

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u>    </u>	(Y/N)
ADOPTED AS AMENDED	<u>    </u>	(Y/N)
ADOPTED W/O OBJECTION	<u>    </u>	(Y/N)
FAILED TO ADOPT	<u>    </u>	(Y/N)
WITHDRAWN	<u>    </u>	(Y/N)
OTHER	<u>    </u>	

1 Committee/Subcommittee hearing bill: Criminal Justice  
 2 Subcommittee

3 Representative Asencio offered the following:

4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Section 817.625, Florida Statutes, is amended  
 8 to read:

9 817.625 Use of scanning device, skimming device, or  
 10 reencoder to defraud; possession of skimming device; penalties.-

11 (1) As used in this section, the term:

12 (a)-(d) "Merchant" means a person who receives from an  
 13 authorized user of a payment card, or someone the person  
 14 believes to be an authorized user, a payment card or information  
 15 from a payment card, or what the person believes to be a payment  
 16 card or information from a payment card, as the instrument for

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17 obtaining, purchasing, or receiving goods, services, money, or  
18 anything else of value from the person.

19 (b)-(e) "Payment card" means a credit card, charge card,  
20 debit card, or any other card that is issued to an authorized  
21 card user and that allows the user to obtain, purchase, or  
22 receive goods, services, money, or anything else of value from a  
23 merchant.

24 (c)-(b) "Reencoder" means an electronic device that places  
25 encoded information from the computer chip, magnetic strip or  
26 stripe, or other storage mechanism of a payment card onto the  
27 computer chip, magnetic strip or stripe, or other storage  
28 mechanism of a different payment card. The term does not include  
29 a skimming device.

30 (d)-(a) "Scanning device" means a scanner, reader, or any  
31 other electronic device that may be ~~is~~ used to access, read,  
32 scan, obtain, memorize, or store, temporarily or permanently,  
33 information encoded on the computer chip, magnetic strip or  
34 stripe, or other storage mechanism of a payment card or from  
35 another device that directly reads the information from a  
36 payment card. The term does not include a skimming device.

37 (e) "Skimming device" means a self-contained device that:  
38 1. Is designed to read and store in the device's internal  
39 memory information encoded on the computer chip, magnetic strip  
40 or stripe, or other storage mechanism of a payment card or from

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41 another device that directly reads the information from a  
42 payment card; and

43 2. Is incapable of processing the payment card information  
44 stored under subparagraph 1. for the purpose of obtaining,  
45 purchasing, or receiving goods, services, money, or anything  
46 else of value from a merchant.

47 (2) (a) It is a felony of the third degree, punishable as  
48 provided in s. 775.082, s. 775.083, or s. 775.084, for a person  
49 to use:

50 1. A scanning device or skimming device to access, read,  
51 obtain, memorize, or store, temporarily or permanently,  
52 information encoded on the computer chip, magnetic strip or  
53 stripe, or other storage mechanism of a payment card without the  
54 permission of the authorized user of the payment card and with  
55 the intent to defraud the authorized user, the issuer of the  
56 authorized user's payment card, or a merchant.

57 2. A reencoder to place information encoded on the  
58 computer chip, magnetic strip or stripe, or other storage  
59 mechanism of a payment card onto the computer chip, magnetic  
60 strip or stripe, or other storage mechanism of a different card  
61 without the permission of the authorized user of the card from  
62 which the information is being reencoded and with the intent to  
63 defraud the authorized user, the issuer of the authorized user's  
64 payment card, or a merchant.

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65 (b) ~~A~~ Any person who violates subparagraph (a)1. or  
66 subparagraph (a)2. a second or subsequent time commits a felony  
67 of the second degree, punishable as provided in s. 775.082, s.  
68 775.083, or s. 775.084.

69 (c) It is a felony of the third degree, punishable as  
70 provided in s. 775.082, s. 775.083, or s. 775.084, for a person  
71 to knowingly possess, sell, or deliver a skimming device. This  
72 paragraph does not apply to the following individuals while  
73 acting within the scope of his or her official duties:

74 1. An employee, officer, or agent of:

75 a. A law enforcement agency or criminal prosecuting  
76 authority for the state or the federal government;

77 b. The state courts system as defined in s. 25.382 or the  
78 federal court system; or

79 c. An executive branch agency in this state.

80 2. A financial or retail security investigator employed by  
81 a merchant.

82 ~~(d)(e)~~ A ~~Any~~ person who commits a violation of this  
83 subsection ~~violates subparagraph (a)1. or subparagraph (a)2.~~  
84 shall also be subject to ~~the provisions of~~ ss. 932.701-932.7062.

