

By the Committee on Criminal Justice and Senator Rossin

307-2115-00

1 A bill to be entitled
2 An act relating to driving or boating under the
3 influence; amending s. 316.193, F.S.;
4 increasing the penalty imposed for a fourth or
5 subsequent conviction of driving under the
6 influence; increasing the penalties imposed for
7 driving under the influence and causing damage
8 to property valued over a specified amount;
9 increasing the penalties imposed for causing
10 serious bodily injury while driving under the
11 influence; providing that it is a first degree
12 felony to cause the death of another while
13 driving under the influence; revising a
14 blood-alcohol or breath-alcohol level; deleting
15 provisions that impose an enhanced penalty if a
16 person has caused the death of another while
17 driving under the influence, knew or should
18 have known that the accident occurred, and
19 failed to give information and render aid;
20 providing that previous convictions for boating
21 under the influence are to be considered for
22 purposes of penalties; amending s. 327.35,
23 F.S.; revising the penalties for boating under
24 the influence; amending s. 921.0022, F.S.;
25 conforming the offense severity ranking chart
26 to include the changes made by this act in
27 felony degree for certain offenses relating to
28 driving under the influence; revising a
29 blood-alcohol or breath-alcohol level; deleting
30 the ranking of driving under the influence
31 manslaughter with a failure to render aid or

1 give information to conform with changes made
2 by this act; amending ss. 322.28 and 947.146,
3 F.S.; conforming cross-references; providing an
4 effective date.

5
6 Be It Enacted by the Legislature of the State of Florida:

7
8 Section 1. Section 316.193, Florida Statutes, is
9 amended to read:

10 316.193 Driving under the influence; penalties.--

11 (1) A person commits ~~is guilty of~~ the offense of
12 driving under the influence and is subject to punishment as
13 provided in subsection (2) if the person is driving or in
14 actual physical control of a vehicle within this state and:

15 (a) The person is under the influence of alcoholic
16 beverages, any chemical substance set forth in s. 877.111, or
17 any substance controlled under chapter 893, when affected to
18 the extent that the person's normal faculties are impaired;

19 (b) The person has a blood-alcohol level of 0.08 or
20 more grams of alcohol per 100 milliliters of blood; or

21 (c) The person has a breath-alcohol level of 0.08 or
22 more grams of alcohol per 210 liters of breath.

23 (2)(a) Except as provided in paragraph (b), subsection
24 (3), or subsection (4), any person who is convicted of a
25 violation of subsection (1) shall be punished:

26 1. By a fine of:

27 a. Not less than \$250 or more than \$500 for a first
28 conviction.

29 b. Not less than \$500 or more than \$1,000 for a second
30 conviction.

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1 c. Not less than \$1,000 or more than \$2,500 for a
2 third conviction; and
3 2. By imprisonment for:
4 a. Not more than 6 months for a first conviction.
5 b. Not more than 9 months for a second conviction.
6 c. Not more than 12 months for a third conviction.
7 (b) Any person who is convicted of a fourth or
8 subsequent violation of this section commits ~~is guilty of~~ a
9 felony of the second ~~third~~ degree, punishable as provided in
10 s. 775.082, s. 775.083, or s. 775.084; however, the fine
11 imposed for such fourth or subsequent violation may be not
12 less than \$1,000.
13 (3) Any person:
14 (a) Who is in violation of subsection (1);
15 (b) Who operates a vehicle; and
16 (c) Who, by reason of such operation, causes:
17 1. Damage to the property ~~or person~~ of another valued
18 at \$10,000 or less commits a misdemeanor of the first degree,
19 punishable as provided in s. 775.082 or s. 775.083.
20 2. Damage to the property of another valued in excess
21 of \$10,000 commits a felony of the third degree, punishable as
22 provided in s. 775.082, s. 775.083, or s. 775.084.
23 ~~3.2.~~ Serious bodily injury to another, as defined in
24 s. 316.1933, commits a felony of the second ~~third~~ degree,
25 punishable as provided in s. 775.082, s. 775.083, or s.
26 775.084.
27 ~~4.3.~~ The death of any human being commits DUI
28 manslaughter, ~~and commits~~
29 ~~a.~~ a felony of the first ~~second~~ degree, punishable as
30 provided in s. 775.082, s. 775.083, or s. 775.084.
31

1 ~~b. A felony of the first degree, punishable as~~
2 ~~provided in s. 775.082, s. 775.083, or s. 775.084, if:~~

3 ~~(I) At the time of the crash, the person knew, or~~
4 ~~should have known, that the crash occurred; and~~

5 ~~(II) The person failed to give information and render~~
6 ~~aid as required by s. 316.062.~~

7 (4) Any person who is convicted of a violation of
8 subsection (1) and who has a blood-alcohol level or
9 breath-alcohol level of 0.16 ~~0.20~~ or higher, or any person who
10 is convicted of a violation of subsection (1) and who at the
11 time of the offense was accompanied in the vehicle by a person
12 under the age of 18 years, shall be punished:

13 (a) By a fine of:

14 1. Not less than \$500 or more than \$1,000 for a first
15 conviction.

16 2. Not less than \$1,000 or more than \$2,000 for a
17 second conviction.

18 3. Not less than \$2,000 or more than \$5,000 for a
19 third conviction.

20 (b) By imprisonment for:

21 1. Not more than 9 months for a first conviction.

22 2. Not more than 12 months for a second conviction.

23 3. Not more than 12 months for a third conviction.

24
25 For the purposes of this subsection, any conviction for a
26 violation of s. 327.35, only the instant offense is required
27 to be a violation of subsection (1) by a person who has a
28 blood-alcohol level or breath-alcohol level of 0.16 ~~0.20~~ or
29 higher.

