
- 137 | also known as HU-210.
- 138 | 48. 1-Pentyl-3-(1-naphthoyl)indole, also known as JWH-018.
- 139 | 49. 1-Butyl-3-(1-naphthoyl)indole, also known as JWH-073.
- 140 | 50. 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl) indole,
- 141 | also known as JWH-200.
- 142 | 51. BZP (Benzylpiperazine).
- 143 | 52. Fluorophenylpiperazine.
- 144 | 53. Methylphenylpiperazine.
- 145 | 54. Chlorophenylpiperazine.
- 146 | 55. Methoxyphenylpiperazine.
- 147 | 56. DBZP (1,4-dibenzylpiperazine).
- 148 | 57. TFMPP (3-Trifluoromethylphenylpiperazine).
- 149 | 58. MBDB (Methylbenzodioxolylbutanamine).
- 150 | 59. 5-Hydroxy-alpha-methyltryptamine.
- 151 | 60. 5-Hydroxy-N-methyltryptamine.
- 152 | 61. 5-Methoxy-N-methyl-N-isopropyltryptamine.
- 153 | 62. 5-Methoxy-alpha-methyltryptamine.
- 154 | 63. Methyltryptamine.
- 155 | 64. 5-Methoxy-N,N-dimethyltryptamine.
- 156 | 65. 5-Methyl-N,N-dimethyltryptamine.

- 157 | 66. Tyramine (4-Hydroxyphenethylamine).
- 158 | 67. 5-Methoxy-N,N-Diisopropyltryptamine.
- 159 | 68. DiPT (N,N-Diisopropyltryptamine).
- 160 | 69. DPT (N,N-Dipropyltryptamine).
- 161 | 70. 4-Hydroxy-N,N-diisopropyltryptamine.
- 162 | 71. N,N-Diallyl-5-Methoxytryptamine.
- 163 | 72. DOI (4-Iodo-2,5-dimethoxyamphetamine).
- 164 | 73. DOC (4-Chloro-2,5-dimethoxyamphetamine).
- 165 | 74. 2C-E (4-Ethyl-2,5-dimethoxyphenethylamine).
- 166 | 75. 2C-T-4 (2,5-Dimethoxy-4-isopropylthiophenethylamine).
- 167 | 76. 2C-C (4-Chloro-2,5-dimethoxyphenethylamine).
- 168 | 77. 2C-T (2,5-Dimethoxy-4-methylthiophenethylamine).
- 169 | 78. 2C-T-2 (2,5-Dimethoxy-4-ethylthiophenethylamine).
- 170 | 79. 2C-T-7 (2,5-Dimethoxy-4-(n)-propylthiophenethylamine).
- 171 | 80. 2C-I (4-Iodo-2,5-dimethoxyphenethylamine).
- 172 | 81. Butylone (beta-keto-N-methylbenzodioxolylpropylamine).
- 173 | 82. Ethcathinone.
- 174 | 83. Ethylone (3,4-methylenedioxy-N-ethylcathinone).
- 175 | 84. Naphyrone (naphthylpyrovalerone).
- 176 | 85. N-N-Dimethyl-3,4-methylenedioxycathinone.
- 177 | 86. N-N-Diethyl-3,4-methylenedioxycathinone.
- 178 | 87. 3,4-methylenedioxy-propiofenone.
- 179 | 88. 2-Bromo-3,4-Methylenedioxypropiofenone.
- 180 | 89. 3,4-methylenedioxy-propiofenone-2-oxime.
- 181 | 90. N-Acetyl-3,4-methylenedioxycathinone.
- 182 | 91. N-Acetyl-N-Methyl-3,4-Methylenedioxycathinone.

- 183 | 92. N-Acetyl-N-Ethyl-3,4-Methylenedioxcathinone.
- 184 | 93. Bromomethcathinone.
- 185 | 94. Buphedrone (alpha-methylamino-butyrophenone).
- 186 | 95. Eutylone (beta-Keto-Ethylbenzodioxolylbutanamine).
- 187 | 96. Dimethylcathinone.
- 188 | 97. Dimethylmethcathinone.
- 189 | 98. Pentylone (beta-Keto-Methylbenzodioxolylpentanamine).
- 190 | 99. (MDPPP) 3,4-Methylenedioxy-alpha-
- 191 | pyrrolidinopropiophenone.
- 192 | 100. (MDPBP) 3,4-Methylenedioxy-alpha-
- 193 | pyrrolidinobutiophenone.
- 194 | 101. Methoxy-alpha-pyrrolidinopropiophenone (MOPPP).
- 195 | 102. Methyl-alpha-pyrrolidinohexiophenone (MPHP).
- 196 | 103. Benocyclidine (BCP) or
- 197 | benzothiophenylcyclohexylpiperidine (BTCP).
- 198 | 104. Fluoromethylaminobutyrophenone (F-MABP).
- 199 | 105. Methoxypyrrolidinobutyrophenone (MeO-PBP).
- 200 | 106. Ethyl-pyrrolidinobutyrophenone (Et-PBP).
- 201 | 107. 3-Methyl-4-Methoxymethcathinone (3-Me-4-MeO-MCAT).
- 202 | 108. Methylethylaminobutyrophenone (Me-EABP).
- 203 | 109. Methylamino-butyrophenone (MABP).
- 204 | 110. Pyrrolidinopropiophenone (PPP).
- 205 | 111. Pyrrolidinobutiophenone (PBP).
- 206 | 112. Pyrrolidinovalerophenone (PVP).
- 207 | 113. Methyl-alpha-pyrrolidinopropiophenone (MPPP).
- 208 | 114. JWH-007 (1-pentyl-2-methyl-3-(1-naphthoyl)indole).

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- 209 115. JWH-015 (2-Methyl-1-propyl-1H-indol-3-yl)-1-
 210 naphthalenylmethanone).
- 211 116. JWH-019 (Naphthalen-1-yl-(1-hexylindol-3-
 212 yl)methanone).
- 213 117. JWH-020 (1-heptyl-3-(1-naphthoyl)indole).
- 214 118. JWH-072 (Naphthalen-1-yl-(1-propyl-1H-indol-3-
 215 yl)methanone).
- 216 119. JWH-081 (4-methoxynaphthalen-1-yl-(1-pentylindol-3-
 217 yl)methanone).
- 218 120. JWH-122 (1-pentyl-3-(4-methyl-1-naphthoyl)indole).
- 219 121. JWH-133 ((6aR,10aR)-3-(1,1-Dimethylbutyl)-
 220 6a,7,10,10a-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran)).
- 221 122. JWH-175 (3-(naphthalen-1-ylmethyl)-1-pentyl-1H-
 222 indole).
- 223 123. JWH-201 (1-pentyl-3-(4-methoxyphenylacetyl)indole).
- 224 124. JWH-203 (2-(2-chlorophenyl)-1-(1-pentylindol-3-
 225 yl)ethanone).
- 226 125. JWH-210 (4-ethylnaphthalen-1-yl-(1-pentylindol-3-
 227 yl)methanone).
- 228 126. JWH-250 (2-(2-methoxyphenyl)-1-(1-pentylindol-3-
 229 yl)ethanone).
- 230 127. JWH-251 (2-(2-methylphenyl)-1-(1-pentyl-1H-indol-3-
 231 yl)ethanone).
- 232 128. JWH-302 (1-pentyl-3-(3-methoxyphenylacetyl)indole).
- 233 129. JWH-398 (1-pentyl-3-(4-chloro-1-naphthoyl)indole).
- 234 130. HU-211 ((6aS,10aS)-9-(Hydroxymethyl)-6,6-dimethyl-3-

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235 (2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-
 236 ol).

237 131. HU-308 ([(1R,2R,5R)-2-[2,6-dimethoxy-4-(2-
 238 methyloctan-2-yl)phenyl]-7,7-dimethyl-4-bicyclo[3.1.1]hept-3-
 239 enyl] methanol).

240 132. HU-331 (3-hydroxy-2-[(1R,6R)-3-methyl-6-(1-
 241 methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-2,5-cyclohexadiene-
 242 1,4-dione).

243 133. CB-13 (Naphthalen-1-yl-(4-pentyloxynaphthalen-1-
 244 yl)methanone).

245 134. CB-25 (N-cyclopropyl-11-(3-hydroxy-5-pentylphenoxy)-
 246 undecanamide).

