

By Representative Ritter

1 A bill to be entitled
 2 An act relating to controlled substances;
 3 amending s. 893.13, F.S.; prohibiting the sale,
 4 manufacture, or delivery of controlled
 5 substances, or possession of controlled
 6 substances with intent to sell, manufacture, or
 7 deliver, within 1,000 feet of the real property
 8 comprising a child care facility; providing
 9 penalties; amending s. 921.0012, F.S.;
 10 providing for classification of such offenses
 11 within the offense severity ranking chart;
 12 providing an effective date.

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

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 16 Section 1. Paragraph (c) of subsection (1) and
 17 subsections (8), (9), and (10) of section 893.13, Florida
 18 Statutes, 1996 Supplement, are amended to read:

19 893.13 Prohibited acts; penalties.--

20 (1)

21 (c) Except as authorized by this chapter, it is
 22 unlawful for any person to sell, manufacture, or deliver, or
 23 possess with intent to sell, manufacture, or deliver a
 24 controlled substance in, on, or within 1,000 feet of the real
 25 property comprising a child care facility as defined in s.
 26 402.302 or a public or private elementary, middle, or
 27 secondary school between the hours of 6 a.m. and 12 a.m. Any
 28 person who violates this paragraph with respect to:

29 1. A controlled substance named or described in s.
 30 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) commits a
 31 felony of the first degree, punishable as provided in s.

1 775.082, s. 775.083, or s. 775.084 and must be sentenced to a
2 minimum term of imprisonment of 3 calendar years.

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

7 3. Any other controlled substance, except as lawfully
8 sold, manufactured, or delivered, must be sentenced to pay a
9 \$500 fine and to serve 100 hours of public service in addition
10 to any other penalty prescribed by law.

11 (8) Notwithstanding any provision to the contrary of
12 the laws of this state:

13 (a) The court may assess for alcohol and other drug
14 abuse programs as provided in s. 893.165 any defendant who
15 pleads guilty or nolo contendere to, or is convicted of, a
16 violation of any provision of this chapter or which involves a
17 criminal violation of s. 316.193, s. 856.011, s. 856.015, or
18 chapter 562, chapter 567, or chapter 568, in addition to any
19 fine and other penalty provided by law, an amount up to the
20 amount of the fine authorized for the violation.

21 (b) The court may assess any defendant who pleads
22 guilty or nolo contendere to, or is convicted of, a violation
23 of any provision of this section, without regard to whether
24 adjudication was withheld, in addition to any fine and other
25 penalty provided or authorized by law, an amount of \$100, to
26 be paid to the clerk of the court, who shall forward it to the
27 Operating Trust Fund of the Department of Law Enforcement to
28 be used by the statewide criminal analysis laboratory system
29 for the purposes specified in s. 943.361.

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1 The court is authorized to order a defendant to pay an
2 additional assessment if it finds that the defendant has the
3 ability to pay the fine and the additional assessment and will
4 not be prevented thereby from being rehabilitated or from
5 making restitution.

6 (9) The provisions of subsections (1) through (7) are
7 not applicable to the delivery to, or actual or constructive
8 possession for medical or scientific use or purpose only of
9 controlled substances by, persons included in any of the
10 following classes, or the agents or employees of such persons,
11 for use in the usual course of their business or profession or
12 in the performance of their official duties:

13 (a) Pharmacists.

14 (b) Practitioners.

15 (c) Persons who procure controlled substances in good
16 faith and in the course of professional practice only, by or
17 under the supervision of pharmacists or practitioners employed
18 by them, or for the purpose of lawful research, teaching, or
19 testing, and not for resale.

20 (d) Hospitals that procure controlled substances for
21 lawful administration by practitioners, but only for use by or
22 in the particular hospital.

23 (e) Officers or employees of state, federal, or local
24 governments acting in their official capacity only, or
25 informers acting under their jurisdiction.

26 (f) Common carriers.

27 (g) Manufacturers, wholesalers, and distributors.

28 (h) Law enforcement officers for bona fide law
29 enforcement purposes in the course of an active criminal
30 investigation.