30 (5) The court shall place all offenders convicted of
31 violating this section on monthly reporting probation and

1 shall require completion of a substance abuse course conducted
2 by a DUI program licensed by the department under s. 322.292,
3 which must include a psychosocial evaluation of the offender.
4 If the DUI program refers the offender to an authorized
5 substance abuse treatment provider for substance abuse
6 treatment, in addition to any sentence or fine imposed under
7 this section, completion of all such education, evaluation,
8 and treatment is a condition of reporting probation. The
9 offender shall assume reasonable costs for such education,
10 evaluation, and treatment. The referral to treatment resulting
11 from a psychosocial evaluation shall not be waived without a
12 supporting independent psychosocial evaluation conducted by an
13 authorized substance abuse treatment provider appointed by the
14 court, which shall have access to the DUI program's
15 psychosocial evaluation before the independent psychosocial
16 evaluation is conducted. The court shall review the results
17 and recommendations of both evaluations before determining the
18 request for waiver. The offender shall bear the full cost of
19 this procedure. The term "substance abuse" means the abuse of
20 alcohol or any substance named or described in Schedules I
21 through V of s. 893.03. If an offender referred to treatment
22 under this subsection fails to report for or complete such
23 treatment or fails to complete the DUI program substance abuse
24 education course and evaluation, the DUI program shall notify
25 the court and the department of the failure. Upon receipt of
26 the notice, the department shall cancel the offender's driving
27 privilege, notwithstanding the terms of the court order or any
28 suspension or revocation of the driving privilege. The
29 department may temporarily reinstate the driving privilege on
30 a restricted basis upon verification from the DUI program that
31 the offender is currently participating in treatment and the

1 DUI education course and evaluation requirement has been
2 completed. If the DUI program notifies the department of the
3 second failure to complete treatment, the department shall
4 reinstate the driving privilege only after notice of
5 completion of treatment from the DUI program. The
6 organization that conducts the substance abuse education and
7 evaluation may not provide required substance abuse treatment
8 unless a waiver has been granted to that organization by the
9 department. A waiver may be granted only if the department
10 determines, in accordance with its rules, that the service
11 provider that conducts the substance abuse education and
12 evaluation is the most appropriate service provider and is
13 licensed under chapter 397 or is exempt from such licensure. A
14 statistical referral report shall be submitted quarterly to
15 the department by each organization authorized to provide
16 services under this section.

17 (6) With respect to any person convicted of a
18 violation of subsection (1), regardless of any penalty imposed
19 pursuant to subsection (2), subsection (3), or subsection (4):

20 (a) For the first conviction, the court shall place
21 the defendant on probation for a period not to exceed 1 year
22 and, as a condition of such probation, shall order the
23 defendant to participate in public service or a community work
24 project for a minimum of 50 hours; or the court may order
25 instead, that any defendant pay an additional fine of \$10 for
26 each hour of public service or community work otherwise
27 required, if, after consideration of the residence or location
28 of the defendant at the time public service or community work
29 is required, payment of the fine is in the best interests of
30 the state. However, the total period of probation and
31 incarceration may not exceed 1 year. The court must also, as a

1 condition of probation, order the impoundment or
2 immobilization of the vehicle that was operated by or in the
3 actual control of the defendant or any one vehicle registered
4 in the defendant's name at the time of impoundment or
5 immobilization, for a period of 10 days or for the unexpired
6 term of any lease or rental agreement that expires within 10
7 days. The impoundment or immobilization must not occur
8 concurrently with the incarceration of the defendant. The
9 impoundment or immobilization order may be dismissed in
10 accordance with paragraph (e), paragraph (f), or paragraph
11 (g).

12 (b) For the second conviction for an offense that
13 occurs within a period of 5 years after the date of a prior
14 conviction for violation of this section, the court shall
15 order imprisonment for not less than 10 days. The court must
16 also, as a condition of probation, order the impoundment or
17 immobilization of the vehicle that was operated by or in the
18 actual control of the defendant or any one vehicle registered
19 in the defendant's name at the time of impoundment or
20 immobilization, for a period of 30 days or for the unexpired
21 term of any lease or rental agreement that expires within 30
22 days. The impoundment or immobilization must not occur
23 concurrently with the incarceration of the defendant. The
24 impoundment or immobilization order may be dismissed in
25 accordance with paragraph (e), paragraph (f), or paragraph
26 (g). At least 48 hours of confinement must be consecutive.

27 (c) For the third or subsequent conviction for an
28 offense that occurs within a period of 10 years after the date
29 of a prior conviction for violation of this section, the court
30 shall order imprisonment for not less than 30 days. The court
31 must also, as a condition of probation, order the impoundment

1 or immobilization of the vehicle that was operated by or in
2 the actual control of the defendant or any one vehicle
3 registered in the defendant's name at the time of impoundment
4 or immobilization, for a period of 90 days or for the
5 unexpired term of any lease or rental agreement that expires
6 within 90 days. The impoundment or immobilization must not
7 occur concurrently with the incarceration of the defendant.
8 The impoundment or immobilization order may be dismissed in
9 accordance with paragraph (e), paragraph (f), or paragraph
10 (g). At least 48 hours of confinement must be consecutive.

11 (d) The court must at the time of sentencing the
12 defendant issue an order for the impoundment or immobilization
13 of a vehicle. Within 7 business days after the date that the
14 court issues the order of impoundment or immobilization, the
15 clerk of the court must send notice by certified mail, return
16 receipt requested, to the registered owner of each vehicle, if
17 the registered owner is a person other than the defendant, and
18 to each person of record claiming a lien against the vehicle.