247 135. CB-52 (N-cyclopropyl-11-(2-hexyl-5-hydroxyphenoxy)-
 248 undecanamide).

249 136. CP 55,940 (2-[(1R,2R,5R)-5-hydroxy-2-(3-
 250 hydroxypropyl)cyclohexyl]-5-(2-methyloctan-2-yl)phenol).

251 137. AM-694 (1-[(5-fluoropentyl)-1H-indol-3-yl]-2-
 252 iodophenyl)methanone).

253 138. AM-2201 (1-[(5-fluoropentyl)-1H-indol-3-yl]-
 254 (naphthalen-1-yl)methanone).

255 139. RCS-4 ((4-methoxyphenyl) (1-pentyl-1H-indol-3-
 256 yl)methanone).

257 140. RCS-8 (1-(1-(2-cyclohexylethyl)-1H-indol-3-yl)-2-(2-
 258 methoxyphenylethanone).

259 141. WIN55,212-2 ((R)-(+)-[2,3-Dihydro-5-methyl-3-(4-
 260 morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-

- 261 naphthalenylmethanone).
- 262 142. WIN55,212-3 ([(3S)-2,3-Dihydro-5-methyl-3-(4-
- 263 morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-
- 264 naphthalenylmethanone).
- 265 143. Pentedrone (2-(methylamino)-1-phenyl-1-pentanone).
- 266 144. Fluoroamphetamine.
- 267 145. Fluoromethamphetamine.
- 268 146. Methoxetamine.
- 269 147. Methiopropamine.
- 270 148. 4-Methylbuphedrone (2-Methylamino-1-(4-
- 271 methylphenyl)butan-1-one).
- 272 149. APB ((2-aminopropyl)benzofuran).
- 273 150. APDB ((2-aminopropyl)-2,3-dihydrobenzofuran).
- 274 151. UR-144 ((1-pentyl-1H-indol-3-yl)(2,2,3,3-
- 275 tetramethylcyclopropyl)methanone).
- 276 152. XLR11 ((1-(5-fluoropentyl)-1H-indol-3-yl)(2,2,3,3-
- 277 tetramethylcyclopropyl)methanone).
- 278 153. (1-(5-chloropentyl)-1H-indol-3-yl)(2,2,3,3-
- 279 tetramethylcyclopropyl)methanone.
- 280 154. AKB48 (1-pentyl-N-tricyclo[3.3.1.13,7]dec-1-yl-1H-
- 281 indazole-3-carboxamide).
- 282 155. AM-2233((2-iodophenyl)[1-[(1-methyl-2-
- 283 piperidinyl)methyl]-1H-indol-3-yl]-methanone).
- 284 156. STS-135 (1-(5-fluoropentyl)-N-
- 285 tricyclo[3.3.1.13,7]dec-1-yl-1H-indole-3-carboxamide).
- 286 157. URB-597 ((3'-(aminocarbonyl)[1,1'-biphenyl]-3-yl)-

- 287 cyclohexylcarbamate).
- 288 158. URB-602 ([1,1'-biphenyl]-3-yl-carbamic acid,
289 cyclohexyl ester).
- 290 159. URB-754 (6-methyl-2-[(4-methylphenyl)amino]-1-
291 benzoxazin-4-one).
- 292 160. 2C-D (2-(2,5-Dimethoxy-4-methylphenyl)ethanamine).
- 293 161. 2C-H (2-(2,5-Dimethoxyphenyl)ethanamine).
- 294 162. 2C-N (2-(2,5-Dimethoxy-4-nitrophenyl)ethanamine).
- 295 163. 2C-P (2-(2,5-Dimethoxy-4-(n)-
296 propylphenyl)ethanamine).
- 297 164. 25I-NBOMe (4-iodo-2,5-dimethoxy-N-[(2-
298 methoxyphenyl)methyl]-benzeneethanamine).
- 299 165. 3,4-Methylenedioxyamphetamine (MDMA).
- 300 166. PB-22 (1-pentyl-8-quinolinyl ester-1H-indole-3-
301 carboxylic acid).
- 302 167. 5-Fluoro PB-22 (8-quinolinyl ester-1-(5-
303 fluoropentyl)-1H-indole-3-carboxylic acid).
- 304 168. BB-22 (1-(cyclohexylmethyl)-8-quinolinyl ester-1H-
305 indole-3-carboxylic acid).
- 306 169. 5-Fluoro AKB48 (N-((3s,5s,7s)-adamantan-1-yl)-1-(5-
307 fluoropentyl)-1H-indazole-3-carboxamide).
- 308 170. AB-PINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-
309 pentyl-1H-indazole-3-carboxamide).
- 310 171. AB-FUBINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-
311 (4-fluorobenzyl)-1H-indazole-3-carboxamide).
- 312 172. ADB-PINACA (N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-

313 1-pentyl-1H-indazole-3-carboxamide).

314 173. Fluoro ADBICA (N-(1-Amino-3,3-dimethyl-1-oxobutan-2-
 315 yl)-1-(fluoropentyl)-1H-indole-3-carboxamide).

316 174. 25B-NBOMe (4-bromo-2,5-dimethoxy-N-[(2-methoxyphenyl)
 317 methyl]-benzeneethanamine).

318 175. 2C-C-NBOMe (4-chloro-2,5-dimethoxy-N-[(2-
 319 methoxyphenyl)methyl]-benzeneethanamine).

320 Section 2. For the purpose of incorporating the amendment
 321 made by this act to section 893.03, Florida Statutes, in
 322 reference thereto, subsections (1) through (6) of section
 323 893.13, Florida Statutes, are reenacted and amended to read:

324 893.13 Prohibited acts; penalties.-

325 (1)(a) Except as authorized by this chapter and chapter
 326 499, a it is unlawful for any person may not to sell,
 327 manufacture, or deliver, or possess with intent to sell,
 328 manufacture, or deliver, a controlled substance. A ~~Any~~ person
 329 who violates this provision with respect to:

330 1. A controlled substance named or described in s.
 331 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.7
 332 commits a felony of the second degree, punishable as provided in
 333 s. 775.082, s. 775.083, or s. 775.084.

334 2. A controlled substance named or described in s.
 335 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
 336 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of
 337 the third degree, punishable as provided in s. 775.082, s.
 338 775.083, or s. 775.084.

339 3. A controlled substance named or described in s.
 340 893.03(5) commits a misdemeanor of the first degree, punishable
 341 as provided in s. 775.082 or s. 775.083.

342 (b) Except as provided in this chapter, a person may not
 343 ~~it is unlawful to~~ sell or deliver in excess of 10 grams of any
 344 substance named or described in s. 893.03(1)(a) or (1)(b), or
 345 any combination thereof, or any mixture containing any such
 346 substance. A ~~Any~~ person who violates this paragraph commits a
 347 felony of the first degree, punishable as provided in s.
 348 775.082, s. 775.083, or s. 775.084.

349 (c) Except as authorized by this chapter, a ~~it is unlawful~~
 350 ~~for any person may not to~~ sell, manufacture, or deliver, or
 351 possess with intent to sell, manufacture, or deliver, a
 352 controlled substance in, on, or within 1,000 feet of the real
 353 property comprising a child care facility as defined in s.
 354 402.302 or a public or private elementary, middle, or secondary
 355 school between the hours of 6 a.m. and 12 midnight, or at any
 356 time in, on, or within 1,000 feet of real property comprising a
 357 state, county, or municipal park, a community center, or a
 358 publicly owned recreational facility. As used in ~~For the~~
 359 ~~purposes of~~ this paragraph, the term "community center" means a
 360 facility operated by a nonprofit community-based organization
 361 for the provision of recreational, social, or educational
 362 services to the public. A ~~Any~~ person who violates this paragraph
 363 with respect to:

364 1. A controlled substance named or described in s.

365 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. ~~7~~
 366 commits a felony of the first degree, punishable as provided in
 367 s. 775.082, s. 775.083, or s. 775.084. The defendant must be
 368 sentenced to a minimum term of imprisonment of 3 calendar years
 369 unless the offense was committed within 1,000 feet of the real
 370 property comprising a child care facility as defined in s.
 371 402.302.

372 2. A controlled substance named or described in s.
 373 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
 374 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of
 375 the second degree, punishable as provided in s. 775.082, s.
 376 775.083, or s. 775.084.