85 Section 2. Paragraphs (d) and (e) of subsection (3) of  
86 section 921.0022, Florida Statutes, are amended to read:

87 921.0022 Criminal Punishment Code; offense severity  
88 ranking chart.—

89 (3) OFFENSE SEVERITY RANKING CHART

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90 91	(d) LEVEL 4		
92	Florida Statute	Felony Degree	Description
92	316.1935(3)(a)	2nd	Driving 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.
93	499.0051(1)	3rd	Failure to maintain or deliver transaction history, transaction information, or transaction statements.
94	499.0051(5)	2nd	Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.
95	517.07(1)	3rd	Failure to register securities.
96	517.12(1)	3rd	Failure of dealer, associated person, or issuer of securities

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to register.

97

784.07(2)(b) 3rd Battery of law enforcement officer, firefighter, etc.

98

784.074(1)(c) 3rd Battery of sexually violent predators facility staff.

99

784.075 3rd Battery on detention or commitment facility staff.

100

784.078 3rd Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.

101

784.08(2)(c) 3rd Battery on a person 65 years of age or older.

102

784.081(3) 3rd Battery on specified official or employee.

103

784.082(3) 3rd Battery by detained person on visitor or other detainee.

104

784.083(3) 3rd Battery on code inspector.

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105	784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.
106	787.03(1)	3rd	Interference with custody; wrongly takes minor from appointed guardian.
107	787.04(2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.
108	787.04(3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.
109	787.07	3rd	Human smuggling.
110	790.115(1)	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.

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111	790.115 (2) (b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
112	790.115 (2) (c)	3rd	Possessing firearm on school property.
113	800.04 (7) (c)	3rd	Lewd or lascivious exhibition; offender less than 18 years.
114	810.02 (4) (a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
115	810.02 (4) (b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.
116	810.06	3rd	Burglary; possession of tools.
117	810.08 (2) (c)	3rd	Trespass on property, armed

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with firearm or dangerous  
weapon.

118

812.014 (2) (c) 3. 3rd Grand theft, 3rd degree \$10,000  
or more but less than \$20,000.

119

812.014 3rd Grand theft, 3rd degree, a  
(2) (c) 4.-10. will, firearm, motor vehicle,  
livestock, etc.

120

812.0195 (2) 3rd Dealing in stolen property by  
use of the Internet; property  
stolen \$300 or more.

121

817.563 (1) 3rd Sell or deliver substance other  
than controlled substance  
agreed upon, excluding s.  
893.03 (5) drugs.

122

817.568 (2) (a) 3rd Fraudulent use of personal  
identification information.

123

817.625 (2) (a) 3rd Fraudulent use of scanning  
device, skimming device, or  
reencoder.

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124	<u>817.625 (2) (c)</u>	<u>3rd</u>	<u>Possess, sell, or deliver</u> <u>skimming device.</u>
125	828.125 (1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.
126	837.02 (1)	3rd	Perjury in official proceedings.
127	837.021 (1)	3rd	Make contradictory statements in official proceedings.
128	838.022	3rd	Official misconduct.
129	839.13 (2) (a)	3rd	Falsifying records of an individual in the care and custody of a state agency.
130	839.13 (2) (c)	3rd	Falsifying records of the Department of Children and Families.
131			

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132	843.021	3rd	Possession of a concealed handcuff key by a person in custody.
133	843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
134	843.15(1) (a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
135	847.0135(5) (c)	3rd	Lewd or lascivious exhibition using computer; offender less than 18 years.
136	874.05(1) (a)	3rd	Encouraging or recruiting another to join a criminal gang.
	893.13(2) (a)1.	2nd	Purchase of cocaine (or other s. 893.03(1) (a), (b), or (d), (2) (a), (2) (b), or (2) (c)4. drugs).

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137	914.14(2)	3rd	Witnesses accepting bribes.
138	914.22(1)	3rd	Force, threaten, etc., witness, victim, or informant.
139	914.23(2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.
140	918.12	3rd	Tampering with jurors.
141	934.215	3rd	Use of two-way communications device to facilitate commission of a crime.
142			
143	(e)	LEVEL 5	
144	Florida	Felony	
	Statute	Degree	Description
145	316.027(2)(a)	3rd	Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.

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146	316.1935(4)(a)	2nd	Aggravated fleeing or eluding.
147	316.80(2)	2nd	Unlawful conveyance of fuel; obtaining fuel fraudulently.
148	322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
149	327.30(5)	3rd	Vessel accidents involving personal injury; leaving scene.
150	379.365(2)(c)1.	3rd	Violation of rules relating to: willful molestation of stone crab traps, lines, or buoys; illegal bartering, trading, or sale, conspiring or aiding in such barter, trade, or sale, or supplying, agreeing to supply, aiding in supplying, or giving away stone crab trap tags or certificates; making, altering, forging, counterfeiting, or

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reproducing stone crab trap tags; possession of forged, counterfeit, or imitation stone crab trap tags; and engaging in the commercial harvest of stone crabs while license is suspended or revoked.

