

By Representative Sindler

1 A bill to be entitled
2 An act relating to simulated weapons offenses;
3 amending s. 775.087, F.S., relating to felony
4 reclassification and imposition of mandatory
5 minimum term of imprisonment for certain
6 offenses involving possession or use of weapon;
7 providing for enhanced penalties for
8 threatening to use a firearm regardless of
9 actual possession, under specified
10 circumstances indicative to a reasonable person
11 of firearm possession; providing for enhanced
12 penalties except mandatory minimum sentence
13 under specified circumstances when the object
14 used to threaten is a simulation of a firearm;
15 providing for sentencing guidelines scoring of
16 certain offenses involving threats with such
17 objects; amending s. 784.021, F.S., relating to
18 aggravated assault; providing that, for
19 purposes of aggravated assault involving
20 assault with a deadly weapon without intent to
21 kill, the term "deadly weapon" includes
22 simulated weapons, under specified
23 circumstances indicative to a reasonable person
24 that a deadly weapon is being carried;
25 providing penalties; reenacting ss.
26 775.0823(10), 775.0877(1)(e), and
27 921.0012(3)(f), F.S., relating to violent
28 offenses committed against certain state
29 officials, criminal transmission of HIV, and
30 the sentencing guidelines offense levels,
31 respectively, to incorporate said amendment in

1 references; amending s. 812.13, F.S., relating
2 to robbery; providing that a defendant shall be
3 deemed to have carried a weapon, firearm, or
4 deadly weapon under specified circumstances
5 indicative to a reasonable person that the
6 respective weapon is being carried; providing
7 penalties; providing for sentencing guidelines
8 scoring of certain robbery offenses involving
9 simulation of firearms; reenacting s.
10 921.0012(3)(h) and (i), relating to the
11 sentencing guidelines offense levels, to
12 incorporate said amendment in references;
13 amending s. 812.133, F.S., relating to
14 carjacking; providing that a defendant shall be
15 deemed to have carried a weapon, firearm, or
16 deadly weapon under specified circumstances
17 indicative to a reasonable person that the
18 respective weapon is being carried; providing
19 penalties; providing for sentencing guidelines
20 scoring of certain carjacking offenses
21 involving firearms; reenacting ss.
22 39.052(3)(a), 921.0012(3)(i), and
23 943.325(1)(a), F.S., relating to transfer of
24 child for prosecution as adult, sentencing
25 guidelines offense levels, and blood specimen
26 testing required for DNA analysis,
27 respectively, to incorporate said amendment in
28 references; providing an effective date.

29
30 Be It Enacted by the Legislature of the State of Florida:
31

1 Section 1. Subsection (4) is added to section 775.087,
2 Florida Statutes, 1996 Supplement, to read:

3 775.087 Possession or use of weapon; aggravated
4 battery; felony reclassification; minimum sentence.--

5 (4)(a) A person who threatens to use a firearm, and
6 whose words or actions would indicate to a reasonable person
7 that the person possesses a firearm at the time the threat is
8 made, shall be subject to prosecution under this section
9 whether or not the defendant actually possessed a firearm.

10 (b)1. In cases where the object used was merely a
11 simulation of a firearm but not a real firearm as defined in
12 s. 791.001(6), the object will qualify as a deadly weapon for
13 the purpose of any threat made with it.

14 2. Such object shall not qualify for purposes of
15 ordering a mandatory minimum sentence.

16 3. A crime enhanced by a threat with such object shall
17 be scored pursuant to the sentencing guidelines at one level
18 below where the conviction would score if the object qualified
19 under the definition in s. 791.001(6).

20 Section 2. Subsection (6) of section 790.001, Florida
21 Statutes, reads:

22 790.001 Definitions.--The following words and phrases,
23 when used in this chapter, shall, for the purposes of this
24 chapter, have the meanings respectively ascribed to them in
25 this chapter, except where the context otherwise requires:

26 (6) "Firearm" means any weapon (including a starter
27 gun) which will, is designed to, or may readily be converted
28 to expel a projectile by the action of an explosive; the frame
29 or receiver of any such weapon; any firearm muffler or firearm
30 silencer; any destructive device; or any machine gun. The
31

1 term "firearm" does not include an antique firearm unless the
2 antique firearm is used in the commission of a crime.