377 3. Any other controlled substance, except as lawfully
 378 sold, manufactured, or delivered, must be sentenced to pay a
 379 \$500 fine and to serve 100 hours of public service in addition
 380 to any other penalty prescribed by law.

381
 382 This paragraph does not apply to a child care facility unless
 383 the owner or operator of the facility posts a sign that is not
 384 less than 2 square feet in size with a word legend identifying
 385 the facility as a licensed child care facility and that is
 386 posted on the property of the child care facility in a
 387 conspicuous place where the sign is reasonably visible to the
 388 public.

389 (d) Except as authorized by this chapter, a ~~it is unlawful~~
 390 ~~for any person may not~~ to sell, manufacture, or deliver, or

391 possess with intent to sell, manufacture, or deliver, a
 392 controlled substance in, on, or within 1,000 feet of the real
 393 property comprising a public or private college, university, or
 394 other postsecondary educational institution. A ~~Any~~ person who
 395 violates this paragraph with respect to:

396 1. A controlled substance named or described in s.
 397 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. ~~r~~
 398 commits a felony of the first degree, punishable as provided in
 399 s. 775.082, s. 775.083, or s. 775.084.

400 2. A controlled substance named or described in s.
 401 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
 402 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of
 403 the second degree, punishable as provided in s. 775.082, s.
 404 775.083, or s. 775.084.

405 3. Any other controlled substance, except as lawfully
 406 sold, manufactured, or delivered, must be sentenced to pay a
 407 \$500 fine and to serve 100 hours of public service in addition
 408 to any other penalty prescribed by law.

409 (e) Except as authorized by this chapter, a ~~it is unlawful~~
 410 ~~for any person may not~~ to sell, manufacture, or deliver, or
 411 possess with intent to sell, manufacture, or deliver, a
 412 controlled substance not authorized by law in, on, or within
 413 1,000 feet of a physical place for worship at which a church or
 414 religious organization regularly conducts religious services or
 415 within 1,000 feet of a convenience business as defined in s.
 416 812.171. A ~~Any~~ person who violates this paragraph with respect

417 to:

418 1. A controlled substance named or described in s.
 419 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.
 420 commits a felony of the first degree, punishable as provided in
 421 s. 775.082, s. 775.083, or s. 775.084.

422 2. A controlled substance named or described in s.
 423 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
 424 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of
 425 the second degree, punishable as provided in s. 775.082, s.
 426 775.083, or s. 775.084.

427 3. Any other controlled substance, except as lawfully
 428 sold, manufactured, or delivered, must be sentenced to pay a
 429 \$500 fine and to serve 100 hours of public service in addition
 430 to any other penalty prescribed by law.

431 (f) Except as authorized by this chapter, a ~~it is unlawful~~
 432 ~~for any person may not~~ to sell, manufacture, or deliver, or
 433 possess with intent to sell, manufacture, or deliver, a
 434 controlled substance in, on, or within 1,000 feet of the real
 435 property comprising a public housing facility at any time. As
 436 used in ~~For purposes of~~ this section, the term "real property
 437 comprising a public housing facility" means real property, as
 438 defined in s. 421.03(12), of a public corporation created as a
 439 housing authority pursuant to part I of chapter 421. A ~~Any~~
 440 person who violates this paragraph with respect to:

441 1. A controlled substance named or described in s.
 442 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.

443 commits a felony of the first degree, punishable as provided in
 444 s. 775.082, s. 775.083, or s. 775.084.

445 2. A controlled substance named or described in s.
 446 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
 447 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of
 448 the second degree, punishable as provided in s. 775.082, s.
 449 775.083, or s. 775.084.

450 3. Any other controlled substance, except as lawfully
 451 sold, manufactured, or delivered, must be sentenced to pay a
 452 \$500 fine and to serve 100 hours of public service in addition
 453 to any other penalty prescribed by law.

454 (g) Except as authorized by this chapter, a ~~it is unlawful~~
 455 ~~for any person~~ may not ~~to~~ manufacture methamphetamine or
 456 phencyclidine, or possess any listed chemical as defined in s.
 457 893.033 in violation of s. 893.149 and with intent to
 458 manufacture methamphetamine or phencyclidine. If a ~~any~~ person
 459 violates this paragraph and:

460 1. The commission or attempted commission of the crime
 461 occurs in a structure or conveyance where any child younger than
 462 ~~under~~ 16 years of age is present, the person commits a felony of
 463 the first degree, punishable as provided in s. 775.082, s.
 464 775.083, or s. 775.084. In addition, the defendant must be
 465 sentenced to a minimum term of imprisonment of 5 calendar years.

466 2. The commission of the crime causes any child younger
 467 than ~~under~~ 16 years of age to suffer great bodily harm, the
 468 person commits a felony of the first degree, punishable as

469 provided in s. 775.082, s. 775.083, or s. 775.084. In addition,
 470 the defendant must be sentenced to a minimum term of
 471 imprisonment of 10 calendar years.

472 (h) Except as authorized by this chapter, a ~~it is unlawful~~
 473 ~~for any person may not~~ to sell, manufacture, or deliver, or
 474 possess with intent to sell, manufacture, or deliver, a
 475 controlled substance in, on, or within 1,000 feet of the real
 476 property comprising an assisted living facility, as that term is
 477 used in chapter 429. A ~~Any~~ person who violates this paragraph
 478 with respect to:

479 1. A controlled substance named or described in s.
 480 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.
 481 commits a felony of the first degree, punishable as provided in
 482 s. 775.082, s. 775.083, or s. 775.084.

483 2. A controlled substance named or described in s.
 484 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
 485 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of
 486 the second degree, punishable as provided in s. 775.082, s.
 487 775.083, or s. 775.084.

488 (2)(a) Except as authorized by this chapter and chapter
 489 499, a ~~it is unlawful for any person may not~~ to purchase, or
 490 possess with intent to purchase, a controlled substance. A ~~Any~~
 491 person who violates this provision with respect to:

492 1. A controlled substance named or described in s.
 493 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.
 494 commits a felony of the second degree, punishable as provided in

495 s. 775.082, s. 775.083, or s. 775.084.

496 2. A controlled substance named or described in s.
 497 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
 498 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of
 499 the third degree, punishable as provided in s. 775.082, s.
 500 775.083, or s. 775.084.

501 3. A controlled substance named or described in s.
 502 893.03(5) commits a misdemeanor of the first degree, punishable
 503 as provided in s. 775.082 or s. 775.083.

504 (b) Except as provided in this chapter, a person may not
 505 ~~it is unlawful to purchase more than in excess of~~ 10 grams of
 506 any substance named or described in s. 893.03(1)(a) or (1)(b),
 507 or any combination thereof, or any mixture containing any such
 508 substance. A ~~Any~~ person who violates this paragraph commits a
 509 felony of the first degree, punishable as provided in s.
 510 775.082, s. 775.083, or s. 775.084.

511 (3) A ~~Any~~ person who delivers, without consideration, ~~not~~
 512 ~~more than~~ 20 grams or less of cannabis, as defined in this
 513 chapter, commits a misdemeanor of the first degree, punishable
 514 as provided in s. 775.082 or s. 775.083. As used in ~~For the~~
 515 ~~purposes of~~ this paragraph, the term "cannabis" does not include
 516 the resin extracted from the plants of the genus *Cannabis* or any
 517 compound manufacture, salt, derivative, mixture, or preparation
 518 of such resin.

519 (4) Except as authorized by this chapter, a ~~it is unlawful~~
 520 ~~for any~~ person 18 years of age or older may not ~~to~~ deliver any

521 controlled substance to a person younger than ~~under the age of~~
 522 18 years of age, ~~or to~~ use or hire a person younger than ~~under~~
 523 ~~the age of~~ 18 years of age as an agent or employee in the sale
 524 or delivery of such a substance, or ~~to~~ use such person to assist
 525 in avoiding detection or apprehension for a violation of this
 526 chapter. A ~~Any~~ person who violates this provision with respect
 527 to:

528 (a) A controlled substance named or described in s.
 529 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.~~7~~
 530 commits a felony of the first degree, punishable as provided in
 531 s. 775.082, s. 775.083, or s. 775.084.

532 (b) A controlled substance named or described in s.
 533 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
 534 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of
 535 the second degree, punishable as provided in s. 775.082, s.
 536 775.083, or s. 775.084.

