

By the Committee on Law Enforcement & Crime Prevention and  
Representative Futch

1                                   A bill to be entitled  
2           An act relating to weapons of mass destruction;  
3           creating s. 790.166, F.S.; prohibiting the  
4           unlawful manufacture, possession, sale,  
5           delivery, display, use, or attempted or  
6           threatened use of a weapon of mass destruction;  
7           prohibiting unlawful conspiring to use such  
8           weapon; prohibiting making such weapon readily  
9           accessible to others; providing a first degree  
10          felony penalty for violation; providing that  
11          violation which results in death is a capital  
12          felony; prohibiting the unlawful manufacture,  
13          possession, sale, delivery, display, use, or  
14          attempted or threatened use of a hoax weapon of  
15          mass destruction; prohibiting unlawful  
16          conspiring to use such weapon; prohibiting  
17          making such weapon readily accessible to  
18          others; providing a second degree felony  
19          penalty for violation; providing definitions  
20          for purposes of the act; providing  
21          nonapplicability of the act; amending s.  
22          921.0022, F.S.; providing for ranking of  
23          violations on the offense severity ranking  
24          chart; providing an effective date.

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

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28           Section 1. Section 790.166, Florida Statutes, is  
29           created to read:  
30                   790.166 Manufacture, possession, sale, delivery,  
31           display, use, or attempted or threatened use of a weapon of

1 mass destruction or hoax weapon of mass destruction  
2 prohibited; definitions; penalties.--  
3 (1) As used in this section, the following terms shall  
4 have the following meanings:  
5 (a) "Weapon of mass destruction" means:  
6 1. Any destructive device as defined in this section;  
7 2. Any weapon that is designed or intended to cause  
8 death or serious bodily injury through the release,  
9 dissemination, or impact of toxic or poisonous chemicals, or  
10 their precursors;  
11 3. Any weapon involving a disease organism; or  
12 4. Any weapon that is designed to release radiation or  
13 radioactivity at a level dangerous to human life.  
14 (b) "Hoax weapon of mass destruction" means any device  
15 or object that by its design, construction, content, or  
16 characteristics appears to be or to contain, or is represented  
17 to be, constitute, or contain, a weapon of mass destruction as  
18 defined in this section, but which is, in fact, an inoperative  
19 facsimile, imitation, counterfeit, or representation of a  
20 weapon of mass destruction which does not meet the definition  
21 of a weapon of mass destruction or which does not actually  
22 contain or constitute a weapon, destructive device, biological  
23 agent, toxin, vector, or delivery system prohibited by this  
24 section.  
25 (c) "Biological agent" means any microorganism, virus,  
26 infectious substance, or biological product that may be  
27 engineered through biotechnology, or any naturally occurring  
28 or bioengineered component of any such microorganism, virus,  
29 infectious substance, or biological product, capable of  
30 causing:  
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- 1           1. Death, disease, or other biological malfunction in  
2 a human, an animal, a plant, or other living organism;  
3           2. Deterioration of food, water, equipment, supplies,  
4 or material of any kind; or  
5           3. Deleterious alteration of the environment.  
6           (d) "Toxin" means the toxic material of plants,  
7 animals, microorganisms, viruses, fungi, or infectious  
8 substances, or a recombinant molecule, whatever its origin or  
9 method of reproduction, including:  
10           1. Any poisonous substance or biological product that  
11 may be engineered through biotechnology produced by a living  
12 organism; or  
13           2. Any poisonous isomer or biological product,  
14 homolog, or derivative of such substance.  
15           (e) "Delivery system" means:  
16           1. Any apparatus, equipment, device, or means of  
17 delivery specifically designed to deliver or disseminate a  
18 biological agent, toxin, or vector; or  
19           2. Any vector.  
20           (f) "Vector" means a living organism or molecule,  
21 including a recombinant molecule or biological product that  
22 may be engineered through biotechnology, capable of carrying a  
23 biological agent or toxin to a host.  
24           (g) "Destructive device" shall have the same meaning  
25 as that term is defined in s. 790.001(4).  
26           (2) A person who, without lawful authority,  
27 manufactures, possesses, sells, delivers, displays, uses,  
28 threatens to use, attempts to use, or conspires to use, or who  
29 makes readily accessible to others a weapon of mass  
30 destruction, other than a chemical weapon as that term is  
31 defined in 18 U.S.C. 229F and s. 790.001, including any