19 (e) A person who owns but was not operating the
20 vehicle when the offense occurred may submit to the court a
21 police report indicating that the vehicle was stolen at the
22 time of the offense or documentation of having purchased the
23 vehicle after the offense was committed from an entity other
24 than the defendant or the defendant's agent. If the court
25 finds that the vehicle was stolen or that the sale was not
26 made to circumvent the order and allow the defendant continued
27 access to the vehicle, the order must be dismissed and the
28 owner of the vehicle will incur no costs. If the court denies
29 the request to dismiss the order of impoundment or
30 immobilization, the petitioner may request an evidentiary
31 hearing.

1 (f) A person who owns but was not operating the
2 vehicle when the offense occurred, and whose vehicle was
3 stolen or who purchased the vehicle after the offense was
4 committed directly from the defendant or the defendant's
5 agent, may request an evidentiary hearing to determine whether
6 the impoundment or immobilization should occur. If the court
7 finds that either the vehicle was stolen or the purchase was
8 made without knowledge of the offense, that the purchaser had
9 no relationship to the defendant other than through the
10 transaction, and that such purchase would not circumvent the
11 order and allow the defendant continued access to the vehicle,
12 the order must be dismissed and the owner of the vehicle will
13 incur no costs.

14 (g) The court shall also dismiss the order of
15 impoundment or immobilization of the vehicle if the court
16 finds that the family of the owner of the vehicle has no other
17 private means of transportation.

18 (h) All costs and fees for the impoundment or
19 immobilization, including the cost of notification, must be
20 paid by the owner of the vehicle or, if the vehicle is leased
21 or rented, by the person leasing or renting the vehicle,
22 unless the impoundment or immobilization order is dismissed.
23 All provisions of s. 713.78 shall apply.

24 (i) The person who owns a vehicle that is impounded or
25 immobilized under this paragraph, or a person who has a lien
26 of record against such a vehicle and who has not requested a
27 review of the impoundment pursuant to paragraph (e), paragraph
28 (f), or paragraph (g), may, within 10 days after the date that
29 person has knowledge of the location of the vehicle, file a
30 complaint in the county in which the owner resides to
31 determine whether the vehicle was wrongfully taken or withheld

1 from the owner or lienholder. Upon the filing of a complaint,
2 the owner or lienholder may have the vehicle released by
3 posting with the court a bond or other adequate security equal
4 to the amount of the costs and fees for impoundment or
5 immobilization, including towing or storage, to ensure the
6 payment of such costs and fees if the owner or lienholder does
7 not prevail. When the bond is posted and the fee is paid as
8 set forth in s. 28.24, the clerk of the court shall issue a
9 certificate releasing the vehicle. At the time of release,
10 after reasonable inspection, the owner or lienholder must give
11 a receipt to the towing or storage company indicating any loss
12 or damage to the vehicle or to the contents of the vehicle.

13 (j) A defendant, in the court's discretion, may be
14 required to serve all or any portion of a term of imprisonment
15 to which the defendant has been sentenced pursuant to this
16 section in a residential alcoholism treatment program or a
17 residential drug abuse treatment program. Any time spent in
18 such a program must be credited by the court toward the term
19 of imprisonment.

20
21 For the purposes of this section, any conviction for a
22 violation of s. 327.35; a previous conviction for the
23 violation of former s. 316.1931, former s. 327.351, former s.
24 860.01, or former s. 316.028; or a previous conviction outside
25 this state for driving or boating under the influence, driving
26 or boating while intoxicated, driving or boating with an
27 unlawful blood-alcohol level, driving or boating with an
28 unlawful breath-alcohol level, or any other similar
29 alcohol-related or drug-related traffic or boating offense, is
30 also considered a previous conviction for violation of this
31 section. However, in satisfaction of the fine imposed pursuant

1 to this section, the court may, upon a finding that the
2 defendant is financially unable to pay either all or part of
3 the fine, order that the defendant participate for a specified
4 additional period of time in public service or a community
5 work project in lieu of payment of that portion of the fine
6 which the court determines the defendant is unable to pay. In
7 determining such additional sentence, the court shall consider
8 the amount of the unpaid portion of the fine and the
9 reasonable value of the services to be ordered; however, the
10 court may not compute the reasonable value of services at a
11 rate less than the federal minimum wage at the time of
12 sentencing.

13 (7) A conviction under this section does not bar any
14 civil suit for damages against the person so convicted.

15 (8) At the arraignment, or in conjunction with any
16 notice of arraignment provided by the clerk of the court, the
17 clerk shall provide any person charged with a violation of
18 this section with notice that upon conviction the court shall
19 suspend or revoke the offender's driver's license and that the
20 offender should make arrangements for transportation at any
21 proceeding in which the court may take such action. Failure
22 to provide such notice does not affect the court's suspension
23 or revocation of the offender's driver's license.

24 (9) A person who is arrested for a violation of this
25 section may not be released from custody:

26 (a) Until the person is no longer under the influence
27 of alcoholic beverages, any chemical substance set forth in s.
28 877.111, or any substance controlled under chapter 893 and
29 affected to the extent that his or her normal faculties are
30 impaired;

31

1 (b) Until the person's blood-alcohol level or
2 breath-alcohol level is less than 0.05; or

3 (c) Until 8 hours have elapsed from the time the
4 person was arrested.

5 (10) The rulings of the Department of Highway Safety
6 and Motor Vehicles under s. 322.2615 shall not be considered
7 in any trial for a violation of this section. Testimony or
8 evidence from the administrative proceedings or any written
9 statement submitted by a person in his or her request for
10 administrative review is inadmissible into evidence or for any
11 other purpose in any criminal proceeding, unless timely
12 disclosed in criminal discovery pursuant to Rule 3.220,
13 Florida Rules of Criminal Procedure.