537
 538 Imposition of sentence may not be suspended or deferred, and ~~nor~~
 539 ~~shall~~ the person so convicted may not be placed on probation.

540 (5) A ~~It is unlawful for any person~~ may not ~~to~~ bring into
 541 this state any controlled substance unless the possession of
 542 such controlled substance is authorized by this chapter or
 543 unless such person is licensed to do so by the appropriate
 544 federal agency. A ~~Any~~ person who violates this provision with
 545 respect to:

546 (a) A controlled substance named or described in s.

547 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.~~7~~
 548 commits a felony of the second degree, punishable as provided in
 549 s. 775.082, s. 775.083, or s. 775.084.

550 (b) A controlled substance named or described in s.
 551 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
 552 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of
 553 the third degree, punishable as provided in s. 775.082, s.
 554 775.083, or s. 775.084.

555 (c) A controlled substance named or described in s.
 556 893.03(5) commits a misdemeanor of the first degree, punishable
 557 as provided in s. 775.082 or s. 775.083.

558 (6)(a) A ~~It is unlawful for any person may not~~ to be in
 559 actual or constructive possession of a controlled substance
 560 unless such controlled substance was lawfully obtained from a
 561 practitioner or pursuant to a valid prescription or order of a
 562 practitioner while acting in the course of his or her
 563 professional practice or to be in actual or constructive
 564 possession of a controlled substance except as otherwise
 565 authorized by this chapter. A ~~Any~~ person who violates this
 566 provision commits a felony of the third degree, punishable as
 567 provided in s. 775.082, s. 775.083, or s. 775.084.

568 (b) If the offense is the possession of ~~not more than~~ 20
 569 grams or less of cannabis, as defined in this chapter, or 3
 570 grams or less of a controlled substance described in s.
 571 893.03(1)(c)46.-50., 114.-142., 151.-159., or 166.-175. ~~166.-~~
 572 ~~169.~~, the person commits a misdemeanor of the first degree,

573 punishable as provided in s. 775.082 or s. 775.083. As used in
 574 ~~For the purposes of~~ this subsection, the term "cannabis" does
 575 not include the resin extracted from the plants of the genus
 576 *Cannabis*, or any compound manufacture, salt, derivative,
 577 mixture, or preparation of such resin, and a controlled
 578 substance described in s. 893.03(1)(c)46.-50., 114.-142., 151.-
 579 159., or 166.-175. ~~166.-169.~~, does not include the substance in
 580 a powdered form.

581 (c) Except as provided in this chapter, a person may not
 582 ~~it is unlawful to~~ possess more than ~~in excess of~~ 10 grams of any
 583 substance named or described in s. 893.03(1)(a) or (1)(b), or
 584 any combination thereof, or any mixture containing any such
 585 substance. A ~~Any~~ person who violates this paragraph commits a
 586 felony of the first degree, punishable as provided in s.
 587 775.082, s. 775.083, or s. 775.084.

588 (d) Notwithstanding any provision to the contrary of the
 589 laws of this state relating to arrest, a law enforcement officer
 590 may arrest without warrant any person who the officer has
 591 probable cause to believe is violating the provisions of this
 592 chapter relating to possession of cannabis.

593 Section 3. Paragraph (k) of subsection (1) of section
 594 893.135, Florida Statutes, is amended to read:

595 893.135 Trafficking; mandatory sentences; suspension or
 596 reduction of sentences; conspiracy to engage in trafficking.-

597 (1) Except as authorized in this chapter or in chapter 499
 598 and notwithstanding the provisions of s. 893.13:

599 (k)1. A ~~Any~~ person who knowingly sells, purchases,
 600 manufactures, delivers, or brings into this state, or who is
 601 knowingly in actual or constructive possession of, 10 grams or
 602 more of any of the following substances described in s.

603 893.03(1)(c):

- 604 a. 3,4-Methylenedioxymethamphetamine (MDMA);
- 605 b. 4-Bromo-2,5-dimethoxyamphetamine;
- 606 c. 4-Bromo-2,5-dimethoxyphenethylamine;
- 607 d. 2,5-Dimethoxyamphetamine;
- 608 e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);
- 609 f. N-ethylamphetamine;
- 610 g. N-Hydroxy-3,4-methylenedioxyamphetamine;
- 611 h. 5-Methoxy-3,4-methylenedioxyamphetamine;
- 612 i. 4-methoxyamphetamine;
- 613 j. 4-methoxymethamphetamine;
- 614 k. 4-Methyl-2,5-dimethoxyamphetamine;
- 615 l. 3,4-Methylenedioxy-N-ethylamphetamine;
- 616 m. 3,4-Methylenedioxyamphetamine;
- 617 n. N,N-dimethylamphetamine; ~~or~~
- 618 o. 3,4,5-Trimethoxyamphetamine; ~~or~~
- 619 p. 3,4-Methylenedioxymethcathinone;
- 620 q. 3,4-Methylenedioxyprovalerone (MDPV); or
- 621 r. Methylmethcathinone,

622
 623 individually or analogs thereto or isomers thereto or in any
 624 combination of or any mixture containing any substance listed in

625 sub-subparagraphs a.-r. ~~a.-e.~~, commits a felony of the first
 626 degree, which felony shall be known as "trafficking in
 627 Phenethylamines," punishable as provided in s. 775.082, s.
 628 775.083, or s. 775.084.

629 2. If the quantity involved:

630 a. Is 10 grams or more, but less than 200 grams, such
 631 person shall be sentenced to a mandatory minimum term of
 632 imprisonment of 3 years, ~~and the defendant~~ shall be ordered to
 633 pay a fine of \$50,000.

634 b. Is 200 grams or more, but less than 400 grams, such
 635 person shall be sentenced to a mandatory minimum term of
 636 imprisonment of 7 years, ~~and the defendant~~ shall be ordered to
 637 pay a fine of \$100,000.

638 c. Is 400 grams or more, such person shall be sentenced to
 639 a mandatory minimum term of imprisonment of 15 ~~calendar~~ years
 640 and shall be ordered to pay a fine of \$250,000.

641 3. A ~~Any~~ person who knowingly manufactures or brings into
 642 this state 30 kilograms or more of any of the following
 643 substances described in s. 893.03(1)(c):

- 644 a. 3,4-Methylenedioxyamphetamine (MDMA);
- 645 b. 4-Bromo-2,5-dimethoxyamphetamine;
- 646 c. 4-Bromo-2,5-dimethoxyphenethylamine;
- 647 d. 2,5-Dimethoxyamphetamine;
- 648 e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);
- 649 f. N-ethylamphetamine;
- 650 g. N-Hydroxy-3,4-methylenedioxyamphetamine;

- 651 h. 5-Methoxy-3,4-methylenedioxyamphetamine;
- 652 i. 4-methoxyamphetamine;
- 653 j. 4-methoxymethamphetamine;
- 654 k. 4-Methyl-2,5-dimethoxyamphetamine;
- 655 l. 3,4-Methylenedioxy-N-ethylamphetamine;
- 656 m. 3,4-Methylenedioxyamphetamine;
- 657 n. N,N-dimethylamphetamine; ~~or~~
- 658 o. 3,4,5-Trimethoxyamphetamine; ~~or~~
- 659 p. 3,4-Methylenedioxymethcathinone;
- 660 q. 3,4-Methylenedioxypyrovalerone (MDPV); or
- 661 r. Methyldmethcathinone,

662

663 individually or analogs thereto or isomers thereto or in any
 664 combination of or any mixture containing any substance listed in
 665 sub-subparagraphs a.-r. a.-o., and who knows that the probable
 666 result of such manufacture or importation would be the death of
 667 any person commits capital manufacture or importation of
 668 Phenethylamines, a capital felony punishable as provided in ss.
 669 775.082 and 921.142. A ~~Any~~ person sentenced for a capital felony
 670 under this paragraph shall also be sentenced to pay the maximum
 671 fine provided under subparagraph 1.