3 Section 3. Subsection (3) is added to section 784.021,
4 Florida Statutes, to read:

5 784.021 Aggravated assault.--

6 (1) An "aggravated assault" is an assault:

7 (a) With a deadly weapon without intent to kill; or

8 (b) With an intent to commit a felony.

9 (2) Whoever commits an aggravated assault shall be
10 guilty of a felony of the third degree, punishable as provided
11 in s. 775.082, s. 775.083, or s. 775.084.

12 (3) A "deadly weapon" includes simulated weapons if
13 the defendant intentionally implies, states, or acts in a
14 manner which would indicate to a reasonable person that a
15 deadly weapon is being carried.

16 Section 4. For the purpose of incorporating the
17 amendment to section 784.021, Florida Statutes, in references
18 thereto, the sections or subdivisions of Florida Statutes set
19 forth below are reenacted to read:

20 775.0823 Violent offenses committed against law
21 enforcement officers, correctional officers, state attorneys,
22 assistant state attorneys, justices, or judges.--Any provision
23 of law to the contrary notwithstanding, the Legislature does
24 hereby provide for an increase and certainty of penalty for
25 any person convicted of a violent offense against any law
26 enforcement or correctional officer, as defined in s.
27 943.10(1), (2), (3), (6), (7), (8), or (9); against any state
28 attorney elected pursuant to s. 27.01 or assistant state
29 attorney appointed under s. 27.181; or against any justice or
30 judge of a court described in Art. V of the State
31 Constitution, which offense arises out of or in the scope of

1 the officer's duty as a law enforcement or correctional
2 officer, the state attorney's or assistant state attorney's
3 duty as a prosecutor or investigator, or the justice's or
4 judge's duty as a judicial officer, as follows:

5 (10) For aggravated assault as described in s.
6 784.021, a sentence pursuant to the sentencing guidelines.

7
8 Notwithstanding the provisions of s. 948.01, with respect to
9 any person who is found to have violated this section,
10 adjudication of guilt or imposition of sentence shall not be
11 suspended, deferred, or withheld.

12 775.0877 Criminal transmission of HIV; procedures;
13 penalties.--

14 (1) In any case in which a person has been convicted
15 of or has pled nolo contendere or guilty to, regardless of
16 whether adjudication is withheld, any of the following
17 offenses, or the attempt thereof, which offense or attempted
18 offense involves the transmission of body fluids from one
19 person to another:

20 (e) Sections 784.021, 784.07(2)(c), and 784.08(2)(b),
21 relating to aggravated assault,

22
23 the court shall order the offender to undergo HIV testing, to
24 be performed under the direction of the Department of Health
25 and Rehabilitative Services in accordance with s. 381.004,
26 unless the offender has undergone HIV testing voluntarily or
27 pursuant to procedures established in s. 381.004(3)(i)6. or s.
28 951.27, or any other applicable law or rule providing for HIV
29 testing of criminal offenders or inmates, subsequent to his
30 arrest for an offense enumerated in paragraphs (a)-(n) for
31 which he was convicted or to which he pled nolo contendere or

1 guilty. The results of an HIV test performed on an offender
2 pursuant to this subsection are not admissible in any criminal
3 proceeding arising out of the alleged offense.

4 921.0012 Sentencing guidelines offense levels; offense
5 severity ranking chart.--

6 (3) OFFENSE SEVERITY RANKING CHART

7 Florida	Felony	
8 Statute	Degree	Description
9		
10		(f) LEVEL 6
11 316.027(1)(b)	2nd	Accident involving death, failure
12		to stop; leaving scene.
13 316.193(2)(b)	3rd	Felony DUI, 4th or subsequent
14		conviction.
15 775.0875(1)	3rd	Taking firearm from law
16		enforcement officer.
17 784.021(1)(a)	3rd	Aggravated assault; deadly weapon
18		without intent to kill.
19 784.021(1)(b)	3rd	Aggravated assault; intent to
20		commit felony.
21 784.048(3)	3rd	Aggravated stalking; credible
22		threat.
23 784.07(2)(c)	2nd	Aggravated assault on law
24		enforcement officer.
25 784.08(2)(b)	2nd	Aggravated assault on a person 65
26		years of age or older.
27 784.081(2)	2nd	Aggravated assault on specified
28		official or employee.
29 784.082(2)	2nd	Aggravated assault by detained
30		person on visitor or other
31		detainee.