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1 (10) Notwithstanding any provision of the sentencing
2 guidelines to the contrary, on or after October 1, 1993, any
3 defendant who:

4 (a) Violates subparagraph (1)(a)1., subparagraph
5 (1)(c)2., subparagraph (1)(d)2., subparagraph (2)(a)1., or
6 paragraph (5)(a); and

7 (b) Has not previously been convicted, regardless of
8 whether adjudication was withheld, of any felony, other than a
9 violation of subparagraph (1)(a)1., subparagraph (1)(c)2.,
10 subparagraph (1)(d)2., subparagraph (2)(a)1., or paragraph
11 (5)(a),

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13 may be required by the court to successfully complete a term
14 of probation pursuant to the terms and conditions set forth in
15 s. 948.034(1), in lieu of serving a term of imprisonment.

16 Section 2. Paragraphs (e) and (g) of subsection (3) of
17 section 921.0012, Florida Statutes, 1996 Supplement, are
18 amended to read:

19 921.0012 Sentencing guidelines offense levels; offense
20 severity ranking chart.--

21 (3) OFFENSE SEVERITY RANKING CHART

22 Florida	Felony	
23 Statute	Degree	Description

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27		(e) LEVEL 5
28 316.027(1)(a)	3rd	Accidents involving personal
29		injuries, failure to stop;
30		leaving scene.
31 316.1935(3)	3rd	Aggravated fleeing or eluding.

1	322.34(3)	3rd	Careless operation of motor
2			vehicle with suspended license,
3			resulting in death or serious
4			bodily injury.
5	327.30(5)	3rd	Vessel accidents involving
6			personal injury; leaving scene.
7	381.0041(11)(b)	3rd	Donate blood, plasma, or organs
8			knowing HIV positive.
9	790.01(2)	3rd	Carrying a concealed firearm.
10	790.162	2nd	Threat to throw or discharge
11			destructive device.
12	790.163	2nd	False report of deadly explosive.
13	790.165(2)	3rd	Manufacture, sell, possess, or
14			deliver hoax bomb.
15	790.221(1)	2nd	Possession of short-barreled
16			shotgun or machine gun.
17	790.23	2nd	Felons in possession of firearms
18			or electronic weapons or devices.
19	806.111(1)	3rd	Possess, manufacture, or dispense
20			fire bomb with intent to damage
21			any structure or property.
22	812.019(1)	2nd	Stolen property; dealing in or
23			trafficking in.
24	812.16(2)	3rd	Owning, operating, or conducting
25			a chop shop.
26	817.034(4)(a)2.	2nd	Communications fraud, value
27			\$20,000 to \$50,000.
28	825.1025(4)	3rd	Lewd or lascivious exhibition in
29			the presence of an elderly person
30			or disabled adult.
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585-102-97

1	827.071(4)	2nd	Possess with intent to promote
2			any photographic material, motion
3			picture, etc., which includes
4			sexual conduct by a child.
5	843.01	3rd	Resist officer with violence to
6			person; resist arrest with
7			violence.
8	874.05(2)	2nd	Encouraging or recruiting another
9			to join a criminal street gang;
10			second or subsequent offense.
11	893.13(1)(a)1.	2nd	Sell, manufacture, or deliver
12			cocaine (or other s.
13			893.03(1)(a), (1)(b), (1)(d),
14			(2)(a), or (2)(b) drugs).
15	893.13(1)(c)2.	2nd	Sell, manufacture, or deliver
16			cannabis (or other s.
17			893.03(1)(c), (2)(c), (3), or (4)
18			drugs) within 1,000 feet of a
19			<u>child care facility or school.</u>
20	893.13(1)(d)1.	1st	Sell, manufacture, or deliver
21			cocaine (or other s.
22			893.03(1)(a), (1)(b), (1)(d),
23			(2)(a), or (2)(b) drugs) within
24			200 feet of university, public
25			housing facility, or public park.
26	893.13(4)(b)	2nd	Deliver to minor cannabis (or
27			other s. 893.03(1)(c), (2)(c),
28			(3), or (4) drugs).
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31			(g) LEVEL 7