672 Section 4. For the purpose of incorporating the amendment
 673 made by this act to sections 893.03 and 893.135, Florida
 674 Statutes, in a reference thereto, paragraphs (b), (c), (e), and
 675 (g) through (i) of subsection (3) of section 921.0022, Florida
 676 Statutes, are reenacted to read:

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677 921.0022 Criminal Punishment Code; offense severity
 678 ranking chart.-

679 (3) OFFENSE SEVERITY RANKING CHART

680 (b) LEVEL 2

681

Florida	Felony	
Statute	Degree	Description

682

379.2431 (1)(e)3.	3rd	Possession of 11 or fewer marine turtle eggs in violation of the Marine Turtle Protection Act.
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683

379.2431 (1)(e)4.	3rd	Possession of more than 11 marine turtle eggs in violation of the Marine Turtle Protection Act.
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684

403.413(6)(c)	3rd	Dumps waste litter exceeding 500 lbs. in weight or 100 cubic feet in volume or any quantity for commercial purposes, or hazardous waste.
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685

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686	517.07 (2)	3rd	Failure to furnish a prospectus meeting requirements.
687	590.28 (1)	3rd	Intentional burning of lands.
688	784.05 (3)	3rd	Storing or leaving a loaded firearm within reach of minor who uses it to inflict injury or death.
689	787.04 (1)	3rd	In violation of court order, take, entice, etc., minor beyond state limits.
690	806.13 (1) (b) 3.	3rd	Criminal mischief; damage \$1,000 or more to public communication or any other public service.
	810.061 (2)	3rd	Impairing or impeding telephone or power to a dwelling; facilitating or

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691			furthering burglary.
	810.09 (2) (e)	3rd	Trespassing on posted commercial horticulture property.
692			
	812.014 (2) (c) 1.	3rd	Grand theft, 3rd degree; \$300 or more but less than \$5,000.
693			
	812.014 (2) (d)	3rd	Grand theft, 3rd degree; \$100 or more but less than \$300, taken from unenclosed curtilage of dwelling.
694			
	812.015 (7)	3rd	Possession, use, or attempted use of an antishoplifting or inventory control device countermeasure.
695			
	817.234 (1) (a) 2.	3rd	False statement in support of insurance claim.
696			

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697	817.481 (3) (a)	3rd	Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over \$300.
698	817.52 (3)	3rd	Failure to redeliver hired vehicle.
699	817.54	3rd	With intent to defraud, obtain mortgage note, etc., by false representation.
700	817.60 (5)	3rd	Dealing in credit cards of another.
701	817.60 (6) (a)	3rd	Forgery; purchase goods, services with false card.
702	817.61	3rd	Fraudulent use of credit cards over \$100 or more within 6 months.
	826.04	3rd	Knowingly marries or has sexual intercourse with person to whom

			related.
703			
	831.01	3rd	Forgery.
704			
	831.02	3rd	Uttering forged instrument; utters or publishes alteration with intent to defraud.
705			
	831.07	3rd	Forging bank bills, checks, drafts, or promissory notes.
706			
	831.08	3rd	Possessing 10 or more forged notes, bills, checks, or drafts.
707			
	831.09	3rd	Uttering forged notes, bills, checks, drafts, or promissory notes.
708			
	831.11	3rd	Bringing into the state forged bank bills, checks, drafts, or notes.
709			
	832.05 (3) (a)	3rd	Cashing or depositing item with intent to

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710			defraud.
711	843.08	3rd	Falsely impersonating an officer.
712	893.13(2)(a)2.	3rd	Purchase of any s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs other than cannabis.
713	893.147(2)	3rd	Manufacture or delivery of drug paraphernalia.
714	(c) LEVEL 3		
715	Florida	Felony	
716	Statute	Degree	Description
717	119.10(2)(b)	3rd	Unlawful use of confidential information from police reports.
	316.066	3rd	Unlawfully obtaining or using

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718	(3) (b) - (d)		confidential crash reports.
719	316.193(2) (b)	3rd	Felony DUI, 3rd conviction.
720	316.1935(2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.
721	319.30(4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
722	319.33(1) (a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
723	319.33(1) (c)	3rd	Procure or pass title on stolen vehicle.
723	319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank,

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724			forged, or unlawfully obtained title or registration.
	327.35 (2) (b)	3rd	Felony BUI.
725			
	328.05 (2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
726			
	328.07 (4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
727			
	376.302 (5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
728			
	379.2431 (1) (e) 5.	3rd	Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or

			marine turtle nests in violation of the Marine Turtle Protection Act.
729	379.2431 (1)(e)6.	3rd	Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.
730	400.9935(4)	3rd	Operating a clinic without a license or filing false license application or other required information.
731	440.1051(3)	3rd	False report of workers' compensation fraud or retaliation for making such a report.
732	501.001(2)(b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
733	624.401(4)(a)	3rd	Transacting insurance

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			without a certificate of authority.
734	624.401(4)(b)1.	3rd	Transacting insurance without a certificate of authority; premium collected less than \$20,000.
735	626.902(1)(a) & (b)	3rd	Representing an unauthorized insurer.
736	697.08	3rd	Equity skimming.
737	790.15(3)	3rd	Person directs another to discharge firearm from a vehicle.
738	796.05(1)	3rd	Live on earnings of a prostitute.
739	806.10(1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
740			

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741	806.10 (2)	3rd	Interferes with or assaults firefighter in performance of duty.
742	810.09 (2) (c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
743	812.014 (2) (c) 2.	3rd	Grand theft; \$5,000 or more but less than \$10,000.
744	812.0145 (2) (c)	3rd	Theft from person 65 years of age or older; \$300 or more but less than \$10,000.
745	815.04 (4) (b)	2nd	Computer offense devised to defraud or obtain property.
	817.034 (4) (a) 3.	3rd	Engages in scheme to

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746	817.233	3rd	defraud (Florida Communications Fraud Act), property valued at less than \$20,000.
747	817.234 (8) (b) - (c)	3rd	Burning to defraud insurer.
748	817.234(11) (a)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.
749	817.236	3rd	Insurance fraud; property value less than \$20,000.
750	817.2361	3rd	Filing a false motor vehicle insurance application.
751	817.413(2)	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
			Sale of used

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			goods as new.
752	817.505 (4)	3rd	Patient brokering.
753	828.12 (2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
754	831.28 (2) (a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument.
755	831.29	2nd	Possession of instruments for counterfeiting <u>driver</u> drivers' licenses or identification cards.
756	838.021 (3) (b)	3rd	Threatens unlawful harm to public servant.
757	843.19	3rd	Injure, disable, or kill

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758			police dog or horse.
759	860.15 (3)	3rd	Overcharging for repairs and parts.
760	870.01 (2)	3rd	Riot; inciting or encouraging.
761	893.13 (1) (a) 2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs).
762	893.13 (1) (d) 2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs within 1,000 feet of university.

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763	893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs within 1,000 feet of public housing facility.
764	893.13(6)(a)	3rd	Possession of any controlled substance other than felony possession of cannabis.
765	893.13(7)(a)8.	3rd	Withhold information from practitioner regarding previous receipt of or prescription for a controlled substance.
766	893.13(7)(a)9.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.

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767	893.13 (7) (a) 10.	3rd	Affix false or forged label to package of controlled substance.
768	893.13 (7) (a) 11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
769	893.13 (8) (a) 1.	3rd	Knowingly assist a patient, other person, or owner of an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or related to the practitioner's practice.
769	893.13 (8) (a) 2.	3rd	Employ a trick or scheme in the practitioner's practice to assist a patient, other person, or owner of an animal in obtaining a

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770	893.13(8)(a)3.	3rd	<p>controlled substance.</p> <p>Knowingly write a prescription for a controlled substance for a fictitious person.</p>
771	893.13(8)(a)4.	3rd	<p>Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.</p>
772	918.13(1)(a)	3rd	<p>Alter, destroy, or conceal investigation evidence.</p>
773	944.47 (1)(a)1.-2.	3rd	<p>Introduce contraband to correctional facility.</p>
774	944.47(1)(c)	2nd	<p>Possess contraband while upon the grounds of a correctional institution.</p>
775			

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776	985.721	3rd	Escapes from a juvenile facility (secure detention or residential commitment facility).
777	(e) LEVEL 5		
778	Florida Statute	Felony Degree	Description
779	316.027(1)(a)	3rd	Accidents involving personal injuries, failure to stop; leaving scene.
780	316.1935(4)(a)	2nd	Aggravated fleeing or eluding.
781	322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
782	327.30(5)	3rd	Vessel accidents

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783	379.367(4)	3rd	<p>involving personal injury; leaving scene.</p> <p>Willful molestation of a commercial harvester's spiny lobster trap, line, or buoy.</p>
784	379.3671 (2)(c)3.	3rd	<p>Willful molestation, possession, or removal of a commercial harvester's trap contents or trap gear by another harvester.</p>
785	381.0041(11)(b)	3rd	<p>Donate blood, plasma, or organs knowing HIV positive.</p>
786	440.10(1)(g)	2nd	<p>Failure to obtain workers' compensation coverage.</p>
787	440.105(5)	2nd	<p>Unlawful solicitation for the purpose of making workers' compensation</p>

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788			claims.
	440.381(2)	2nd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
789			
	624.401(4)(b)2.	2nd	Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.
790			
	626.902(1)(c)	2nd	Representing an unauthorized insurer; repeat offender.
791			
	790.01(2)	3rd	Carrying a concealed firearm.
792			
	790.162	2nd	Threat to throw or discharge destructive device.
793			

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794	790.163 (1)	2nd	False report of deadly explosive or weapon of mass destruction.
795	790.221 (1)	2nd	Possession of short-barreled shotgun or machine gun.
796	790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
797	800.04 (6) (c)	3rd	Lewd or lascivious conduct; offender less than 18 years.
798	800.04 (7) (b)	2nd	Lewd or lascivious exhibition; offender 18 years or older.
799	806.111 (1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.