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1	787.02(2)	3rd	False imprisonment; restraining
2			with purpose other than those in
3			s. 787.01.
4	790.115(2)(d)	2nd	Discharging firearm or weapon on
5			school property.
6	790.161(2)	2nd	Make, possess, or throw
7			destructive device with intent to
8			do bodily harm or damage
9			property.
10	790.164(1)	2nd	False report of deadly explosive
11			or act of arson or violence to
12			state property.
13	790.19	2nd	Shooting or throwing deadly
14			missiles into dwellings, vessels,
15			or vehicles.
16	794.011(8)(a)	3rd	Solicitation of minor to
17			participate in sexual activity by
18			custodial adult.
19	794.05(1)	2nd	Unlawful sexual activity with
20			specified minor.
21	806.031(2)	2nd	Arson resulting in great bodily
22			harm to firefighter or any other
23			person.
24	810.02(3)(c)	2nd	Burglary of occupied structure;
25			unarmed; no assault or battery.
26	812.014(2)(b)	2nd	Property stolen \$20,000 or more,
27			but less than \$100,000, grand
28			theft in 2nd degree.
29	812.13(2)(c)	2nd	Robbery, no firearm or other
30			weapon (strong-arm robbery).
31			

1	817.034(4)(a)1.	1st	Communications fraud, value
2			greater than \$50,000.
3	817.4821(5)	2nd	Possess cloning paraphernalia
4			with intent to create cloned
5			cellular telephones.
6	825.102(1)	3rd	Abuse of an elderly person or
7			disabled adult.
8	825.102(3)(c)	3rd	Neglect of an elderly person or
9			disabled adult.
10	825.1025(3)	3rd	Lewd or lascivious molestation of
11			an elderly person or disabled
12			adult.
13	825.103(2)(c)	3rd	Exploiting an elderly person or
14			disabled adult and property is
15			valued at \$100 or more, but less
16			than \$20,000.
17	827.03(1)	3rd	Abuse of a child.
18	827.03(3)(c)	3rd	Neglect of a child.
19	827.071(2)&(3)	2nd	Use or induce a child in a sexual
20			performance, or promote or direct
21			such performance.
22	836.05	2nd	Threats; extortion.
23	836.10	2nd	Written threats to kill or do
24			bodily injury.
25	843.12	3rd	Aids or assists person to escape.
26	914.23	2nd	Retaliation against a witness,
27			victim, or informant, with bodily
28			injury.
29			
30			
31			

1	944.35(3)(a)2.	3rd	Committing malicious battery upon
2			or inflicting cruel or inhuman
3			treatment on an inmate or
4			offender on community
5			supervision, resulting in great
6			bodily harm.
7	944.40	2nd	Escapes.
8	944.46	3rd	Harboring, concealing, aiding
9			escaped prisoners.
10	944.47(1)(a)5.	2nd	Introduction of contraband
11			(firearm, weapon, or explosive)
12			into correctional facility.
13	951.22(1)	3rd	Intoxicating drug, firearm, or
14			weapon introduced into county
15			facility.

16
17 Section 5. Paragraph (c) is added to subsection (3) of
18 section 812.13, Florida Statutes, to read:

19 812.13 Robbery.--

20 (3)

21 (c) A defendant shall be deemed to have "carried" a
22 weapon, firearm, or deadly weapon if the defendant
23 intentionally implies, states, or acts in a manner which would
24 indicate to a reasonable person that a weapon, firearm, or
25 deadly weapon is being carried. In the case of a firearm, if
26 the object used was merely a simulation of a firearm but not a
27 real firearm as defined in s. 791.006(6), the conviction shall
28 be scored at one level below where it would score if the
29 firearm qualified under the definition in s. 791.001(6).

