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2 An act relating to criminal justice; creating
3 s. 784.078, F.S.; defining "facility"; defining
4 "employee"; defining the offense of battery of
5 facility employee by throwing, tossing, or
6 expelling certain fluids or materials on an
7 employee of a correctional facility of the
8 state or local government or a secure facility
9 operated and maintained by the Department of
10 Corrections or the Department of Juvenile
11 Justice or other facility employee, so as to
12 cause or attempt to cause such employee to come
13 into contact with the fluid or material;
14 providing penalties; providing for placement of
15 an offender on a management meal program under
16 specified circumstances; amending s. 806.13,
17 F.S., relating to criminal mischief offenses
18 and penalties; providing for reclassification
19 of a misdemeanor violation of said section
20 involving less than \$1,000 property damage when
21 the offender has one or more prior convictions
22 under said section; providing legislative
23 intent; providing that a county or municipality
24 is not preempted by state law from establishing
25 an ordinance which prohibits the marking of
26 graffiti or other graffiti-related offense and
27 penalizes such offense with higher penalties
28 than those provided by state law or with
29 mandatory penalties; providing for the court to
30 provide a disposition of the case no less
31 severe than such higher or mandatory penalties

1 in certain juvenile proceedings for violation
2 of the ordinance; amending s. 901.15, F.S.,
3 relating to circumstances for arrest without a
4 warrant; providing for such arrest when there
5 is probable cause to believe that the person
6 has committed criminal mischief or a
7 graffiti-related offense; amending s. 921.0012,
8 F.S.; providing for ranking the offense of
9 battery of a facility employee for purposes of
10 the statewide sentencing guidelines; providing
11 an effective date.

12
13 Be It Enacted by the Legislature of the State of Florida:

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15 Section 1. Section 784.078, Florida Statutes, is
16 created to read:

17 784.078 Battery of facility employee by throwing,
18 tossing, or expelling certain fluids or materials.--

19 (1) As used in this section, the term "facility" means
20 a state correctional institution defined in s. 944.02(6); a
21 private correctional facility defined in s. 944.710 or under
22 chapter 957; a county, municipal, or regional jail or other
23 detention facility of local government under chapter 950 or
24 chapter 951; or a secure facility operated and maintained by
25 the Department of Corrections or the Department of Juvenile
26 Justice.

27 (2)(a) As used in this section, the term "employee"
28 means any person employed by or performing contractual
29 services for a public or private entity operating a facility.

30 (b) "Employee" includes any person who is a parole
31 examiner with the Florida Parole Commission.

1 (3)(a) It is unlawful for any person, while being
2 detained in a facility and with intent to harass, annoy,
3 threaten, or alarm a person in a facility whom he or she knows
4 or reasonably should know to be an employee of such facility,
5 to cause or attempt to cause such employee to come into
6 contact with blood, masticated food, regurgitated food,
7 saliva, seminal fluid, or urine or feces, whether by throwing,
8 tossing, or expelling such fluid or material.

9 (b)1. Any person who violates paragraph (a) commits
10 battery of a facility employee, a felony of the third degree,
11 punishable as provided in s. 775.082, s. 775.083, or s.
12 775.084.

13 2. In addition to the penalties imposed under
14 subparagraph 1., the administration of a facility may place a
15 violator of paragraph (a) who is a prisoner as defined in s.
16 944.02 on a management meal program as specified by rules and
17 regulations applicable to the facility.

18 Section 2. Subsection (1) of section 806.13, Florida
19 Statutes, is amended, and subsection (7) is added to said
20 section, to read:

21 806.13 Criminal mischief; penalties; penalty for
22 minor.--

23 (1)(a) A person commits the offense of criminal
24 mischief if he willfully and maliciously injures or damages by
25 any means any real or personal property belonging to another,
26 including, but not limited to, the placement of graffiti
27 thereon or other acts of vandalism thereto.

28 (b)1. If the damage to such property is \$200 or less,
29 it is a misdemeanor of the second degree, punishable as
30 provided in s. 775.082 or s. 775.083.

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1 2. If the damage to such property is greater than \$200
2 but less than \$1,000, it is a misdemeanor of the first degree,
3 punishable as provided in s. 775.082 or s. 775.083.

4 3. If the damage is \$1,000 or greater, or if there is
5 interruption or impairment of a business operation or public
6 communication, transportation, supply of water, gas or power,
7 or other public service which costs \$1,000 or more in labor
8 and supplies to restore, it is a felony of the third degree,
9 punishable as provided in s. 775.082, s. 775.083, or s.
10 775.084.

11 4. If the person has one or more previous convictions
12 for violating this subsection, the offense under subparagraph
13 1. or subparagraph 2. for which the person is charged shall be
14 reclassified as a felony of the third degree, punishable as
15 provided in s. 775.082, s. 775.083, or s. 775.084.

16 (7) Because of the difficulty of confronting the
17 blight of graffiti, it is the intent of the Legislature that
18 cities and counties not be preempted by state law from
19 establishing ordinances prohibiting the marking of graffiti or
20 other graffiti-related offenses. Furthermore, as related to
21 graffiti, such cities and counties shall not be preempted by
22 state law from establishing higher penalties than those state
23 law provides and mandatory penalties when state law provides
24 discretionary penalties. Such higher and mandatory penalties
25 include fines, community service, restitution, and forfeiture.
26 Upon a finding that a juvenile has violated a graffiti-related
27 ordinance, no court acting under chapter 39 shall provide a
28 disposition of the case that is less severe than any mandatory
29 penalties prescribed by municipal or county ordinance for such
30 violation.