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800	812.0145(2)(b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.
801	812.015(8)	3rd	Retail theft; property stolen is valued at \$300 or more and one or more specified acts.
802	812.019(1)	2nd	Stolen property; dealing in or trafficking in.
803	812.131(2)(b)	3rd	Robbery by sudden snatching.
804	812.16(2)	3rd	Owning, operating, or conducting a chop shop.
805	817.034(4)(a)2.	2nd	Communications fraud, value \$20,000 to \$50,000.
	817.234(11)(b)	2nd	Insurance fraud; property value

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806	817.2341(1), (2)(a) & (3)(a)	3rd	<p>\$20,000 or more but less than \$100,000.</p> <p>Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.</p>
807	817.568(2)(b)	2nd	<p>Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, \$5,000 or more or use of personal identification information of 10 or more individuals.</p>
808	817.625(2)(b)	2nd	<p>Second or subsequent fraudulent use of scanning device or reencoder.</p>
809			

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810	825.1025(4)	3rd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
811	827.071(4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.
812	827.071(5)	3rd	Possess, control, or intentionally view any photographic material, motion picture, etc., which includes sexual conduct by a child.
813	839.13(2)(b)	2nd	Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.
	843.01	3rd	Resist officer with violence to person; resist arrest with

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814			violence.
	847.0135 (5) (b)	2nd	Lewd or lascivious exhibition using computer; offender 18 years or older.
815	847.0137 (2) & (3)	3rd	Transmission of pornography by electronic device or equipment.
816	847.0138 (2) & (3)	3rd	Transmission of material harmful to minors to a minor by electronic device or equipment.
817	874.05 (1) (b)	2nd	Encouraging or recruiting another to join a criminal gang; second or subsequent offense.
818	874.05 (2) (a)	2nd	Encouraging or recruiting person under 13 to join a criminal gang.
819	893.13 (1) (a) 1.	2nd	Sell, manufacture, or deliver cocaine (or other

820	893.13(1)(c)2.	2nd	<p>s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).</p> <p>Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.</p>
821	893.13(1)(d)1.	1st	<p>Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs) within 1,000 feet of university.</p>
822			

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	893.13(1)(e)2.	2nd	Sell, manufacture, or deliver cannabis or other drug prohibited under s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) within 1,000 feet of property used for religious services or a specified business site.
823	893.13(1)(f)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), or (2)(a), (2)(b), or (2)(c)4. drugs) within 1,000 feet of public housing facility.
824	893.13(4)(b)	2nd	Deliver to minor cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5.,

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			(2) (c) 6., (2) (c) 7., (2) (c) 8., (2) (c) 9., (3), or (4) drugs).
825	893.1351 (1)	3rd	Ownership, lease, or rental for trafficking in or manufacturing of controlled substance.
826			
827	(g) LEVEL 7		
828			
	Florida	Felony	
	Statute	Degree	Description
829			
	316.027 (1) (b)	1st	Accident involving death, failure to stop; leaving scene.
830			
	316.193 (3) (c) 2.	3rd	DUI resulting in serious bodily injury.
831			
	316.1935 (3) (b)	1st	Causing serious bodily injury or death to another person; driving

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832	327.35 (3) (c) 2.	3rd	at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
833	402.319 (2)	2nd	Vessel BUI resulting in serious bodily injury. Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
834	409.920 (2) (b) 1.a.	3rd	Medicaid provider fraud; \$10,000 or less.
835	409.920 (2) (b) 1.b.	2nd	Medicaid provider fraud; more than \$10,000, but less than

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			\$50,000.
836	456.065 (2)	3rd	Practicing a health care profession without a license.
837	456.065 (2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
838	458.327 (1)	3rd	Practicing medicine without a license.
839	459.013 (1)	3rd	Practicing osteopathic medicine without a license.
840	460.411 (1)	3rd	Practicing chiropractic medicine without a license.
841	461.012 (1)	3rd	Practicing podiatric medicine without a license.
842	462.17	3rd	Practicing naturopathy without a

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			license.
843			
	463.015(1)	3rd	Practicing optometry without a license.
844			
	464.016(1)	3rd	Practicing nursing without a license.
845			
	465.015(2)	3rd	Practicing pharmacy without a license.
846			
	466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.
847			
	467.201	3rd	Practicing midwifery without a license.
848			
	468.366	3rd	Delivering respiratory care services without a license.
849			
	483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.
850			

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851	483.901 (9)	3rd	Practicing medical physics without a license.
852	484.013 (1) (c)	3rd	Preparing or dispensing optical devices without a prescription.
853	484.053	3rd	Dispensing hearing aids without a license.
854	494.0018 (2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
855	560.123 (8) (b) 1.	3rd	Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by a money services business.

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856	560.125 (5) (a)	3rd	Money services business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
857	655.50 (10) (b) 1.	3rd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.
858	775.21 (10) (a)	3rd	Sexual predator; failure to register; failure to renew driver's license or identification card; other registration violations.
859	775.21 (10) (b)	3rd	Sexual predator working where children regularly congregate.
859	775.21 (10) (g)	3rd	Failure to report or providing false information about a

860	782.051(3)	2nd	<p>sexual predator; harbor or conceal a sexual predator.</p> <p>Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.</p>
861	782.07(1)	2nd	<p>Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).</p>
862	782.071	2nd	<p>Killing of a human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide).</p>
863	782.072	2nd	<p>Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).</p>
864			

865	784.045 (1) (a) 1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
866	784.045 (1) (a) 2.	2nd	Aggravated battery; using deadly weapon.
867	784.045 (1) (b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
868	784.048 (4)	3rd	Aggravated stalking; violation of injunction or court order.
869	784.048 (7)	3rd	Aggravated stalking; violation of court order.
870	784.07 (2) (d)	1st	Aggravated battery on law enforcement officer.
	784.074 (1) (a)	1st	Aggravated battery on sexually violent predators facility

			staff.
871	784.08 (2) (a)	1st	Aggravated battery on a person 65 years of age or older.
872	784.081 (1)	1st	Aggravated battery on specified official or employee.
873	784.082 (1)	1st	Aggravated battery by detained person on visitor or other detainee.
874	784.083 (1)	1st	Aggravated battery on code inspector.
875	787.06 (3) (a)	1st	Human trafficking using coercion for labor and services.
876	787.06 (3) (e)	1st	Human trafficking using coercion for labor and services by the transfer or transport of any

			individual from outside Florida to within the state.
877	790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
878	790.16(1)	1st	Discharge of a machine gun under specified circumstances.
879	790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
880	790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
881	790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
882			

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883	790.166 (4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
884	790.23	1st, PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
885	794.08 (4)	3rd	Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
886	796.03	2nd	Procuring any person under 16 years for prostitution.
886	800.04 (5) (c) 1.	2nd	Lewd or lascivious molestation; victim less than 12 years of age;

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887			offender less than 18 years.
	800.04 (5) (c) 2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender 18 years or older.
888			
	806.01 (2)	2nd	Maliciously damage structure by fire or explosive.
889			
	810.02 (3) (a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
890			
	810.02 (3) (b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
891			
	810.02 (3) (d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
892			

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893	810.02 (3) (e)	2nd	Burglary of authorized emergency vehicle.
894	812.014 (2) (a) 1.	1st	Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.
895	812.014 (2) (b) 2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.
896	812.014 (2) (b) 3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
	812.014 (2) (b) 4.	2nd	Property stolen, law enforcement equipment

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897	812.0145 (2) (a)	1st	from authorized emergency vehicle.
898	812.019 (2)	1st	Theft from person 65 years of age or older; \$50,000 or more.
899	812.131 (2) (a)	2nd	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
900	812.133 (2) (b)	1st	Robbery by sudden snatching.
901	817.034 (4) (a) 1.	1st	Carjacking; no firearm, deadly weapon, or other weapon.
902			Communications fraud, value greater than \$50,000.