30 Section 6. For the purpose of incorporating the
31 amendment to section 812.13, Florida Statutes, in references

1 thereto, the sections or subdivisions of Florida Statutes set
2 forth below are reenacted to read:

3 921.0012 Sentencing guidelines offense levels; offense
4 severity ranking chart.--

5 (3) OFFENSE SEVERITY RANKING CHART

6 Florida Statute	Felony Degree	Description
8		
9		(h) LEVEL 8
10 316.193		
11 (3)(c)3.a.	2nd	DUI manslaughter.
12 327.35(3)(c)3.	2nd	Vessel BUI manslaughter.
13 777.03(2)(a)	1st	Accessory after the fact, capital 14 felony.
15 782.04(4)	2nd	Killing of human without design 16 when engaged in act or attempt of 17 any felony other than arson, 18 sexual battery, robbery, 19 burglary, kidnapping, aircraft 20 piracy, or unlawfully discharging 21 bomb.
22 782.071(2)	2nd	Committing vehicular homicide and 23 failing to render aid or give 24 information.
25 782.072(2)	2nd	Committing vessel homicide and 26 failing to render aid or give 27 information.
28 790.161(3)	1st	Discharging a destructive device 29 which results in bodily harm or 30 property damage.
31		

1	794.011(5)	2nd	Sexual battery, victim 12 years
2			or over, offender does not use
3			physical force likely to cause
4			serious injury.
5	806.01(1)	1st	Maliciously damage dwelling or
6			structure by fire or explosive,
7			believing person in structure.
8	810.02(2)(a)	1st,PBL	Burglary with assault or battery.
9	810.02(2)(b)	1st,PBL	Burglary; armed with explosives
10			or dangerous weapon.
11	810.02(2)(c)	1st	Burglary of a dwelling or
12			structure causing structural
13			damage or \$1,000 or more property
14			damage.
15	812.13(2)(b)	1st	Robbery with a weapon.
16	812.135(2)	1st	Home-invasion robbery.
17	825.102(2)	2nd	Aggravated abuse of an elderly
18			person or disabled adult.
19	825.103(2)(a)	1st	Exploiting an elderly person or
20			disabled adult and property is
21			valued at \$100,000 or more.
22	827.03(2)	2nd	Aggravated child abuse.
23	860.121(2)(c)	1st	Shooting at or throwing any
24			object in path of railroad
25			vehicle resulting in great bodily
26			harm.
27	860.16	1st	Aircraft piracy.
28	893.13(1)(b)	1st	Sell or deliver in excess of 10
29			grams of any substance specified
30			in s. 893.03(1)(a) or (b).
31			

1	893.13(2)(b)	1st	Purchase in excess of 10 grams of
2			any substance specified in s.
3			893.03(1)(a) or (b).
4	893.13(6)(c)	1st	Possess in excess of 10 grams of
5			any substance specified in s.
6			893.03(1)(a) or (b).
7	893.135(1)(a)2.	1st	Trafficking in cannabis, more
8			than 2,000 lbs., less than 10,000
9			lbs.
10	893.135		
11	(1)(b)1.b.	1st	Trafficking in cocaine, more than
12			200 grams, less than 400 grams.
13	893.135		
14	(1)(c)1.b.	1st	Trafficking in illegal drugs,
15			more than 14 grams, less than 28
16			grams.
17	893.135(1)(d)2.	1st	Trafficking in phencyclidine,
18			more than 200 grams, less than
19			400 grams.
20	893.135(1)(e)2.	1st	Trafficking in methaqualone, more
21			than 5 kilograms, less than 25
22			kilograms.
23	893.135(1)(f)2.	1st	Trafficking in amphetamine, more
24			than 28 grams, less than 200
25			grams.
26	895.03(1)	1st	Use or invest proceeds derived
27			from pattern of racketeering
28			activity.
29			
30			
31			