14 Section 2. Subsections (1), (2), (3), and (4) of
15 section 327.35, Florida Statutes, are amended to read:

16 327.35 Boating under the influence; penalties;
17 "designated drivers".--

18 (1) A person commits ~~is guilty of~~ the offense of
19 boating under the influence and is subject to punishment as
20 provided in subsection (2) if the person is operating a vessel
21 within this state and:

22 (a) The person is under the influence of alcoholic
23 beverages, any chemical substance set forth in s. 877.111, or
24 any substance controlled under chapter 893, when affected to
25 the extent that the person's normal faculties are impaired;

26 (b) The person has a blood-alcohol level of 0.08 or
27 more grams of alcohol per 100 milliliters of blood; or

28 (c) The person has a breath-alcohol level of 0.08 or
29 more grams of alcohol per 210 liters of breath.

30
31

1 (2)(a) Except as provided in paragraph (b), subsection
2 (3), or subsection (4), any person who is convicted of a
3 violation of subsection (1) shall be punished:
4 1. By a fine of:
5 a. Not less than \$250 or more than \$500 for a first
6 conviction.
7 b. Not less than \$500 or more than \$1,000 for a second
8 conviction.
9 c. Not less than \$1,000 or more than \$2,500 for a
10 third conviction; and
11 2. By imprisonment for:
12 a. Not more than 6 months for a first conviction.
13 b. Not more than 9 months for a second conviction.
14 c. Not more than 12 months for a third conviction.
15 (b) Any person who is convicted of a fourth or
16 subsequent violation of this section commits ~~is guilty of~~ a
17 felony of the second ~~third~~ degree, punishable as provided in
18 s. 775.082, s. 775.083, or s. 775.084; however, the fine
19 imposed for such fourth or subsequent violation may not be
20 less than \$1,000.
21 (3) Any person:
22 (a) Who is in violation of subsection (1);
23 (b) Who operates a vessel; and
24 (c) Who, by reason of such operation, causes:
25 1. Damage to the property or person of another valued
26 at \$10,000 or less commits a misdemeanor of the first degree,
27 punishable as provided in s. 775.082 or s. 775.083.
28 2. Damage to the property of another valued in excess
29 of \$10,000 commits a felony of the third degree, punishable as
30 provided in s. 775.082, s. 775.083, or s. 775.084.
31

1 ~~3.2.~~ Serious bodily injury to another, as defined in
2 s. 316.1933, commits a felony of the second ~~third~~ degree,
3 punishable as provided in s. 775.082, s. 775.083, or s.
4 775.084.

5 ~~4.3.~~ The death of any human being commits BUI
6 manslaughter, ~~and commits:~~

7 ~~a.~~ a felony of the first ~~second~~ degree, punishable as
8 provided in s. 775.082, s. 775.083, or s. 775.084.

9 ~~b.~~ ~~A felony of the first degree, punishable as~~
10 ~~provided in s. 775.082, s. 775.083, or s. 775.084, if:~~

11 ~~(I) At the time of the accident, the person knew, or~~
12 ~~should have known, that the accident occurred; and~~

13 ~~(II) The person failed to give information and render~~
14 ~~aid as required by s. 316.062.~~

15

16 This sub-subparagraph does not require that the person knew
17 that the accident resulted in injury or death.

18 (4) Any person who is convicted of a violation of
19 subsection (1) and who has a blood-alcohol level or
20 breath-alcohol level of 0.16 ~~0.20~~ or higher, or any person who
21 is convicted of a violation of subsection (1) and who at the
22 time of the offense was accompanied in the vessel by a person
23 under the age of 18 years, shall be punished:

24 (a) By a fine of:

25 1. Not less than \$500 or more than \$1,000 for a first
26 conviction.

27 2. Not less than \$1,000 or more than \$2,000 for a
28 second conviction.

29 3. Not less than \$2,000 or more than \$5,000 for a
30 third conviction.

31 (b) By imprisonment for:

- 1 1. Not more than 9 months for a first conviction.
- 2 2. Not more than 12 months for a second conviction.
- 3 3. Not more than 12 months for a third conviction.

4
5 For the purposes of this subsection, only the instant offense
6 is required to be a violation of subsection (1) by a person
7 who has a blood-alcohol level or breath-alcohol level of 0.16
8 ~~0.20~~ or higher.

9 Section 3. Paragraphs (f), (g), (h), and (i) of
10 subsection (3) of section 921.0022, Florida Statutes, are
11 amended to read:

12 921.0022 Criminal Punishment Code; offense severity
13 ranking chart.--

14 (3) OFFENSE SEVERITY RANKING CHART

16 Florida Statute	Felony Degree	Description
		(f) LEVEL 6
20 316.027(1)(b)	2nd	Accident involving death, failure to stop; leaving scene.
22 316.193(2)(b)	<u>2nd</u> 3rd	Felony DUI, 4th or subsequent conviction.
24 775.0875(1)	3rd	Taking firearm from law enforcement officer.
26 775.21(10)	3rd	Sexual predators; failure to register; failure to renew driver's license or identification card.
30 784.021(1)(a)	3rd	Aggravated assault; deadly weapon without intent to kill.