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903	817.234(8)(a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
904	817.234(9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
905	817.234(11)(c)	1st	Insurance fraud; property value \$100,000 or more.
906	817.2341 (2)(b) & (3)(b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
907	817.535(2)(a)	3rd	Filing false lien or other unauthorized document.

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908	825.102 (3) (b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
909	825.103 (2) (b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000.
910	827.03 (2) (b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
911	827.04 (3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
912	837.05 (2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.

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913	838.015	2nd	Bribery.
914	838.016	2nd	Unlawful compensation or reward for official behavior.
915	838.021(3)(a)	2nd	Unlawful harm to a public servant.
916	838.22	2nd	Bid tampering.
917	843.0855(2)	3rd	Impersonation of a public officer or employee.
918	843.0855(3)	3rd	Unlawful simulation of legal process.
919	843.0855(4)	3rd	Intimidation of a public officer or employee.
920	847.0135(3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
	847.0135(4)	2nd	Traveling to meet a minor to commit an

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921			unlawful sex act.
922	872.06	2nd	Abuse of a dead human body.
923	874.05 (2) (b)	1st	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.
924	874.10	1st, PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.
924	893.13 (1) (c) 1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03 (1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c) 4.) within 1,000 feet of a child care facility, school, or

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925	893.13(1)(e)1.	1st	state, county, or municipal park or publicly owned recreational facility or community center.
926	893.13(4)(a)	1st	Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., within 1,000 feet of property used for religious services or a specified business site.
927	893.135(1)(a)1.	1st	Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).
928			Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.

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929	893.135 (1) (b) 1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
930	893.135 (1) (c) 1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
931	893.135 (1) (d) 1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
932	893.135 (1) (e) 1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
933	893.135 (1) (f) 1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
	893.135 (1) (g) 1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14

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934			grams.
	893.135	1st	Trafficking in gamma-
	(1) (h) 1.a.		hydroxybutyric acid (GHB), 1
			kilogram or more, less than 5
			kilograms.
935			
	893.135	1st	Trafficking in 1,4-
	(1) (j) 1.a.		Butanediol, 1 kilogram or
			more, less than 5
			kilograms.
936			
	893.135	1st	Trafficking in Phenethylamines,
	(1) (k) 2.a.		10 grams or more, less than 200
			grams.
937			
	893.1351(2)	2nd	Possession of place for
			trafficking in or
			manufacturing of controlled
			substance.
938			
	896.101(5) (a)	3rd	Money laundering,
			financial transactions
			exceeding \$300 but less
			than \$20,000.
939			

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	896.104(4)(a)1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.
940	943.0435(4)(c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.
941	943.0435(8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
942	943.0435(9)(a)	3rd	Sexual offender; failure to comply with reporting requirements.
943	943.0435(13)	3rd	Failure to report or providing false information about a

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			sexual offender; harbor or conceal a sexual offender.
944	943.0435(14)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.
945	944.607(9)	3rd	Sexual offender; failure to comply with reporting requirements.
946	944.607(10)(a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
947	944.607(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
948	944.607(13)	3rd	Sexual offender; failure to

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949			report and reregister; failure to respond to address verification.
	985.4815(10)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
950			
	985.4815(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
951			
	985.4815(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.
952			
953	(h) LEVEL 8		
954			
	Florida	Felony	
	Statute	Degree	Description
955			

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956	316.193 (3) (c) 3.a.	2nd	DUI manslaughter.
957	316.1935 (4) (b)	1st	Aggravated fleeing or attempted eluding with serious bodily injury or death.
958	327.35 (3) (c) 3.	2nd	Vessel BUI manslaughter.
959	499.0051 (7)	1st	Knowing trafficking in contraband prescription drugs.
960	499.0051 (8)	1st	Knowing forgery of prescription labels or prescription drug labels.
961	560.123 (8) (b) 2.	2nd	Failure to report currency or payment instruments totaling or exceeding \$20,000, but less than \$100,000 by money transmitter.

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962	560.125 (5) (b)	2nd	Money transmitter business by unauthorized person, currency or payment instruments totaling or exceeding \$20,000, but less than \$100,000.
963	655.50 (10) (b) 2.	2nd	Failure to report financial transactions totaling or exceeding \$20,000, but less than \$100,000 by financial institutions.
964	777.03 (2) (a)	1st	Accessory after the fact, capital felony.
	782.04 (4)	2nd	Killing of human without design when engaged in act or attempt of any felony other than arson, sexual battery, robbery, burglary, kidnapping, aggravated fleeing or eluding with serious bodily injury or

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965	782.051 (2)	1st	<p>death, aircraft piracy, or unlawfully discharging bomb.</p> <p>Attempted felony murder while perpetrating or attempting to perpetrate a felony not enumerated in s. 782.04 (3).</p>
966	782.071 (1) (b)	1st	<p>Committing vehicular homicide and failing to render aid or give information.</p>
967	782.072 (2)	1st	<p>Committing vessel homicide and failing to render aid or give information.</p>
968	787.06 (3) (b)	1st	<p>Human trafficking using coercion for commercial sexual activity.</p>
969	787.06 (3) (c)	1st	<p>Human trafficking using coercion for labor and services of an</p>

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970	787.06 (3) (f)	1st	<p>unauthorized alien.</p> <p>Human trafficking using coercion for commercial sexual activity by the transfer or transport of any individual from outside Florida to within the state.</p>
971	790.161 (3)	1st	<p>Discharging a destructive device which results in bodily harm or property damage.</p>
972	794.011 (5)	2nd	<p>Sexual battery, victim 12 years or over, offender does not use physical force likely to cause serious injury.</p>
973	794.08 (3)	2nd	<p>Female genital mutilation, removal of a victim younger than 18 years of age from</p>

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			this state.
974	800.04 (4)	2nd	Lewd or lascivious battery.
975	806.01 (1)	1st	Maliciously damage dwelling or structure by fire or explosive, believing person in structure.
976	810.02 (2) (a)	1st, PBL	Burglary with assault or battery.
977	810.02 (2) (b)	1st, PBL	Burglary; armed with explosives or dangerous weapon.
978	810.02 (2) (c)	1st	Burglary of a dwelling or structure causing structural damage or \$1,000 or more property damage.
979	812.014 (2) (a) 2.	1st	Property stolen; cargo valued at

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			\$50,000 or more, grand theft in 1st degree.
980	812.13 (2) (b)	1st	Robbery with a weapon.
981	812.135 (2) (c)	1st	Home-invasion robbery, no firearm, deadly weapon, or other weapon.
982	817.535 (2) (b)	2nd	Filing false lien or other unauthorized document; second or subsequent offense.
983	817.535 (3) (a)	2nd	Filing false lien or other unauthorized document; property owner is a public officer or employee.
984	817.535 (4) (a)1.	2nd	Filing false lien or other unauthorized document; defendant is

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985			incarcerated or under supervision.
985	817.535 (5) (a)	2nd	Filing false lien or other unauthorized document; owner of the property incurs financial loss as a result of the false instrument.
986	817.568 (6)	2nd	Fraudulent use of personal identification information of an individual under the age of 18.
987	825.102 (2)	1st	Aggravated abuse of an elderly person or disabled adult.
988	825.1025 (2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.
989	825.103 (2) (a)	1st	Exploiting an elderly person or disabled

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			adult and property is valued at \$100,000 or more.
990	837.02 (2)	2nd	Perjury in official proceedings relating to prosecution of a capital felony.
991	837.021 (2)	2nd	Making contradictory statements in official proceedings relating to prosecution of a capital felony.
992	860.121 (2) (c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.
993	860.16	1st	Aircraft piracy.
994	893.13 (1) (b)	1st	Sell or deliver in excess of 10 grams of any

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			substance specified in s. 893.03(1)(a) or (b).
995	893.13(2)(b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
996	893.13(6)(c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
997	893.135(1)(a)2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
998	893.135 (1)(b)1.b.	1st	Trafficking in cocaine, more than 200 grams, less than 400 grams.
999	893.135 (1)(c)1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
1000			

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1001	893.135 (1) (d) 1.b.	1st	Trafficking in phencyclidine, more than 200 grams, less than 400 grams.
1002	893.135 (1) (e) 1.b.	1st	Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.
1003	893.135 (1) (f) 1.b.	1st	Trafficking in amphetamine, more than 28 grams, less than 200 grams.
1004	893.135 (1) (g) 1.b.	1st	Trafficking in flunitrazepam, 14 grams or more, less than 28 grams.
1005	893.135 (1) (h) 1.b.	1st	Trafficking in gamma- hydroxybutyric acid (GHB), 5 kilograms or more, less than 10 kilograms.
1006	893.135 (1) (j) 1.b.	1st	Trafficking in 1,4- Butanediol, 5 kilograms or more, less than 10 kilograms.