1	895.03(2)	1st	Acquire or maintain through
2			racketeering activity any
3			interest in or control of any
4			enterprise or real property.
5	895.03(3)	1st	Conduct or participate in any
6			enterprise through pattern of
7			racketeering activity.
8			
9			(i) LEVEL 9
10	316.193		
11	(3)(c)3.b.	1st	DUI manslaughter; failing to
12			render aid or give information.
13	782.04(1)	1st	Attempt, conspire, or solicit to
14			commit premeditated murder.
15	782.04(3)	1st,PBL	Accomplice to murder in
16			connection with arson, sexual
17			battery, robbery, burglary, and
18			other specified felonies.
19	782.07(2)	1st	Aggravated manslaughter of an
20			elderly person or disabled adult.
21	782.07(3)	1st	Aggravated manslaughter of a
22			child.
23	787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or
24			reward or as a shield or hostage.
25	787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit
26			or facilitate commission of any
27			felony.
28	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to
29			interfere with performance of any
30			governmental or political
31			function.

1	787.02(3)(a)	1st	False imprisonment; child under
2			age 13; perpetrator also commits
3			child abuse, sexual battery,
4			lewd, or lascivious act, etc.
5	790.161	1st	Attempted capital destructive
6			device offense.
7	794.011(2)	1st	Attempted sexual battery; victim
8			less than 12 years of age.
9	794.011(2)	Life	Sexual battery; offender younger
10			than 18 years and commits sexual
11			battery on a person less than 12
12			years.
13	794.011(4)	1st	Sexual battery; victim 12 years
14			or older, certain circumstances.
15	794.011(8)(b)	1st	Sexual battery; engage in sexual
16			conduct with minor 12 to 18 years
17			by person in familial or
18			custodial authority.
19	812.13(2)(a)	1st,PBL	Robbery with firearm or other
20			deadly weapon.
21	812.133(2)(a)	1st,PBL	Carjacking; firearm or other
22			deadly weapon.
23	847.0145(1)	1st	Selling, or otherwise
24			transferring custody or control,
25			of a minor.
26	847.0145(2)	1st	Purchasing, or otherwise
27			obtaining custody or control, of
28			a minor.
29	859.01	1st	Poisoning food, drink, medicine,
30			or water with intent to kill or
31			injure another person.

1	893.135	1st	Attempted capital trafficking
2			offense.
3	893.135(1)(a)3.	1st	Trafficking in cannabis, more
4			than 10,000 lbs.
5	893.135		
6	(1)(b)1.c.	1st	Trafficking in cocaine, more than
7			400 grams, less than 150
8			kilograms.
9	893.135		
10	(1)(c)1.c.	1st	Trafficking in illegal drugs,
11			more than 28 grams, less than 30
12			kilograms.
13	893.135		
14	(1)(d)3.	1st	Trafficking in phencyclidine,
15			more than 400 grams.
16	893.135		
17	(1)(e)3.	1st	Trafficking in methaqualone, more
18			than 25 kilograms.
19	893.135		
20	(1)(f)3.	1st	Trafficking in amphetamine, more
21			than 200 grams.

22
23 Section 7. Paragraph (c) is added to subsection (3) of
24 section 812.133, Florida Statutes, to read:

25 812.133 Carjacking.--

26 (3)

27 (c) A defendant shall be deemed to have "carried" a
28 weapon, firearm, or deadly weapon if the defendant
29 intentionally implies, states, or acts in a manner which would
30 indicate to a reasonable person that a weapon, firearm, or
31 deadly weapon is being carried. In the case of a firearm, if

1 the object used was merely a simulation of a firearm but not a
2 real firearm as defined in s. 791.006(6), the conviction shall
3 be scored at one level below where it would score if the
4 firearm qualified under the definition in s. 791.001(6).