1 biological agent, toxin, vector, or delivery system as those  
2 terms are defined in this section:  
3       (a) Against any person within the State of Florida,  
4 provided the offense occurs in whole or in part within the  
5 state; or  
6       (b) Against any property that is owned, leased, or  
7 used by the State of Florida or by any department, agency, or  
8 political subdivision of the state, provided the offense  
9 occurs in whole or in part within the state,  
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11 commits a felony of the first degree, punishable by  
12 imprisonment for a term of years not exceeding life or as  
13 provided in s. 775.082, s. 775.083, or s. 775.084, and if  
14 death results, commits a capital felony, punishable as  
15 provided in s. 775.082.  
16       (3) Any person who, without lawful authority,  
17 manufactures, possesses, sells, delivers, displays, uses,  
18 threatens to use, attempts to use, or conspires to use, or who  
19 makes readily accessible to others a hoax weapon of mass  
20 destruction commits a felony of the second degree, punishable  
21 as provided in s. 775.082, s. 775.083, or s. 775.084.  
22       (4) The provisions of this section shall not apply to  
23 any member of the Armed Forces of the United States, federal  
24 or state governmental agencies or personnel, or private  
25 entities otherwise engaged in lawful activity within the scope  
26 of his or her employment, if such person is otherwise duly  
27 authorized or licensed to manufacture, possess, sell, deliver,  
28 display, or otherwise engage in activity relative to this  
29 section and if such person is in compliance with applicable  
30 federal and state law.  
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1 Section 2. Paragraphs (g) and (i) 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 (g) LEVEL 7
15	16 316.193(3)(c)2.	17 3rd	18 DUI resulting in serious bodily 19 injury.
20	21 327.35(3)(c)2.	22 3rd	23 Vessel BUI resulting in serious 24 bodily injury.
25	26 402.319(2)	27 2nd	28 Misrepresentation and negligence 29 or intentional act resulting in 30 great bodily harm, permanent 31 disfiguration, permanent disability, or death.
	409.920(2)	3rd	Medicaid provider fraud.
	494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
	782.051(3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.

1	782.07(1)	2nd	Killing of a human being by the
2			act, procurement, or culpable
3			negligence of another
4			(manslaughter).
5	782.071	2nd	Killing of human being or viable
6			fetus by the operation of a motor
7			vehicle in a reckless manner
8			(vehicular homicide).
9	782.072	2nd	Killing of a human being by the
10			operation of a vessel in a
11			reckless manner (vessel
12			homicide).
13	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
14			causing great bodily harm or
15			disfigurement.
16	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
17			weapon.
18	784.045(1)(b)	2nd	Aggravated battery; perpetrator
19			aware victim pregnant.
20	784.048(4)	3rd	Aggravated stalking; violation of
21			injunction or court order.
22	784.07(2)(d)	1st	Aggravated battery on law
23			enforcement officer.
24	784.08(2)(a)	1st	Aggravated battery on a person 65
25			years of age or older.
26	784.081(1)	1st	Aggravated battery on specified
27			official or employee.
28	784.082(1)	1st	Aggravated battery by detained
29			person on visitor or other
30			detainee.
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1	784.083(1)	1st	Aggravated battery on code
2			inspector.
3	790.07(4)	1st	Specified weapons violation
4			subsequent to previous conviction
5			of s. 790.07(1) or (2).
6	790.16(1)	1st	Discharge of a machine gun under
7			specified circumstances.
8	<u>790.166(3)</u>	<u>2nd</u>	<u>Possessing, selling, using, or</u>
9			<u>attempting to use a hoax weapon</u>
10			<u>of mass destruction.</u>
11	796.03	2nd	Procuring any person under 16
12			years for prostitution.
13	800.04(5)(c)1.	2nd	Lewd or lascivious molestation;
14			victim less than 12 years of age;
15			offender less than 18 years.
16	800.04(5)(c)2.	2nd	Lewd or lascivious molestation;
17			victim 12 years of age or older
18			but less than 16 years; offender
19			18 years or older.
20	806.01(2)	2nd	Maliciously damage structure by
21			fire or explosive.
22	810.02(3)(a)	2nd	Burglary of occupied dwelling;
23			unarmed; no assault or battery.
24	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
25			unarmed; no assault or battery.
26	810.02(3)(d)	2nd	Burglary of occupied conveyance;
27			unarmed; no assault or battery.
28	812.014(2)(a)	1st	Property stolen, valued at
29			\$100,000 or more; property stolen
30			while causing other property
31			damage; 1st degree grand theft.