585-102-97

1	316.193(3)(c)2.	3rd	DUI resulting in serious bodily
2			injury.
3	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious
4			bodily injury.
5	409.920(2)	3rd	Medicaid provider fraud.
6	494.0018(2)	1st	Conviction of any violation of
7			ss. 494.001-494.0077 in which the
8			total money and property
9			unlawfully obtained exceeded
10			\$50,000 and there were five or
11			more victims.
12	782.07(1)	2nd	Killing of a human being by the
13			act, procurement, or culpable
14			negligence of another
15			(manslaughter).
16	782.071(1)	3rd	Killing of human being by the
17			operation of a motor vehicle in a
18			reckless manner (vehicular
19			homicide).
20	782.072(1)	3rd	Killing of a human being by the
21			operation of a vessel in a
22			reckless manner (vessel
23			homicide).
24	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
25			causing great bodily harm or
26			disfigurement.
27	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
28			weapon.
29	784.045(1)(b)	2nd	Aggravated battery; perpetrator
30			aware victim pregnant.
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1	784.048(4)	3rd	Aggravated stalking; violation of
2			injunction or court order.
3	784.07(2)(d)	1st	Aggravated battery on law
4			enforcement officer.
5	784.08(2)(a)	1st	Aggravated battery on a person 65
6			years of age or older.
7	784.081(1)	1st	Aggravated battery on specified
8			official or employee.
9	784.082(1)	1st	Aggravated battery by detained
10			person on visitor or other
11			detainee.
12	790.07(4)	1st	Specified weapons violation
13			subsequent to previous conviction
14			of s. 790.07(1) or (2).
15	790.16(1)	1st	Discharge of a machine gun under
16			specified circumstances.
17	796.03	2nd	Procuring any person under 16
18			years for prostitution.
19	800.04	2nd	Handle, fondle, or assault child
20			under 16 years in lewd,
21			lascivious, or indecent manner.
22	806.01(2)	2nd	Maliciously damage structure by
23			fire or explosive.
24	810.02(3)(a)	2nd	Burglary of occupied dwelling;
25			unarmed; no assault or battery.
26	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
27			unarmed; no assault or battery.
28	810.02(3)(d)	2nd	Burglary of occupied conveyance;
29			unarmed; no assault or battery.
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585-102-97

1	812.014(2)(a)	1st	Property stolen, valued at
2			\$100,000 or more; property stolen
3			while causing other property
4			damage; 1st degree grand theft.
5	812.019(2)	1st	Stolen property; initiates,
6			organizes, plans, etc., the theft
7			of property and traffics in
8			stolen property.
9	812.133(2)(b)	1st	Carjacking; no firearm, deadly
10			weapon, or other weapon.
11	825.102(3)(b)	2nd	Neglecting an elderly person or
12			disabled adult causing great
13			bodily harm, disability, or
14			disfigurement.
15	825.1025(2)	2nd	Lewd or lascivious battery upon
16			an elderly person or disabled
17			adult.
18	825.103(2)(b)	2nd	Exploiting an elderly person or
19			disabled adult and property is
20			valued at \$20,000 or more, but
21			less than \$100,000.
22	827.03(3)(b)	2nd	Neglect of a child causing great
23			bodily harm, disability, or
24			disfigurement.
25	827.04(4)	3rd	Impregnation of a child under 16
26			years of age by person 21 years
27			of age or older.
28	872.06	2nd	Abuse of a dead human body.
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1	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
2			cocaine (or other s.
3			893.03(1)(a), (1)(b), (1)(d),
4			(2)(a), or (2)(b) drugs) within
5			1,000 feet of a <u>child care</u>
6			<u>facility or</u> school.
7	893.13(4)(a)	1st	Deliver to minor cocaine (or
8			other s. 893.03(1)(a), (1)(b),
9			(1)(d), (2)(a), or (2)(b) drugs).
10	893.135(1)(a)1.	1st	Trafficking in cannabis, more
11			than 50 lbs., less than 2,000
12			lbs.
13	893.135		
14	(1)(b)1.a.	1st	Trafficking in cocaine, more than
15			28 grams, less than 200 grams.
16	893.135		
17	(1)(c)1.a.	1st	Trafficking in illegal drugs,
18			more than 4 grams, less than 14
19			grams.
20	893.135		
21	(1)(d)1.	1st	Trafficking in phencyclidine,
22			more than 28 grams, less than 200
23			grams.
24	893.135(1)(e)1.	1st	Trafficking in methaqualone, more
25			than 200 grams, less than 5
26			kilograms.
27	893.135(1)(f)1.	1st	Trafficking in amphetamine, more
28			than 14 grams, less than 28
29			grams.
30	Section 3.		This act shall take effect October 1, 1997.
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SENATE SUMMARY

Prohibits the sale, manufacture, or delivery of controlled substances, or possession of controlled substances with intent to sell, manufacture, or deliver, within 1,000 feet of a child care facility and ranks these offenses on the offense severity ranking chart.