5 Section 8. For the purpose of incorporating the
6 amendment to section 812.133, Florida Statutes, in references
7 thereto, the sections or subdivisions of Florida Statutes set
8 forth below are reenacted to read:

9 39.052 Hearings.--

10 (3) TRANSFER OF A CHILD FOR PROSECUTION AS AN ADULT.--

11 (a)1. The court shall transfer and certify a child's
12 criminal case for trial as an adult if the child is alleged to
13 have committed a violation of law and, prior to the
14 commencement of an adjudicatory hearing, the child, joined by
15 a parent or, in the absence of a parent, by the guardian or
16 guardian ad litem, demands in writing to be tried as an adult.
17 Once a child has been transferred for criminal prosecution
18 pursuant to a voluntary waiver hearing and has been found to
19 have committed the presenting offense or a lesser included
20 offense, the child shall be handled thereafter in every
21 respect as an adult for any subsequent violation of state law,
22 unless the court imposes juvenile sanctions under s.
23 39.059(4)(b) or (c).

24 2.a. The state attorney may file a motion requesting
25 the court to transfer the child for criminal prosecution if
26 the child was 14 years of age or older at the time the alleged
27 delinquent act or violation of law was committed. If the child
28 has been previously adjudicated delinquent for murder, sexual
29 battery, armed or strong-armed robbery, carjacking,
30 home-invasion robbery, aggravated battery, or aggravated
31 assault, and is currently charged with a second or subsequent

1 violent crime against a person, the state attorney shall file
2 a motion requesting the court to transfer and certify the
3 juvenile for prosecution as an adult, or proceed pursuant to
4 subparagraph 5.

5 b. If the child was 14 years of age or older at the
6 time of commission of a fourth or subsequent alleged felony
7 offense and the child was previously adjudicated delinquent or
8 had adjudication withheld for or was found to have committed,
9 or to have attempted or conspired to commit, three offenses
10 that are felony offenses if committed by an adult, and one or
11 more of such felony offenses involved the use or possession of
12 a firearm or violence against a person, the state attorney
13 shall request the court to transfer and certify the child for
14 prosecution as an adult or shall provide written reasons to
15 the court for not making such request, or proceed pursuant to
16 subparagraph 5. Upon the state attorney's request, the court
17 shall either enter an order transferring the case and
18 certifying the case for trial as if the child were an adult or
19 provide written reasons for not issuing such an order.

20 3. If the court finds, after a waiver hearing under
21 subsection (2), that a juvenile who was 14 years of age or
22 older at the time the alleged violation of state law was
23 committed should be charged and tried as an adult, the court
24 shall enter an order transferring the case and certifying the
25 case for trial as if the child were an adult. The child shall
26 thereafter be subject to prosecution, trial, and sentencing as
27 if the child were an adult but subject to the provisions of s.
28 39.059(7). Once a child has been transferred for criminal
29 prosecution pursuant to an involuntary waiver hearing and has
30 been found to have committed the presenting offense or a
31 lesser included offense, the child shall thereafter be handled

1 in every respect as an adult for any subsequent violation of
2 state law, unless the court imposes juvenile sanctions under
3 s. 39.059(4)(b) or (c).

4 4.a. A child of any age who is charged with a
5 violation of state law punishable by death or by life
6 imprisonment is subject to the jurisdiction of the court as
7 set forth in s. 39.049(7) unless and until an indictment on
8 the charge is returned by the grand jury. When such indictment
9 is returned, the petition for delinquency, if any, must be
10 dismissed and the child must be tried and handled in every
11 respect as an adult:

12 (I) On the offense punishable by death or by life
13 imprisonment; and

14 (II) On all other felonies or misdemeanors charged in
15 the indictment which are based on the same act or transaction
16 as the offense punishable by death or by life imprisonment or
17 on one or more acts or transactions connected with the offense
18 punishable by death or by life imprisonment.

19 b. An adjudicatory hearing may not be held until 21
20 days after the child is taken into custody and charged with
21 having committed an offense punishable by death or by life
22 imprisonment, unless the state attorney advises the court in
23 writing that he or she does not intend to present the case to
24 the grand jury, or has presented the case to the grand jury
25 and the grand jury has not returned an indictment. If the
26 court receives such a notice from the state attorney, or if
27 the grand jury fails to act within the 21-day period, the
28 court may proceed as otherwise authorized under this part.