1	784.021(1)(b)	3rd	Aggravated assault; intent to
2			commit felony.
3	784.041	3rd	Felony battery.
4	784.048(3)	3rd	Aggravated stalking; credible
5			threat.
6	784.048(5)	3rd	Aggravated stalking of person
7			under 16.
8	784.07(2)(c)	2nd	Aggravated assault on law
9			enforcement officer.
10	784.08(2)(b)	2nd	Aggravated assault on a person 65
11			years of age or older.
12	784.081(2)	2nd	Aggravated assault on specified
13			official or employee.
14	784.082(2)	2nd	Aggravated assault by detained
15			person on visitor or other
16			detainee.
17	784.083(2)	2nd	Aggravated assault on code
18			inspector.
19	787.02(2)	3rd	False imprisonment; restraining
20			with purpose other than those in
21			s. 787.01.
22	790.115(2)(d)	2nd	Discharging firearm or weapon on
23			school property.
24	790.161(2)	2nd	Make, possess, or throw
25			destructive device with intent to
26			do bodily harm or damage
27			property.
28	790.164(1)	2nd	False report of deadly explosive
29			or act of arson or violence to
30			state property.
31			

1	790.19	2nd	Shooting or throwing deadly
2			missiles into dwellings, vessels,
3			or vehicles.
4	794.011(8)(a)	3rd	Solicitation of minor to
5			participate in sexual activity by
6			custodial adult.
7	794.05(1)	2nd	Unlawful sexual activity with
8			specified minor.
9	800.04(5)(d)	3rd	Lewd or lascivious molestation;
10			victim 12 years of age or older
11			but less than 16 years; offender
12			less than 18 years.
13	800.04(6)(b)	2nd	Lewd or lascivious conduct;
14			offender 18 years of age or
15			older.
16	806.031(2)	2nd	Arson resulting in great bodily
17			harm to firefighter or any other
18			person.
19	810.02(3)(c)	2nd	Burglary of occupied structure;
20			unarmed; no assault or battery.
21	812.014(2)(b)	2nd	Property stolen \$20,000 or more,
22			but less than \$100,000, grand
23			theft in 2nd degree.
24	812.13(2)(c)	2nd	Robbery, no firearm or other
25			weapon (strong-arm robbery).
26	817.034(4)(a)1.	1st	Communications fraud, value
27			greater than \$50,000.
28	817.4821(5)	2nd	Possess cloning paraphernalia
29			with intent to create cloned
30			cellular telephones.
31			

1	825.102(1)	3rd	Abuse of an elderly person or
2			disabled adult.
3	825.102(3)(c)	3rd	Neglect of an elderly person or
4			disabled adult.
5	825.1025(3)	3rd	Lewd or lascivious molestation of
6			an elderly person or disabled
7			adult.
8	825.103(2)(c)	3rd	Exploiting an elderly person or
9			disabled adult and property is
10			valued at less than \$20,000.
11	827.03(1)	3rd	Abuse of a child.
12	827.03(3)(c)	3rd	Neglect of a child.
13	827.071(2)&(3)	2nd	Use or induce a child in a sexual
14			performance, or promote or direct
15			such performance.
16	836.05	2nd	Threats; extortion.
17	836.10	2nd	Written threats to kill or do
18			bodily injury.
19	843.12	3rd	Aids or assists person to escape.
20	847.0135(3)	3rd	Solicitation of a child, via a
21			computer service, to commit an
22			unlawful sex act.
23	914.23	2nd	Retaliation against a witness,
24			victim, or informant, with bodily
25			injury.
26	943.0435(9)	3rd	Sex offenders; failure to comply
27			with reporting requirements.
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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			(g) LEVEL 7
17	316.193(3)(c) 3.2	<u>2nd</u>	DUI resulting in serious bodily
18		3rd	injury.
19	327.35(3)(c) 3.2	<u>2nd</u>	Vessel BUI resulting in serious
20		3rd	bodily injury.
21	402.319(2)	2nd	Misrepresentation and negligence
22			or intentional act resulting in
23			great bodily harm, permanent
24			disfiguration, permanent
25			disability, or death.
26	409.920(2)	3rd	Medicaid provider fraud.
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1	494.0018(2)	1st	Conviction of any violation of
2			ss. 494.001-494.0077 in which the
3			total money and property
4			unlawfully obtained exceeded
5			\$50,000 and there were five or
6			more victims.
7	782.051(3)	2nd	Attempted felony murder of a
8			person by a person other than the
9			perpetrator or the perpetrator of
10			an attempted felony.
11	782.07(1)	2nd	Killing of a human being by the
12			act, procurement, or culpable
13			negligence of another
14			(manslaughter).
15	782.071	2nd	Killing of human being or viable
16			fetus by the operation of a motor
17			vehicle in a reckless manner
18			(vehicular homicide).
19	782.072	2nd	Killing of a human being by the
20			operation of a vessel in a
21			reckless manner (vessel
22			homicide).
23	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
24			causing great bodily harm or
25			disfigurement.
26	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
27			weapon.
28	784.045(1)(b)	2nd	Aggravated battery; perpetrator
29			aware victim pregnant.
30	784.048(4)	3rd	Aggravated stalking; violation of
31			injunction or court order.

1	784.07(2)(d)	1st	Aggravated battery on law
2			enforcement officer.
3	784.08(2)(a)	1st	Aggravated battery on a person 65
4			years of age or older.
5	784.081(1)	1st	Aggravated battery on specified
6			official or employee.
7	784.082(1)	1st	Aggravated battery by detained
8			person on visitor or other
9			detainee.
10	784.083(1)	1st	Aggravated battery on code
11			inspector.
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(5)(c)1.	2nd	Lewd or lascivious molestation;
20			victim less than 12 years of age;
21			offender less than 18 years.
22	800.04(5)(c)2.	2nd	Lewd or lascivious molestation;
23			victim 12 years of age or older
24			but less than 16 years; offender
25			18 years or older.
26	806.01(2)	2nd	Maliciously damage structure by
27			fire or explosive.
28	810.02(3)(a)	2nd	Burglary of occupied dwelling;
29			unarmed; no assault or battery.
30	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
31			unarmed; no assault or battery.