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1007	893.135 (1) (k) 2.b.	1st	Trafficking in Phenethylamines, 200 grams or more, less than 400 grams.
1008	893.1351 (3)	1st	Possession of a place used to manufacture controlled substance when minor is present or resides there.
1009	895.03 (1)	1st	Use or invest proceeds derived from pattern of racketeering activity.
1010	895.03 (2)	1st	Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.
1011	895.03 (3)	1st	Conduct or participate in any enterprise through pattern of racketeering activity.
	896.101 (5) (b)	2nd	Money laundering, financial transactions totaling or exceeding

1012			\$20,000, but less than \$100,000.
	896.104(4)(a)2.	2nd	Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding \$20,000 but less than \$100,000.
1013			
1014	(i) LEVEL 9		
1015			
	Florida Statute	Felony Degree	Description
1016	316.193 (3)(c)3.b.	1st	DUI manslaughter; failing to render aid or give information.
1017	327.35(3)(c)3.b.	1st	BUI manslaughter; failing to render aid or give information.
1018	409.920	1st	Medicaid provider

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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1019	(2) (b) 1.c.		fraud; \$50,000 or more.
	499.0051 (9)	1st	Knowing sale or purchase of contraband prescription drugs resulting in great bodily harm.
1020	560.123 (8) (b) 3.	1st	Failure to report currency or payment instruments totaling or exceeding \$100,000 by money transmitter.
1021	560.125 (5) (c)	1st	Money transmitter business by unauthorized person, currency, or payment instruments totaling or exceeding \$100,000.
1022	655.50 (10) (b) 3.	1st	Failure to report financial transactions totaling or exceeding \$100,000 by financial institution.
1023			

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1024	775.0844	1st	Aggravated white collar crime.
1025	782.04 (1)	1st	Attempt, conspire, or solicit to commit premeditated murder.
1026	782.04 (3)	1st, PBL	Accomplice to murder in connection with arson, sexual battery, robbery, burglary, aggravated fleeing or eluding with serious bodily injury or death, and other specified felonies.
1027	782.051 (1)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony enumerated in s. 782.04 (3).
	782.07 (2)	1st	Aggravated manslaughter of an elderly person or disabled

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		adult.	
1028	787.01(1)(a)1.	1st, PBL	Kidnapping; hold for ransom or reward or as a shield or hostage.
1029	787.01(1)(a)2.	1st, PBL	Kidnapping with intent to commit or facilitate commission of any felony.
1030	787.01(1)(a)4.	1st, PBL	Kidnapping with intent to interfere with performance of any governmental or political function.
1031	787.02(3)(a)	1st	False imprisonment; child under age 13; perpetrator also commits aggravated child abuse, sexual battery, or lewd or lascivious battery, molestation,

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			conduct, or exhibition.
1032	787.06(3)(d)	1st	Human trafficking using coercion for commercial sexual activity of an unauthorized alien.
1033	787.06(3)(g)	1st,PBL	Human trafficking for commercial sexual activity of a child under the age of 18.
1034	787.06(4)	1st	Selling or buying of minors into human trafficking.
1035	790.161	1st	Attempted capital destructive device offense.
1036	790.166(2)	1st,PBL	Possessing, selling, using, or attempting to use a weapon of mass destruction.
1037	794.011(2)	1st	Attempted sexual battery; victim less

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1038			than 12 years of age.
	794.011(2)	Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.
1039			
	794.011(4)	1st	Sexual battery; victim 12 years or older, certain circumstances.
1040			
	794.011(8)(b)	1st	Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.
1041			
	794.08(2)	1st	Female genital mutilation; victim younger than 18 years of age.
1042			
	796.035	1st	Selling or buying of minors into prostitution.
1043			

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	800.04 (5) (b)	Life	Lewd or lascivious molestation; victim less than 12 years; offender 18 years or older.
1044	812.13 (2) (a)	1st, PBL	Robbery with firearm or other deadly weapon.
1045	812.133 (2) (a)	1st, PBL	Carjacking; firearm or other deadly weapon.
1046	812.135 (2) (b)	1st	Home-invasion robbery with weapon.
1047	817.535 (3) (b)	1st	Filing false lien or other unauthorized document; second or subsequent offense; property owner is a public officer or employee.
1048	817.535 (4) (a) 2.	1st	Filing false claim or other unauthorized

1049	817.535 (5) (b)	1st	document; defendant is incarcerated or under supervision.
1050	817.568 (7)	2nd, PBL	Filing false lien or other unauthorized document; second or subsequent offense; owner of the property incurs financial loss as a result of the false instrument.
1051	827.03 (2) (a)	1st	Fraudulent use of personal identification information of an individual under the age of 18 by his or her parent, legal guardian, or person exercising custodial authority.
1052	847.0145 (1)	1st	Aggravated child abuse.
1053			Selling, or otherwise transferring custody or control, of a minor.

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1054	847.0145(2)	1st	Purchasing, or otherwise obtaining custody or control, of a minor.
1055	859.01	1st	Poisoning or introducing bacteria, radioactive materials, viruses, or chemical compounds into food, drink, medicine, or water with intent to kill or injure another person.
1056	893.135	1st	Attempted capital trafficking offense.
1057	893.135(1)(a)3.	1st	Trafficking in cannabis, more than 10,000 lbs.
1058	893.135 (1)(b)1.c.	1st	Trafficking in cocaine, more than 400 grams, less than 150 kilograms.
1059	893.135 (1)(c)1.c.	1st	Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.

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1060	893.135 (1) (d) 1.c.	1st	Trafficking in phencyclidine, more than 400 grams.
1061	893.135 (1) (e) 1.c.	1st	Trafficking in methaqualone, more than 25 kilograms.
1062	893.135 (1) (f) 1.c.	1st	Trafficking in amphetamine, more than 200 grams.
1063	893.135 (1) (h) 1.c.	1st	Trafficking in gamma- hydroxybutyric acid (GHB), 10 kilograms or more.
1064	893.135 (1) (j) 1.c.	1st	Trafficking in 1,4- Butanediol, 10 kilograms or more.
1065	893.135 (1) (k) 2.c.	1st	Trafficking in Phenethylamines, 400 grams or more.
1066	896.101(5) (c)	1st	Money laundering, financial instruments totaling or exceeding \$100,000.

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896.104(4)(a)3.

1st Structuring transactions
to evade reporting or
registration
requirements, financial
transactions totaling or
exceeding \$100,000.

1067

1068

Section 5. This act shall take effect upon becoming a law.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Criminal Justice
 2 Subcommittee

3 Representative Ingram offered the following:

Amendment

6 Remove lines 571-579 and insert:

7 893.03(1)(c)46.-50., 114.-142., 151.-159., or 166.-173. ~~166.-~~
 8 ~~169.~~, the person commits a misdemeanor of the first degree,
 9 punishable as provided in s. 775.082 or s. 775.083. As used in
 10 ~~For the purposes of~~ this subsection, the term "cannabis" does
 11 not include the resin extracted from the plants of the genus
 12 *Cannabis*, or any compound manufacture, salt, derivative,
 13 mixture, or preparation of such resin, and a controlled
 14 substance described in s. 893.03(1)(c)46.-50., 114.-142., 151.-
 15 159., or 166.-173. ~~166.-169.~~, does not include the substance in