29 c. If the child is found to have committed the offense
30 punishable by death or by life imprisonment, the child shall
31 be sentenced as an adult. If the juvenile is not found to have

1 committed the indictable offense but is found to have
2 committed a lesser included offense or any other offense for
3 which he or she was indicted as a part of the criminal
4 episode, the court may sentence as follows:

5 (I) Pursuant to s. 39.059;

6 (II) Pursuant to chapter 958, notwithstanding any
7 other provisions of that chapter to the contrary; or

8 (III) As an adult, pursuant to s. 39.059(7)(c).

9 d. Once a child has been indicted pursuant to this
10 subsection and has been found to have committed any offense
11 for which he or she was indicted as a part of the criminal
12 episode, the child shall be handled thereafter in every
13 respect as if an adult for any subsequent violation of state
14 law, unless the court imposes juvenile sanctions under s.
15 39.059.

16 5.a. Effective January 1, 1995, with respect to any
17 child who was 14 or 15 years of age at the time the alleged
18 offense was committed, the state attorney may file an
19 information when in the state attorney's judgment and
20 discretion the public interest requires that adult sanctions
21 be considered or imposed and when the offense charged is:

22 (I) Arson;

23 (II) Sexual battery;

24 (III) Robbery;

25 (IV) Kidnapping;

26 (V) Aggravated child abuse;

27 (VI) Aggravated assault;

28 (VII) Aggravated stalking;

29 (VIII) Murder;

30 (IX) Manslaughter;

31

1 (X) Unlawful throwing, placing, or discharging of a
2 destructive device or bomb;
3 (XI) Armed burglary in violation of s. 810.02(2)(b) or
4 specified burglary of a dwelling or structure in violation of
5 s. 810.02(2)(c);
6 (XII) Aggravated battery;
7 (XIII) Lewd or lascivious assault or act in the
8 presence of a child;
9 (XIV) Carrying, displaying, using, threatening, or
10 attempting to use a weapon or firearm during the commission of
11 a felony; or
12 (XV) Grand theft in violation of s. 812.014(2)(a).
13 b. With respect to any child who was 16 or 17 years of
14 age at the time the alleged offense was committed, the state
15 attorney:
16 (I) May file an information when in the state
17 attorney's judgment and discretion the public interest
18 requires that adult sanctions be considered or imposed.
19 However, the state attorney may not file an information on a
20 child charged with a misdemeanor, unless the child has had at
21 least two previous adjudications or adjudications withheld for
22 delinquent acts, one of which involved an offense classified
23 as a felony under state law.
24 (II) Shall file an information if the child has been
25 previously adjudicated delinquent for murder, sexual battery,
26 armed or strong-armed robbery, carjacking, home-invasion
27 robbery, aggravated battery, or aggravated assault, and is
28 currently charged with a second or subsequent violent crime
29 against a person.
30 c. Effective January 1, 1995, notwithstanding
31 subparagraphs 1. and 2., regardless of the child's age at the

1 time the alleged offense was committed, the state attorney
2 must file an information with respect to any child who
3 previously has been adjudicated for offenses which, if
4 committed by an adult, would be felonies and such
5 adjudications occurred at three or more separate delinquency
6 adjudicatory hearings, and three of which resulted in
7 residential commitments as defined in s. 39.01(59).

8 d. Once a child has been transferred for criminal
9 prosecution pursuant to information and has been found to have
10 committed the presenting offense or a lesser included offense,
11 the child shall be handled thereafter in every respect as if
12 an adult for any subsequent violation of state law, unless the
13 court imposes juvenile sanctions under s. 39.059(6).

14 e. Each state attorney shall develop and annually
15 update written policies and guidelines to govern
16 determinations for filing an information on a juvenile, to be
17 submitted to the Executive Office of the Governor, the
18 President of the Senate, the Speaker of the House of
19 Representatives, and the Juvenile Justice Advisory Board not
20 later than January 1 of each year.

