

By the Committee on Crime & Punishment and Representatives
Lynn, Fasano and Heyman

1 A bill to be entitled
2 An act relating to controlled substances;
3 amending s. 893.13, F.S., relating to
4 prohibitions against selling, manufacturing, or
5 delivering, or possessing with intent to sell,
6 manufacture, or deliver, controlled substances
7 within 200 feet of the real property comprising
8 a public housing facility; defining "real
9 property comprising a public housing facility";
10 providing penalties; amending s. 921.0022,
11 F.S.; ranking such offenses on the offense
12 severity ranking chart of the Criminal
13 Punishment Code; providing an effective date.

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15 WHEREAS, the Florida Supreme Court in *Brown v. State*,
16 629 So.2d 841 (Fla. 1994), held that section 893.13(1)(i),
17 Florida Statutes, 1990 Supplement, relating to enhanced
18 penalties for selling, manufacturing, or delivering, or
19 possessing with intent to sell, manufacture, or deliver,
20 controlled substances within 200 feet of a public housing
21 facility, was unconstitutionally vague because the phrase
22 "public housing facility" did not give adequate notice of what
23 conduct was prohibited, and

24 WHEREAS, the court noted that although the phrase was
25 not defined in the statutory section, the term "housing
26 project" had been defined for purposes of a similar statute in
27 Georgia, relating to prohibitions against drug transactions
28 within 1,000 feet of a publicly operated housing project, and

29 WHEREAS, the court also noted that analogous language
30 in s. 893.13(1)(e), Florida Statutes, 1990 Supplement,
31 providing for enhanced penalties for certain drug offenses

1 that occur within 1,000 feet of a public or private
2 elementary, middle, or secondary school, gave a clearer
3 indication of the conduct prohibited, in comparison to the
4 language of s. 893.139(1)(i), Florida Statutes, 1990
5 Supplement, and

6 WHEREAS, it is appropriate to deter and punish drug
7 offenses against children or other vulnerable persons in or
8 near housing projects with penalties equal in severity to
9 those imposed for drug offenses against children and other
10 victims in or near schools, NOW, THEREFORE,

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

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14 Section 1. Paragraph (d) of subsection (1) of section
15 893.13, Florida Statutes, is amended, and paragraph (f) is
16 added to said subsection, to read:

17 893.13 Prohibited acts; penalties.--

18 (1)

19 (d) Except as authorized by this chapter, it is
20 unlawful for any person to sell, manufacture, or deliver, or
21 possess with intent to sell, manufacture, or deliver, a
22 controlled substance in, on, or ~~within 200 feet of the real~~
23 ~~property comprising a public housing facility,~~ within 200 feet
24 of the real property comprising a public or private college,
25 university, or other postsecondary educational institution, or
26 within 200 feet of any public park. Any person who violates
27 this paragraph with respect to:

28 1. A controlled substance named or described in s.
29 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) commits a
30 felony of the first degree, punishable as provided in s.
31 775.082, s. 775.083, or s. 775.084.

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

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

9 (f) Except as authorized by this chapter, it is
10 unlawful for any person to sell, manufacture, or deliver, or
11 possess with intent to sell, manufacture, or deliver, a
12 controlled substance in, on, or within 200 feet of the real
13 property comprising a public housing facility at any time. For
14 purposes of this section, the term "real property comprising a
15 public housing facility" means real property, as defined in s.
16 421.03(12), of a public corporation created as a housing
17 authority pursuant to part I of chapter 421. Any person who
18 violates this paragraph with respect to:

19 1. A controlled substance named or described in s.
20 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) commits a
21 felony of the first degree, punishable as provided in s.
22 775.082, s. 775.083, or s. 775.084.

23 2. A controlled substance named or described in s.
24 893.03(1)(c), (2)(c), (3), or (4) commits a felony of the
25 second degree, punishable as provided in s. 775.082, s.
26 775.083, or s. 775.084.

27 3. Any other controlled substance, except as lawfully
28 sold, manufactured, or delivered, must be sentenced to pay a
29 \$500 fine and to serve 100 hours of public service in addition
30 to any other penalty prescribed by law.

31

1 Section 2. Paragraphs (c) and (e) of subsection (3) of
2 section 921.0022, Florida Statutes, are amended to read:
3 921.0022 Criminal Punishment Code; offense severity
4 ranking chart.--

5 (3) OFFENSE SEVERITY RANKING CHART

6	7 Florida	8 Felony	
9	10 Statute	11 Degree	12 Description
13			14 (c) LEVEL 3
15	16 39.061	17 3rd	18 Escapes from juvenile facility 19 (secure detention or residential 20 commitment facility).
21	22 319.30(4)	23 3rd	24 Possession by junkyard of motor 25 vehicle with identification 26 number plate removed.
27	28 319.33(1)(a)	29 3rd	30 Alter or forge any certificate of 31 title to a motor vehicle or mobile home.
	319.33(1)(c)	3rd	Procure or pass title on stolen vehicle.
	319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
	328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.

1	328.07(4)	3rd	Manufacture, exchange, or possess
2			vessel with counterfeit or wrong
3			ID number.
4	376.302(5)	3rd	Fraud related to reimbursement
5			for cleanup expenses under the
6			Inland Protection Trust Fund.
7	501.001(2)(b)	2nd	Tampers with a consumer product
8			or the container using materially
9			false/misleading information.
10	697.08	3rd	Equity skimming.
11	790.15(3)	3rd	Person directs another to
12			discharge firearm from a vehicle.
13	796.05(1)	3rd	Live on earnings of a prostitute.
14	806.10(1)	3rd	Maliciously injure, destroy, or
15			interfere with vehicles or
16			equipment used in firefighting.
17	806.10(2)	3rd	Interferes with or assaults
18			firefighter in performance of
19			duty.
20	810.09(2)(c)	3rd	Trespass on property other than
21			structure or conveyance armed
22			with firearm or dangerous weapon.
23	812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but
24			less than \$10,000.
25	815.04(4)(b)	2nd	Computer offense devised to
26			defraud or obtain property.
27	817.034(4)(a)3.	3rd	Engages in scheme to defraud
28			(Florida Communications Fraud
29			Act), property valued at less
30			than \$20,000.
31	817.233	3rd	Burning to defraud insurer.