1	810.02(3)(d)	2nd	Burglary of occupied conveyance;
2			unarmed; no assault or battery.
3	812.014(2)(a)	1st	Property stolen, valued at
4			\$100,000 or more; property stolen
5			while causing other property
6			damage; 1st degree grand theft.
7	812.019(2)	1st	Stolen property; initiates,
8			organizes, plans, etc., the theft
9			of property and traffics in
10			stolen property.
11	812.131(2)(a)	2nd	Robbery by sudden snatching.
12	812.133(2)(b)	1st	Carjacking; no firearm, deadly
13			weapon, or other weapon.
14	825.102(3)(b)	2nd	Neglecting an elderly person or
15			disabled adult causing great
16			bodily harm, disability, or
17			disfigurement.
18	825.1025(2)	2nd	Lewd or lascivious battery upon
19			an elderly person or disabled
20			adult.
21	825.103(2)(b)	2nd	Exploiting an elderly person or
22			disabled adult and property is
23			valued at \$20,000 or more, but
24			less than \$100,000.
25	827.03(3)(b)	2nd	Neglect of a child causing great
26			bodily harm, disability, or
27			disfigurement.
28	827.04(3)	3rd	Impregnation of a child under 16
29			years of age by person 21 years
30			of age or older.
31			

1	837.05(2)	3rd	Giving false information about
2			alleged capital felony to a law
3			enforcement officer.
4	872.06	2nd	Abuse of a dead human body.
5	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
6			cocaine (or other drug prohibited
7			under s. 893.03(1)(a), (1)(b),
8			(1)(d), (2)(a), or (2)(b)) within
9			1,000 feet of a child care
10			facility or school.
11	893.13(1)(e)	1st	Sell, manufacture, or deliver
12			cocaine or other drug prohibited
13			under s. 893.03(1)(a), (1)(b),
14			(1)(d), (2)(a), or (2)(b), within
15			1,000 feet of property used for
16			religious services or a specified
17			business site.
18	893.13(4)(a)	1st	Deliver to minor cocaine (or
19			other s. 893.03(1)(a), (1)(b),
20			(1)(d), (2)(a), or (2)(b) drugs).
21	893.135(1)(a)1.	1st	Trafficking in cannabis, more
22			than 50 lbs., less than 2,000
23			lbs.
24	893.135		
25	(1)(b)1.a.	1st	Trafficking in cocaine, more than
26			28 grams, less than 200 grams.
27	893.135		
28	(1)(c)1.a.	1st	Trafficking in illegal drugs,
29			more than 4 grams, less than 14
30			grams.
31			

1	893.135		
2	(1)(d)1.	1st	Trafficking in phencyclidine,
3			more than 28 grams, less than 200
4			grams.
5	893.135(1)(e)1.	1st	Trafficking in methaqualone, more
6			than 200 grams, less than 5
7			kilograms.
8	893.135(1)(f)1.	1st	Trafficking in amphetamine, more
9			than 14 grams, less than 28
10			grams.
11	893.135		
12	(1)(g)1.a.	1st	Trafficking in flunitrazepam, 4
13			grams or more, less than 14
14			grams.
15			(h) LEVEL 8
16	316.193		
17	(3)(c) 4.3.a.	<u>1st</u>	DUI manslaughter.
18		<u>2nd</u>	
19	327.35(3)(c) 4.3.	<u>1st</u>	Vessel BUI manslaughter.
20		<u>2nd</u>	
21	777.03(2)(a)	1st	Accessory after the fact, capital
22			felony.
23	782.04(4)	2nd	Killing of human without design
24			when engaged in act or attempt of
25			any felony other than arson,
26			sexual battery, robbery,
27			burglary, kidnapping, aircraft
28			piracy, or unlawfully discharging
29			bomb.
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1	782.051(2)	1st	Attempted felony murder while
2			perpetrating or attempting to
3			perpetrate a felony not
4			enumerated in s. 782.04(3).
5	782.071(2)	1st	Committing vehicular homicide and
6			failing to render aid or give
7			information.
8	782.072(2)	1st	Committing vessel homicide and
9			failing to render aid or give
10			information.
11	790.161(3)	1st	Discharging a destructive device
12			which results in bodily harm or
13			property damage.
14	794.011(5)	2nd	Sexual battery, victim 12 years
15			or over, offender does not use
16			physical force likely to cause
17			serious injury.
18	800.04(4)	2nd	Lewd or lascivious battery.
19	806.01(1)	1st	Maliciously damage dwelling or
20			structure by fire or explosive,
21			believing person in structure.
22	810.02(2)(a)	1st,PBL	Burglary with assault or battery.
23	810.02(2)(b)	1st,PBL	Burglary; armed with explosives
24			or dangerous weapon.
25	810.02(2)(c)	1st	Burglary of a dwelling or
26			structure causing structural
27			damage or \$1,000 or more property
28			damage.
29	812.13(2)(b)	1st	Robbery with a weapon.
30	812.135(2)	1st	Home-invasion robbery.
31			

