

By Representative Hill

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, delivery, or possession with
5 intent to sell, manufacture, or deliver any
6 controlled substance within a specified
7 distance of property used for religious
8 services or property on which specified
9 business enterprises conduct business; amending
10 s. 921.0012, F.S.; prescribing sentencing
11 guideline offense levels; providing an
12 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 (e) is added to subsection (1) of
17 section 893.13, Florida Statutes, 1996 Supplement, and
18 subsections (8), (9), and (10) of that section are amended, to
19 read:

20 893.13 Prohibited acts; penalties.--

21 (1)

22 (e) Except as authorized by this chapter, it is
23 unlawful for any person to sell, manufacture, or deliver, or
24 possess with intent to sell, manufacture, or deliver, a
25 controlled substance not authorized by law in, on, or within
26 1,000 feet of a physical place for worship at which a church
27 or religious organization regularly conducts religious
28 services or within 1,000 feet of a convenience business as
29 defined in s. 812.171. Any person who violates this paragraph
30 with respect to:

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

5 2. A controlled substance named or described in s.
6 893.03(1)(c), (2)(c), (3), or (4) commits a felony of the
7 second degree, punishable as provided in s. 775.082, s.
8 775.083, or s. 775.084.

9 3. Any other controlled substance, except as lawfully
10 sold, manufactured, or delivered, must be sentenced to pay a
11 \$500 fine and to serve 100 hours of public service in addition
12 to any other penalty prescribed by law.

13 (8) Notwithstanding any provision to the contrary of
14 the laws of this state:

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

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

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

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

14 (a) Pharmacists.

15 (b) Practitioners.

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

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

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

27 (f) Common carriers.

28 (g) Manufacturers, wholesalers, and distributors.

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

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

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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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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			school.
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.
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1	<u>893.13(1)(e)</u>	<u>2nd</u>	<u>Sell, manufacture, or deliver</u>
2			<u>cannabis (or other s.</u>
3			<u>893.03(1)(c), (2)(c), (3), or (4)</u>
4			<u>drugs) within 1,000 feet of</u>
5			<u>property used for religious</u>
6			<u>services or a specified business</u>
7			<u>site.</u>
8	893.13(4)(b)	2nd	Deliver to minor cannabis (or
9			other s. 893.03(1)(c), (2)(c),
10			(3), or (4) drugs).
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12			(g) LEVEL 7
13	316.193(3)(c)2.	3rd	DUI resulting in serious bodily
14			injury.
15	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious
16			bodily injury.
17	409.920(2)	3rd	Medicaid provider fraud.
18	494.0018(2)	1st	Conviction of any violation of
19			ss. 494.001-494.0077 in which the
20			total money and property
21			unlawfully obtained exceeded
22			\$50,000 and there were five or
23			more victims.
24	782.07(1)	2nd	Killing of a human being by the
25			act, procurement, or culpable
26			negligence of another
27			(manslaughter).
28	782.071(1)	3rd	Killing of human being by the
29			operation of a motor vehicle in a
30			reckless manner (vehicular
31			homicide).