151

379.367(4) 3rd Willful molestation of a commercial harvester's spiny lobster trap, line, or buoy.

152

379.407(5)(b)3. 3rd Possession of 100 or more undersized spiny lobsters.

153

381.0041(11)(b) 3rd Donate blood, plasma, or organs knowing HIV positive.

154

440.10(1)(g) 2nd Failure to obtain workers' compensation coverage.

155

440.105(5) 2nd Unlawful solicitation for the purpose of making workers' compensation claims.

156

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157	440.381 (2)	2nd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
158	624.401 (4) (b) 2.	2nd	Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.
159	626.902 (1) (c)	2nd	Representing an unauthorized insurer; repeat offender.
160	790.01 (2)	3rd	Carrying a concealed firearm.
161	790.162	2nd	Threat to throw or discharge destructive device.
162	790.163 (1)	2nd	False report of bomb, explosive, weapon of mass destruction, or use of firearms in violent manner.
	790.221 (1)	2nd	Possession of short-barreled

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shotgun or machine gun.

163

790.23                    2nd    Felons in possession of  
firearms, ammunition, or  
electronic weapons or devices.

164

796.05(1)                2nd    Live on earnings of a  
prostitute; 1st offense.

165

800.04(6)(c)            3rd    Lewd or lascivious conduct;  
offender less than 18 years of  
age.

166

800.04(7)(b)            2nd    Lewd or lascivious exhibition;  
offender 18 years of age or  
older.

167

806.111(1)              3rd    Possess, manufacture, or  
dispense fire bomb with intent  
to damage any structure or  
property.

168

812.0145(2)(b)         2nd    Theft from person 65 years of  
age or older; \$10,000 or more  
but less than \$50,000.



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169	812.015(8)	3rd	Retail theft; property stolen is valued at \$300 or more and one or more specified acts.
170	812.019(1)	2nd	Stolen property; dealing in or trafficking in.
171	812.131(2)(b)	3rd	Robbery by sudden snatching.
172	812.16(2)	3rd	Owning, operating, or conducting a chop shop.
173	817.034(4)(a)2.	2nd	Communications fraud, value \$20,000 to \$50,000.
174	817.234(11)(b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
175	817.2341(1), (2)(a) & (3)(a)	3rd	Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the

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solvency of an insuring entity.

176

817.568 (2) (b) 2nd 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 persons.

177

817.611 (2) (a) 2nd Traffic in or possess 5 to 14 counterfeit credit cards or related documents.

178

817.625 (2) (b) 2nd Second or subsequent fraudulent use of scanning device, skimming device, or reencoder.

179

825.1025 (4) 3rd Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.

180

827.071 (4) 2nd Possess with intent to promote

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any photographic material,  
motion picture, etc., which  
includes sexual conduct by a  
child.

181

827.071 (5)                    3rd    Possess, control, or  
intentionally view any  
photographic material, motion  
picture, etc., which includes  
sexual conduct by a child.

182

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.

183

843.01                         3rd    Resist officer with violence to  
person; resist arrest with  
violence.

184

847.0135 (5) (b)             2nd    Lewd or lascivious exhibition  
using computer; offender 18  
years or older.

185

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186	847.0137 (2) & (3)	3rd	Transmission of pornography by electronic device or equipment.
187	847.0138 (2) & (3)	3rd	Transmission of material harmful to minors to a minor by electronic device or equipment.
188	874.05(1)(b)	2nd	Encouraging or recruiting another to join a criminal gang; second or subsequent offense.
189	874.05(2)(a)	2nd	Encouraging or recruiting person under 13 years of age to join a criminal gang.
190	893.13(1)(a)1.	2nd	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).
	893.13(1)(c)2.	2nd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1.,

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(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.

191

893.13(1)(d)1.            1st    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.

192

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

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religious services or a  
specified business site.

193

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.

194

893.13(4)(b) 2nd Use or hire of minor; deliver  
to minor other controlled  
substance.

195

893.1351(1) 3rd Ownership, lease, or rental for  
trafficking in or manufacturing  
of controlled substance.

196

Section 3. This act shall take effect October 1, 2017.

198

199

200

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

201

Remove everything before the enacting clause and insert:

202

A bill to be entitled

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203 An act relating to payment card offenses; amending s.  
204 817.625, F.S.; revising definitions; revising  
205 terminology; revising the offenses of using a scanning  
206 device or reencoder with the intent to defraud;  
207 prohibiting the use of a skimming device with intent  
208 to defraud; prohibiting the possession, sale, or  
209 delivery of a skimming device; providing criminal  
210 penalties; amending s. 921.0022, F.S.; conforming  
211 provisions to changes made by the act; providing an  
212 effective date.