1	825.102(2)	2nd	Aggravated abuse of an elderly
2			person or disabled adult.
3	825.103(2)(a)	1st	Exploiting an elderly person or
4			disabled adult and property is
5			valued at \$100,000 or more.
6	837.02(2)	2nd	Perjury in official proceedings
7			relating to prosecution of a
8			capital felony.
9	837.021(2)	2nd	Making contradictory statements
10			in official proceedings relating
11			to prosecution of a capital
12			felony.
13	860.121(2)(c)	1st	Shooting at or throwing any
14			object in path of railroad
15			vehicle resulting in great bodily
16			harm.
17	860.16	1st	Aircraft piracy.
18	893.13(1)(b)	1st	Sell or deliver in excess of 10
19			grams of any substance specified
20			in s. 893.03(1)(a) or (b).
21	893.13(2)(b)	1st	Purchase in excess of 10 grams of
22			any substance specified in s.
23			893.03(1)(a) or (b).
24	893.13(6)(c)	1st	Possess in excess of 10 grams of
25			any substance specified in s.
26			893.03(1)(a) or (b).
27	893.135(1)(a)2.	1st	Trafficking in cannabis, more
28			than 2,000 lbs., less than 10,000
29			lbs.
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1	893.135		
2	(1)(b)1.b.	1st	Trafficking in cocaine, more than
3			200 grams, less than 400 grams.
4	893.135		
5	(1)(c)1.b.	1st	Trafficking in illegal drugs,
6			more than 14 grams, less than 28
7			grams.
8	893.135		
9	(1)(d)1.b.	1st	Trafficking in phencyclidine,
10			more than 200 grams, less than
11			400 grams.
12	893.135		
13	(1)(e)1.b.	1st	Trafficking in methaqualone, more
14			than 5 kilograms, less than 25
15			kilograms.
16	893.135		
17	(1)(f)1.b.	1st	Trafficking in amphetamine, more
18			than 28 grams, less than 200
19			grams.
20	893.135		
21	(1)(g)1.b.	1st	Trafficking in flunitrazepam, 14
22			grams or more, less than 28
23			grams.
24	895.03(1)	1st	Use or invest proceeds derived
25			from pattern of racketeering
26			activity.
27	895.03(2)	1st	Acquire or maintain through
28			racketeering activity any
29			interest in or control of any
30			enterprise or real property.
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1	895.03(3)	1st	Conduct or participate in any
2			enterprise through pattern of
3			racketeering activity.
4			(i) LEVEL 9
5	316.193		
6	(3)(c)3.b.	1st	DUI manslaughter; failing to
7			render aid or give information.
8	782.04(1)	1st	Attempt, conspire, or solicit to
9			commit premeditated murder.
10	782.04(3)	1st,PBL	Accomplice to murder in
11			connection with arson, sexual
12			battery, robbery, burglary, and
13			other specified felonies.
14	782.051(1)	1st	Attempted felony murder while
15			perpetrating or attempting to
16			perpetrate a felony enumerated in
17			s. 782.04(3).
18	782.07(2)	1st	Aggravated manslaughter of an
19			elderly person or disabled adult.
20	787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or
21			reward or as a shield or hostage.
22	787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit
23			or facilitate commission of any
24			felony.
25	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to
26			interfere with performance of any
27			governmental or political
28			function.
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1	787.02(3)(a)	1st	False imprisonment; child under
2			age 13; perpetrator also commits
3			aggravated child abuse, sexual
4			battery, or lewd or lascivious
5			battery, molestation, conduct, or
6			exhibition.
7	790.161	1st	Attempted capital destructive
8			device offense.
9	794.011(2)	1st	Attempted sexual battery; victim
10			less than 12 years of age.
11	794.011(2)	Life	Sexual battery; offender younger
12			than 18 years and commits sexual
13			battery on a person less than 12
14			years.
15	794.011(4)	1st	Sexual battery; victim 12 years
16			or older, certain circumstances.
17	794.011(8)(b)	1st	Sexual battery; engage in sexual
18			conduct with minor 12 to 18 years
19			by person in familial or
20			custodial authority.
21	800.04(5)(b)	1st	Lewd or lascivious molestation;
22			victim less than 12 years;
23			offender 18 years or older.
24	812.13(2)(a)	1st,PBL	Robbery with firearm or other
25			deadly weapon.
26	812.133(2)(a)	1st,PBL	Carjacking; firearm or other
27			deadly weapon.
28	827.03(2)	1st	Aggravated child abuse.
29	847.0145(1)	1st	Selling, or otherwise
30			transferring custody or control,
31			of a minor.

1	847.0145(2)	1st	Purchasing, or otherwise
2			obtaining custody or control, of
3			a minor.
4	859.01	1st	Poisoning food, drink, medicine,
5			or water with intent to kill or
6			injure another person.
7	893.135	1st	Attempted capital trafficking
8			offense.
9	893.135(1)(a)3.	1st	Trafficking in cannabis, more
10			than 10,000 lbs.
11	893.135		
12	(1)(b)1.c.	1st	Trafficking in cocaine, more than
13			400 grams, less than 150
14			kilograms.
15	893.135		
16	(1)(c)1.c.	1st	Trafficking in illegal drugs,
17			more than 28 grams, less than 30
18			kilograms.
19	893.135		
20	(1)(d)1.c.	1st	Trafficking in phencyclidine,
21			more than 400 grams.
22	893.135		
23	(1)(e)1.c.	1st	Trafficking in methaqualone, more
24			than 25 kilograms.
25	893.135		
26	(1)(f)1.c.	1st	Trafficking in amphetamine, more
27			than 200 grams.
28	Section 4. Paragraph (a) of subsection (4) of section		
29	322.28, Florida Statutes, is amended to read:		
30	322.28 Period of suspension or revocation.--		
31			

1 (4)(a) Upon a conviction for a violation of s.
2 316.193(3)(c)3.2, involving serious bodily injury, a
3 conviction of manslaughter resulting from the operation of a
4 motor vehicle, or a conviction of vehicular homicide, the
5 court shall revoke the driver's license of the person
6 convicted for a minimum period of 3 years. If a conviction
7 under s. 316.193(3)(c)3.2, involving serious bodily injury,
8 is also a subsequent conviction as described under paragraph
9 (2)(a), the court shall revoke the driver's license or driving
10 privilege of the person convicted for the period applicable as
11 provided in paragraph (2)(a) or paragraph (2)(e).