1	812.019(2)	1st	Stolen property; initiates,
2			organizes, plans, etc., the theft
3			of property and traffics in
4			stolen property.
5	812.131(2)(a)	2nd	Robbery by sudden snatching.
6	812.133(2)(b)	1st	Carjacking; no firearm, deadly
7			weapon, or other weapon.
8	825.102(3)(b)	2nd	Neglecting an elderly person or
9			disabled adult causing great
10			bodily harm, disability, or
11			disfigurement.
12	825.1025(2)	2nd	Lewd or lascivious battery upon
13			an elderly person or disabled
14			adult.
15	825.103(2)(b)	2nd	Exploiting an elderly person or
16			disabled adult and property is
17			valued at \$20,000 or more, but
18			less than \$100,000.
19	827.03(3)(b)	2nd	Neglect of a child causing great
20			bodily harm, disability, or
21			disfigurement.
22	827.04(3)	3rd	Impregnation of a child under 16
23			years of age by person 21 years
24			of age or older.
25	837.05(2)	3rd	Giving false information about
26			alleged capital felony to a law
27			enforcement officer.
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 drug prohibited
3			under s. 893.03(1)(a), (1)(b),
4			(1)(d), (2)(a), or (2)(b)) within
5			1,000 feet of a child care
6			facility or school.
7	893.13(1)(e)	1st	Sell, manufacture, or deliver
8			cocaine or other drug prohibited
9			under s. 893.03(1)(a), (1)(b),
10			(1)(d), (2)(a), or (2)(b), within
11			1,000 feet of property used for
12			religious services or a specified
13			business site.
14	893.13(4)(a)	1st	Deliver to minor cocaine (or
15			other s. 893.03(1)(a), (1)(b),
16			(1)(d), (2)(a), or (2)(b) drugs).
17	893.135(1)(a)1.	1st	Trafficking in cannabis, more
18			than 50 lbs., less than 2,000
19			lbs.
20	893.135		
21	(1)(b)1.a.	1st	Trafficking in cocaine, more than
22			28 grams, less than 200 grams.
23	893.135		
24	(1)(c)1.a.	1st	Trafficking in illegal drugs,
25			more than 4 grams, less than 14
26			grams.
27	893.135		
28	(1)(d)1.	1st	Trafficking in phencyclidine,
29			more than 28 grams, less than 200
30			grams.
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1	893.135(1)(e)1.	1st	Trafficking in methaqualone, more
2			than 200 grams, less than 5
3			kilograms.
4	893.135(1)(f)1.	1st	Trafficking in amphetamine, more
5			than 14 grams, less than 28
6			grams.
7	893.135		
8	(1)(g)1.a.	1st	Trafficking in flunitrazepam, 4
9			grams or more, less than 14
10			grams.
11			(i) LEVEL 9
12	316.193		
13	(3)(c)3.b.	1st	DUI manslaughter; failing to
14			render aid or give information.
15	782.04(1)	1st	Attempt, conspire, or solicit to
16			commit premeditated murder.
17	782.04(3)	1st,PBL	Accomplice to murder in
18			connection with arson, sexual
19			battery, robbery, burglary, and
20			other specified felonies.
21	782.051(1)	1st	Attempted felony murder while
22			perpetrating or attempting to
23			perpetrate a felony enumerated in
24			s. 782.04(3).
25	782.07(2)	1st	Aggravated manslaughter of an
26			elderly person or disabled adult.
27	787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or
28			reward or as a shield or hostage.
29	787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit
30			or facilitate commission of any
31			felony.

1	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to
2			interfere with performance of any
3			governmental or political
4			function.
5	787.02(3)(a)	1st	False imprisonment; child under
6			age 13; perpetrator also commits
7			aggravated child abuse, sexual
8			battery, or lewd or lascivious
9			battery, molestation, conduct, or
10			exhibition.
11	790.161	1st	Attempted capital destructive
12			device offense.
13	<u>790.166(2)</u>	<u>1st</u>	<u>Possessing, selling, using, or</u>
14			<u>attempting to use a weapon of</u>
15			<u>mass destruction.</u>
16	794.011(2)	1st	Attempted sexual battery; victim
17			less than 12 years of age.
18	794.011(2)	Life	Sexual battery; offender younger
19			than 18 years and commits sexual
20			battery on a person less than 12
21			years.
22	794.011(4)	1st	Sexual battery; victim 12 years
23			or older, certain circumstances.
24	794.011(8)(b)	1st	Sexual battery; engage in sexual
25			conduct with minor 12 to 18 years
26			by person in familial or
27			custodial authority.
28	800.04(5)(b)	1st	Lewd or lascivious molestation;
29			victim less than 12 years;
30			offender 18 years or older.
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1	812.13(2)(a)	1st,PBL	Robbery with firearm or other
2			deadly weapon.
3	812.133(2)(a)	1st,PBL	Carjacking; firearm or other
4			deadly weapon.
5	827.03(2)	1st	Aggravated child abuse.
6	847.0145(1)	1st	Selling, or otherwise
7			transferring custody or control,
8			of a minor.
9	847.0145(2)	1st	Purchasing, or otherwise
10			obtaining custody or control, of
11			a minor.
12	859.01	1st	Poisoning food, drink, medicine,
13			or water with intent to kill or
14			injure another person.
15	893.135	1st	Attempted capital trafficking
16			offense.
17	893.135(1)(a)3.	1st	Trafficking in cannabis, more
18			than 10,000 lbs.
19	893.135		
20	(1)(b)1.c.	1st	Trafficking in cocaine, more than
21			400 grams, less than 150
22			kilograms.
23	893.135		
24	(1)(c)1.c.	1st	Trafficking in illegal drugs,
25			more than 28 grams, less than 30
26			kilograms.
27	893.135		
28	(1)(d)1.c.	1st	Trafficking in phencyclidine,
29			more than 400 grams.
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1 893.135  
2 (1)(e)1.c. 1st Trafficking in methaqualone, more  
3 than 25 kilograms.  
4 893.135  
5 (1)(f)1.c. 1st Trafficking in amphetamine, more  
6 than 200 grams.  
7 Section 3. This act shall take effect July 1, 2000.  
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