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1 Section 3. Paragraph (d) is added to subsection (7) of
2 section 901.15, Florida Statutes, 1996 Supplement, to read:

3 901.15 When arrest by officer without warrant is
4 lawful.--A law enforcement officer may arrest a person without
5 a warrant when:

6 (7) There is probable cause to believe that the person
7 has committed:

8 (d) An act of criminal mischief or graffiti-related
9 offense as defined in s. 806.13.

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11 With respect to an arrest for an act of domestic violence, the
12 decision to arrest shall not require consent of the victim or
13 consideration of the relationship of the parties. A law
14 enforcement officer who acts in good faith and exercises due
15 care in making an arrest under this subsection is immune from
16 civil liability that otherwise might result by reason of his
17 action.

18 Section 4. Paragraph (d) of subsection (3) of section
19 921.0012, Florida Statutes, 1996 Supplement, is amended to
20 read:

21 921.0012 Sentencing guidelines offense levels; offense
22 severity ranking chart.--

23 (3) OFFENSE SEVERITY RANKING CHART

24 Florida	Felony	
25 Statute	Degree	Description

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28

29 (d) LEVEL 4

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31

ENROLLED

1997 Legislature

HB 1165, Second Engrossed

1	316.1935(2)	3rd	Fleeing or attempting to elude
2			law enforcement officer resulting
3			in high-speed pursuit.
4	784.07(2)(b)	3rd	Battery of law enforcement
5			officer, firefighter, intake
6			officer, etc.
7	784.075	3rd	Battery on detention or
8			commitment facility staff.
9	<u>784.078</u>	<u>3rd</u>	<u>Battery of facility employee by</u>
10			<u>throwing, tossing, or expelling</u>
11			<u>certain fluids or materials.</u>
12	784.08(2)(c)	3rd	Battery on a person 65 years of
13			age or older.
14	784.081(3)	3rd	Battery on specified official or
15			employee.
16	784.082(3)	3rd	Battery by detained person on
17			visitor or other detainee.
18	787.03(1)	3rd	Interference with custody;
19			wrongly takes child from
20			appointed guardian.
21	787.04(2)	3rd	Take, entice, or remove child
22			beyond state limits with criminal
23			intent pending custody
24			proceedings.
25	787.04(3)	3rd	Carrying child beyond state lines
26			with criminal intent to avoid
27			producing child at custody
28			hearing or delivering to
29			designated person.
30	790.115(1)	3rd	Exhibiting firearm or weapon
31			within 1,000 feet of a school.

ENROLLED

1997 Legislature

HB 1165, Second Engrossed

1	790.115(2)(b)	3rd	Possessing electric weapon or
2			device, destructive device, or
3			other weapon on school property.
4	790.115(2)(c)	3rd	Possessing firearm on school
5			property.
6	810.02(4)(a)	3rd	Burglary, or attempted burglary,
7			of an unoccupied structure;
8			unarmed; no assault or battery.
9	810.02(4)(b)	3rd	Burglary, or attempted burglary,
10			of an unoccupied conveyance;
11			unarmed; no assault or battery.
12	810.06	3rd	Burglary; possession of tools.
13	810.08(2)(c)	3rd	Trespass on property, armed with
14			firearm or dangerous weapon.
15	812.014(2)(c)3.	3rd	Grand theft, 3rd degree \$10,000
16			or more but less than \$20,000.
17	812.014		
18	(2)(c)4.-10.	3rd	Grand theft, 3rd degree, a will,
19			firearm, motor vehicle,
20			livestock, etc.
21	817.563(1)	3rd	Sell or deliver substance other
22			than controlled substance agreed
23			upon, excluding s. 893.03(5)
24			drugs.
25	828.125(1)	2nd	Kill, maim, or cause great bodily
26			harm or permanent breeding
27			disability to any registered
28			horse or cattle.
29	837.02(1)	3rd	Perjury in official proceedings.
30	837.021(1)	3rd	Make contradictory statements in
31			official proceedings.

1	843.025	3rd	Deprive law enforcement,
2			correctional, or correctional
3			probation officer of means of
4			protection or communication.
5	843.15(1)(a)	3rd	Failure to appear while on bail
6			for felony (bond estreature or
7			bond jumping).
8	874.05(1)	3rd	Encouraging or recruiting another
9			to join a criminal street gang.
10	893.13(2)(a)1.	2nd	Purchase of cocaine (or other s.
11			893.03(1)(a), (b), or (d), or
12			(2)(a) or (b) drugs).
13	914.14(2)	3rd	Witnesses accepting bribes.
14	914.22(1)	3rd	Force, threaten, etc., witness,
15			victim, or informant.
16	914.23(2)	3rd	Retaliation against a witness,
17			victim, or informant, no bodily
18			injury.
19	918.12	3rd	Tampering with jurors.
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21	Section 5.		This act shall take effect October 1, 1997.
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