12 Section 5. Subsection (3) of section 947.146, Florida
13 Statutes, is amended to read:

14 947.146 Control Release Authority.--

15 (3) Within 120 days prior to the date the state
16 correctional system is projected pursuant to s. 216.136 to
17 exceed 99 percent of total capacity, the authority shall
18 determine eligibility for and establish a control release date
19 for an appropriate number of parole ineligible inmates
20 committed to the department and incarcerated within the state
21 who have been determined by the authority to be eligible for
22 discretionary early release pursuant to this section. In
23 establishing control release dates, it is the intent of the
24 Legislature that the authority prioritize consideration of
25 eligible inmates closest to their tentative release date. The
26 authority shall rely upon commitment data on the offender
27 information system maintained by the department to initially
28 identify inmates who are to be reviewed for control release
29 consideration. The authority may use a method of objective
30 risk assessment in determining if an eligible inmate should be
31 released. Such assessment shall be a part of the department's

1 management information system. However, the authority shall
2 have sole responsibility for determining control release
3 eligibility, establishing a control release date, and
4 effectuating the release of a sufficient number of inmates to
5 maintain the inmate population between 99 percent and 100
6 percent of total capacity. Inmates who are ineligible for
7 control release are inmates who are parole eligible or inmates
8 who:

9 (a) Are serving a sentence that includes a mandatory
10 minimum provision for a capital offense or drug trafficking
11 offense and have not served the number of days equal to the
12 mandatory minimum term less any jail-time credit awarded by
13 the court;

14 (b) Are serving the mandatory minimum portion of a
15 sentence enhanced under s. 775.087(2) or (3), or s. 784.07(3);

16 (c) Are convicted, or have been previously convicted,
17 of committing or attempting to commit sexual battery, incest,
18 or any of the following lewd or indecent assaults or acts:
19 masturbating in public; exposing the sexual organs in a
20 perverted manner; or nonconsensual handling or fondling of the
21 sexual organs of another person;

22 (d) Are convicted, or have been previously convicted,
23 of committing or attempting to commit assault, aggravated
24 assault, battery, or aggravated battery, and a sex act was
25 attempted or completed during commission of such offense;

26 (e) Are convicted, or have been previously convicted,
27 of committing or attempting to commit kidnapping, burglary, or
28 murder, and the offense was committed with the intent to
29 commit sexual battery or a sex act was attempted or completed
30 during commission of the offense;

31

1 (f) Are convicted, or have been previously convicted,
2 of committing or attempting to commit false imprisonment upon
3 a child under the age of 13 and, in the course of committing
4 the offense, the inmate committed aggravated child abuse,
5 sexual battery against the child, or a lewd or lascivious
6 offense committed upon or in the presence of a person less
7 than 16 years of age;

8 (g) Are sentenced, have previously been sentenced, or
9 have been sentenced at any time under s. 775.084, or have been
10 sentenced at any time in another jurisdiction as a habitual
11 offender;

12 (h) Are convicted, or have been previously convicted,
13 of committing or attempting to commit assault, aggravated
14 assault, battery, aggravated battery, kidnapping,
15 manslaughter, or murder against an officer as defined in s.
16 943.10(1), (2), (3), (6), (7), (8), or (9); against a state
17 attorney or assistant state attorney; or against a justice or
18 judge of a court described in Art. V of the State
19 Constitution; or against an officer, judge, or state attorney
20 employed in a comparable position by any other jurisdiction;
21 or

22 (i) Are convicted, or have been previously convicted,
23 of committing or attempting to commit murder in the first,
24 second, or third degree under s. 782.04(1), (2), (3), or (4),
25 or have ever been convicted of any degree of murder or
26 attempted murder in another jurisdiction;

27 (j) Are convicted, or have been previously convicted,
28 of DUI manslaughter under s. 316.193(3)(c)~~4.3~~, and are
29 sentenced, or have been sentenced at any time, as a habitual
30 offender for such offense, or have been sentenced at any time
31

1 in another jurisdiction as a habitual offender for such
2 offense;

3 (k)1. Are serving a sentence for an offense committed
4 on or after January 1, 1994, for a violation of the Law
5 Enforcement Protection Act under s. 775.0823(2), (3), (4), or
6 (5), and the subtotal of the offender's sentence points is
7 multiplied pursuant to former s. 921.0014 or s. 921.0024;

8 2. Are serving a sentence for an offense committed on
9 or after October 1, 1995, for a violation of the Law
10 Enforcement Protection Act under s. 775.0823(2), (3), (4),
11 (5), (6), (7), or (8), and the subtotal of the offender's
12 sentence points is multiplied pursuant to former s. 921.0014
13 or s. 921.0024;

14 (l) Are serving a sentence for an offense committed on
15 or after January 1, 1994, for possession of a firearm,
16 semiautomatic firearm, or machine gun in which additional
17 points are added to the subtotal of the offender's sentence
18 points pursuant to former s. 921.0014 or s. 921.0024; or

19 (m) Are convicted, or have been previously convicted,
20 of committing or attempting to commit manslaughter,
21 kidnapping, robbery, carjacking, home-invasion robbery, or a
22 burglary under s. 810.02(2).

23
24 In making control release eligibility determinations under
25 this subsection, the authority may rely on any document
26 leading to or generated during the course of the criminal
27 proceedings, including, but not limited to, any presentence or
28 postsentence investigation or any information contained in
29 arrest reports relating to circumstances of the offense.

30 Section 6. This act shall take effect October 1, 2000.
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 814

Makes several technical and conforming revisions.