1	782.072(1)	3rd	Killing of a human being by the
2			operation of a vessel in a
3			reckless manner (vessel
4			homicide).
5	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
6			causing great bodily harm or
7			disfigurement.
8	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
9			weapon.
10	784.045(1)(b)	2nd	Aggravated battery; perpetrator
11			aware victim pregnant.
12	784.048(4)	3rd	Aggravated stalking; violation of
13			injunction or court order.
14	784.07(2)(d)	1st	Aggravated battery on law
15			enforcement officer.
16	784.08(2)(a)	1st	Aggravated battery on a person 65
17			years of age or older.
18	784.081(1)	1st	Aggravated battery on specified
19			official or employee.
20	784.082(1)	1st	Aggravated battery by detained
21			person on visitor or other
22			detainee.
23	790.07(4)	1st	Specified weapons violation
24			subsequent to previous conviction
25			of s. 790.07(1) or (2).
26	790.16(1)	1st	Discharge of a machine gun under
27			specified circumstances.
28	796.03	2nd	Procuring any person under 16
29			years for prostitution.
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1	800.04	2nd	Handle, fondle, or assault child
2			under 16 years in lewd,
3			lascivious, or indecent manner.
4	806.01(2)	2nd	Maliciously damage structure by
5			fire or explosive.
6	810.02(3)(a)	2nd	Burglary of occupied dwelling;
7			unarmed; no assault or battery.
8	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
9			unarmed; no assault or battery.
10	810.02(3)(d)	2nd	Burglary of occupied conveyance;
11			unarmed; no assault or battery.
12	812.014(2)(a)	1st	Property stolen, valued at
13			\$100,000 or more; property stolen
14			while causing other property
15			damage; 1st degree grand theft.
16	812.019(2)	1st	Stolen property; initiates,
17			organizes, plans, etc., the theft
18			of property and traffics in
19			stolen property.
20	812.133(2)(b)	1st	Carjacking; no firearm, deadly
21			weapon, or other weapon.
22	825.102(3)(b)	2nd	Neglecting an elderly person or
23			disabled adult causing great
24			bodily harm, disability, or
25			disfigurement.
26	825.1025(2)	2nd	Lewd or lascivious battery upon
27			an elderly person or disabled
28			adult.
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1	825.103(2)(b)	2nd	Exploiting an elderly person or
2			disabled adult and property is
3			valued at \$20,000 or more, but
4			less than \$100,000.
5	827.03(3)(b)	2nd	Neglect of a child causing great
6			bodily harm, disability, or
7			disfigurement.
8	827.04(4)	3rd	Impregnation of a child under 16
9			years of age by person 21 years
10			of age or older.
11	872.06	2nd	Abuse of a dead human body.
12	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
13			cocaine (or other s.
14			893.03(1)(a), (1)(b), (1)(d),
15			(2)(a), or (2)(b) drugs) within
16			1,000 feet of a school.
17	<u>893.13(1)(e)</u>	<u>1st</u>	<u>Sell, manufacture, or deliver</u>
18			<u>cocaine (or other s.</u>
19			<u>893.03(1)(a), (1)(b), (1)(d),</u>
20			<u>(2)(a), or (2)(b) drugs) within</u>
21			<u>1,000 feet of property used for</u>
22			<u>religious services or a specified</u>
23			<u>business site.</u>
24	893.13(4)(a)	1st	Deliver to minor cocaine (or
25			other s. 893.03(1)(a), (1)(b),
26			(1)(d), (2)(a), or (2)(b) drugs).
27	893.135(1)(a)1.	1st	Trafficking in cannabis, more
28			than 50 lbs., less than 2,000
29			lbs.
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1 893.135
2 (1)(b)1.a. 1st Trafficking in cocaine, more than
3 28 grams, less than 200 grams.
4 893.135
5 (1)(c)1.a. 1st Trafficking in illegal drugs,
6 more than 4 grams, less than 14
7 grams.
8 893.135
9 (1)(d)1. 1st Trafficking in phencyclidine,
10 more than 28 grams, less than 200
11 grams.
12 893.135(1)(e)1. 1st Trafficking in methaqualone, more
13 than 200 grams, less than 5
14 kilograms.
15 893.135(1)(f)1. 1st Trafficking in amphetamine, more
16 than 14 grams, less than 28
17 grams.

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19 Section 3. This act shall take effect October 1, 1997.

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22 SENATE SUMMARY

23 Prohibits selling, manufacturing, or possessing with the
24 intent to sell, manufacture, or deliver, certain
25 controlled substances within 1,000 feet of a physical
26 place of worship at which a church or religious
27 organization regularly conducts religious services, or
28 within 1,000 feet of a convenience business.
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