1	828.12(2)	3rd	Tortures any animal with intent
2			to inflict intense pain, serious
3			physical injury, or death.
4	831.29	2nd	Possession of instruments for
5			counterfeiting drivers' licenses.
6	838.021(3)(b)	3rd	Threatens unlawful harm to public
7			servant.
8	843.19	3rd	Injure, disable, or kill police
9			dog or horse.
10	870.01(2)	3rd	Riot; inciting or encouraging.
11	893.13(1)(a)2.	3rd	Sell, manufacture, or deliver
12			cannabis (or other s.
13			893.03(1)(c), (2)(c), (3), or (4)
14			drugs).
15	893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s.
16			893.03(1)(c), (2)(c), (3), or (4)
17			drugs within 200 feet of
18			university, public housing
19			facility , or public park.
20	<u>893.13(1)(f)2.</u>	<u>2nd</u>	<u>Sell, manufacture, or deliver s.</u>
21			<u>893.03(1)(c), (2)(c), (3), or (4)</u>
22			<u>drugs within 200 feet of public</u>
23			<u>housing facility.</u>
24	893.13(6)(a)	3rd	Possession of any controlled
25			substance other than felony
26			possession of cannabis.
27	893.13(7)(a)9.	3rd	Obtain or attempt to obtain
28			controlled substance by fraud,
29			forgery, misrepresentation, etc.
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1	893.13(7)(a)11.	3rd	Furnish false or fraudulent
2			material information on any
3			document or record required by
4			chapter 893.
5	918.13(1)(a)	3rd	Alter, destroy, or conceal
6			investigation evidence.
7	944.47		
8	(1)(a)1.-2.	3rd	Introduce contraband to
9			correctional facility.
10	944.47(1)(c)	2nd	Possess contraband while upon the
11			grounds of a correctional
12			institution.
13			(e) LEVEL 5
14	316.027(1)(a)	3rd	Accidents involving personal
15			injuries, failure to stop;
16			leaving scene.
17	316.1935(3)	3rd	Aggravated fleeing or eluding.
18	322.34(3)	3rd	Careless operation of motor
19			vehicle with suspended license,
20			resulting in death or serious
21			bodily injury.
22	327.30(5)	3rd	Vessel accidents involving
23			personal injury; leaving scene.
24	381.0041(11)(b)	3rd	Donate blood, plasma, or organs
25			knowing HIV positive.
26	790.01(2)	3rd	Carrying a concealed firearm.
27	790.162	2nd	Threat to throw or discharge
28			destructive device.
29	790.163	2nd	False report of deadly explosive.
30	790.165(2)	3rd	Manufacture, sell, possess, or
31			deliver hoax bomb.

1	790.221(1)	2nd	Possession of short-barreled
2			shotgun or machine gun.
3	790.23	2nd	Felons in possession of firearms
4			or electronic weapons or devices.
5	806.111(1)	3rd	Possess, manufacture, or dispense
6			fire bomb with intent to damage
7			any structure or property.
8	812.019(1)	2nd	Stolen property; dealing in or
9			trafficking in.
10	812.16(2)	3rd	Owning, operating, or conducting
11			a chop shop.
12	817.034(4)(a)2.	2nd	Communications fraud, value
13			\$20,000 to \$50,000.
14	825.1025(4)	3rd	Lewd or lascivious exhibition in
15			the presence of an elderly person
16			or disabled adult.
17	827.071(4)	2nd	Possess with intent to promote
18			any photographic material, motion
19			picture, etc., which includes
20			sexual conduct by a child.
21	843.01	3rd	Resist officer with violence to
22			person; resist arrest with
23			violence.
24	874.05(2)	2nd	Encouraging or recruiting another
25			to join a criminal street gang;
26			second or subsequent offense.
27	893.13(1)(a)1.	2nd	Sell, manufacture, or deliver
28			cocaine (or other s.
29			893.03(1)(a), (1)(b), (1)(d),
30			(2)(a), or (2)(b) drugs).
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1 893.13(1)(c)2. 2nd Sell, manufacture, or deliver
2 cannabis (or other s.
3 893.03(1)(c), (2)(c), (3), or (4)
4 drugs) within 1,000 feet of a
5 school.
6 893.13(1)(d)1. 1st Sell, manufacture, or deliver
7 cocaine (or other s.
8 893.03(1)(a), (1)(b), (1)(d),
9 (2)(a), or (2)(b) drugs) within
10 200 feet of university, ~~public~~
11 ~~housing facility~~, or public park.
12 893.13(1)(f)1. 1st Sell, manufacture, or deliver
13 cocaine (or other s.
14 893.03(1)(a), (1)(b), (1)(d), or
15 (2)(a), or (2)(b) drugs) within
16 200 feet of public housing
17 facility.
18 893.13(4)(b) 2nd Deliver to minor cannabis (or
19 other s. 893.03(1)(c), (2)(c),
20 (3), or (4) drugs).
21 Section 3. This act shall take effect October 1 of the
22 year in which enacted.
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