21 f. The state attorney must file an information if a
22 child, regardless of the child's age at the time the alleged
23 offense was committed, is alleged to have committed an act
24 that would be a violation of law if the child were an adult,
25 that involves stealing a motor vehicle, including, but not
26 limited to, a violation of s. 812.133, relating to carjacking,
27 or s. 812.014(2)(c)6., relating to grand theft of a motor
28 vehicle, and while the child was in possession of the stolen
29 motor vehicle the child caused serious bodily injury to or the
30 death of a person who was not involved in the underlying
31 offense. For purposes of this section, the driver and all

1 willing passengers in the stolen motor vehicle at the time
2 such serious bodily injury or death is inflicted shall also be
3 subject to mandatory transfer to adult court. "Stolen motor
4 vehicle," for the purposes of this section, means a motor
5 vehicle that has been the subject of any criminal wrongful
6 taking. For purposes of this section, "willing passengers"
7 means all willing passengers who have participated in the
8 underlying offense.

9 921.0012 Sentencing guidelines offense levels; offense
10 severity ranking chart.--

11 (3) OFFENSE SEVERITY RANKING CHART

12 Florida Statute	Felony Degree	Description
13		
14		
15		
16		(i) LEVEL 9
17 316.193		
18 (3)(c)3.b.	1st	DUI manslaughter; failing to 19 render aid or give information.
20 782.04(1)	1st	Attempt, conspire, or solicit to 21 commit premeditated murder.
22 782.04(3)	1st,PBL	Accomplice to murder in 23 connection with arson, sexual 24 battery, robbery, burglary, and 25 other specified felonies.
26 782.07(2)	1st	Aggravated manslaughter of an 27 elderly person or disabled adult.
28 782.07(3)	1st	Aggravated manslaughter of a 29 child.
30 787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or 31 reward or as a shield or hostage.

1	787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit
2			or facilitate commission of any
3			felony.
4	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to
5			interfere with performance of any
6			governmental or political
7			function.
8	787.02(3)(a)	1st	False imprisonment; child under
9			age 13; perpetrator also commits
10			child abuse, sexual battery,
11			lewd, or lascivious act, etc.
12	790.161	1st	Attempted capital destructive
13			device offense.
14	794.011(2)	1st	Attempted sexual battery; victim
15			less than 12 years of age.
16	794.011(2)	Life	Sexual battery; offender younger
17			than 18 years and commits sexual
18			battery on a person less than 12
19			years.
20	794.011(4)	1st	Sexual battery; victim 12 years
21			or older, certain circumstances.
22	794.011(8)(b)	1st	Sexual battery; engage in sexual
23			conduct with minor 12 to 18 years
24			by person in familial or
25			custodial authority.
26	812.13(2)(a)	1st,PBL	Robbery with firearm or other
27			deadly weapon.
28	812.133(2)(a)	1st,PBL	Carjacking; firearm or other
29			deadly weapon.
30			
31			

1	847.0145(1)	1st	Selling, or otherwise
2			transferring custody or control,
3			of a minor.
4	847.0145(2)	1st	Purchasing, or otherwise
5			obtaining custody or control, of
6			a minor.
7	859.01	1st	Poisoning food, drink, medicine,
8			or water with intent to kill or
9			injure another person.
10	893.135	1st	Attempted capital trafficking
11			offense.
12	893.135(1)(a)3.	1st	Trafficking in cannabis, more
13			than 10,000 lbs.
14	893.135		
15	(1)(b)1.c.	1st	Trafficking in cocaine, more than
16			400 grams, less than 150
17			kilograms.
18	893.135		
19	(1)(c)1.c.	1st	Trafficking in illegal drugs,
20			more than 28 grams, less than 30
21			kilograms.
22	893.135		
23	(1)(d)3.	1st	Trafficking in phencyclidine,
24			more than 400 grams.
25	893.135		
26	(1)(e)3.	1st	Trafficking in methaqualone, more
27			than 25 kilograms.
28	893.135		
29	(1)(f)3.	1st	Trafficking in amphetamine, more
30			than 200 grams.
31			

