

By the Committee on Criminal Justice; and Senator Futch

307-1994-02

1 A bill to be entitled
2 An act relating to theft; creating s. 812.0145,
3 F.S.; providing enhanced criminal penalties for
4 theft from persons age 65 or older; requiring
5 restitution and community service for theft
6 from said persons; amending s. 921.0022, F.S.,
7 relating to the offense severity ranking chart
8 of the Criminal Punishment Code; conforming
9 provisions to changes made by the act;
10 providing an effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. Section 812.0145, Florida Statutes, is
15 created to read:

16 812.0145 Theft from persons 65 years of age or older;
17 reclassification of offenses.--

18 (1) A person who is convicted of theft of more than
19 \$1,000 from a person 65 years of age or older shall be ordered
20 by the sentencing judge to make restitution to the victim of
21 such offense and to perform up to 500 hours of community
22 service work. Restitution and community service work shall be
23 in addition to any fine or sentence which may be imposed and
24 shall not be in lieu thereof.

25 (2) Whenever a person is charged with committing theft
26 from a person 65 years of age or older, when he or she knows
27 or has reason to believe that the victim was 65 years of age
28 or older, the offense for which the person is charged shall be
29 reclassified as follows:

30 (a) If the funds, assets, or property involved in the
31 theft from a person 65 years of age or older is valued at

1 \$50,000 or more, the offender commits a felony of the first
2 degree, punishable as provided in s. 775.082, s. 775.083, or
3 s. 775.084.

4 (b) If the funds, assets, or property involved in the
5 theft from a person 65 years of age or older is valued at
6 \$10,000 or more, but less than \$50,000, the offender commits a
7 felony of the second degree, punishable as provided in s.
8 775.082, s. 775.083, or s. 775.084.

9 (c) If the funds, assets, or property involved in the
10 theft from a person 65 years of age or older is valued at \$300
11 or more, but less than \$10,000, the offender commits a felony
12 of the third degree, punishable as provided in s. 775.082, s.
13 775.083, or s. 775.084.

14 Section 2. Paragraphs (c), (e), and (g) of subsection
15 (3) of section 921.0022, Florida Statutes, as amended by
16 section 2 of chapter 2001-358, Laws of Florida, are amended to
17 read:

18 921.0022 Criminal Punishment Code; offense severity
19 ranking chart.--

20 (3) OFFENSE SEVERITY RANKING CHART

21

22 Florida	Felony	
23 Statute	Degree	Description
24		
25		
26		(c) LEVEL 3
27 316.1935(2)	3rd	Fleeing or attempting to elude
28		law enforcement officer in marked
29		patrol vehicle with siren and
30		lights activated.

31

1	319.30(4)	3rd	Possession by junkyard of motor
2			vehicle with identification
3			number plate removed.
4	319.33(1)(a)	3rd	Alter or forge any certificate of
5			title to a motor vehicle or
6			mobile home.
7	319.33(1)(c)	3rd	Procure or pass title on stolen
8			vehicle.
9	319.33(4)	3rd	With intent to defraud, possess,
10			sell, etc., a blank, forged, or
11			unlawfully obtained title or
12			registration.
13	328.05(2)	3rd	Possess, sell, or counterfeit
14			fictitious, stolen, or fraudulent
15			titles or bills of sale of
16			vessels.
17	328.07(4)	3rd	Manufacture, exchange, or possess
18			vessel with counterfeit or wrong
19			ID number.
20	376.302(5)	3rd	Fraud related to reimbursement
21			for cleanup expenses under the
22			Inland Protection Trust Fund.
23	501.001(2)(b)	2nd	Tampers with a consumer product
24			or the container using materially
25			false/misleading information.
26	697.08	3rd	Equity skimming.
27	790.15(3)	3rd	Person directs another to
28			discharge firearm from a vehicle.
29	796.05(1)	3rd	Live on earnings of a prostitute.
30			
31			

1	806.10(1)	3rd	Maliciously injure, destroy, or
2			interfere with vehicles or
3			equipment used in firefighting.
4	806.10(2)	3rd	Interferes with or assaults
5			firefighter in performance of
6			duty.
7	810.09(2)(c)	3rd	Trespass on property other than
8			structure or conveyance armed
9			with firearm or dangerous weapon.
10	812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but
11			less than \$10,000.
12	<u>812.0145(2)(c)</u>	<u>3rd</u>	<u>Theft from person 65 years of age</u>
13			<u>or older; \$300 or more but less</u>
14			<u>than \$10,000.</u>
15	815.04(4)(b)	2nd	Computer offense devised to
16			defraud or obtain property.
17	817.034(4)(a)3.	3rd	Engages in scheme to defraud
18			(Florida Communications Fraud
19			Act), property valued at less
20			than \$20,000.
21	817.233	3rd	Burning to defraud insurer.
22	817.234(8)&(9)	3rd	Unlawful solicitation of persons
23			involved in motor vehicle
24			accidents.
25	817.234(11)(a)	3rd	Insurance fraud; property value
26			less than \$20,000.
27	817.505(4)	3rd	Patient brokering.
28	828.12(2)	3rd	Tortures any animal with intent
29			to inflict intense pain, serious
30			physical injury, or death.
31			

1	831.28(2)(a)	3rd	Counterfeiting a payment
2			instrument with intent to defraud
3			or possessing a counterfeit
4			payment instrument.
5	831.29	2nd	Possession of instruments for
6			counterfeiting drivers' licenses
7			or identification cards.
8	838.021(3)(b)	3rd	Threatens unlawful harm to public
9			servant.
10	843.19	3rd	Injure, disable, or kill police
11			dog or horse.
12	870.01(2)	3rd	Riot; inciting or encouraging.
13	893.13(1)(a)2.	3rd	Sell, manufacture, or deliver
14			cannabis (or other s.
15			893.03(1)(c), (2)(c)1., (2)(c)2.,
16			(2)(c)3., (2)(c)5., (2)(c)6.,
17			(2)(c)7., (2)(c)8., (2)(c)9.,
18			(3), or (4) drugs).
19	893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s.
20			893.03(1)(c), (2)(c)1., (2)(c)2.,
21			(2)(c)3., (2)(c)5., (2)(c)6.,
22			(2)(c)7., (2)(c)8., (2)(c)9.,
23			(3), or (4) drugs within 200 feet
24			of university or public park.
25	893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s.
26			893.03(1)(c), (2)(c)1., (2)(c)2.,
27			(2)(c)3., (2)(c)5., (2)(c)6.,
28			(2)(c)7., (2)(c)8., (2)(c)9.,
29			(3), or (4) drugs within 200 feet
30			of public housing facility.
31			

1	893.13(6)(a)	3rd	Possession of any controlled
2			substance other than felony
3			possession of cannabis.
4	893.13(7)(a)9.	3rd	Obtain or attempt to obtain
5			controlled substance by fraud,
6			forgery, misrepresentation, etc.
7	893.13(7)(a)11.	3rd	Furnish false or fraudulent
8			material information on any
9			document or record required by
10			chapter 893.
11	918.13(1)(a)	3rd	Alter, destroy, or conceal
12			investigation evidence.
13	944.47		
14	(1)(a)1.-2.	3rd	Introduce contraband to
15			correctional facility.
16	944.47(1)(c)	2nd	Possess contraband while upon the
17			grounds of a correctional
18			institution.
19	985.3141	3rd	Escapes from a juvenile facility
20			(secure detention or residential
21			commitment facility).
22			(e) LEVEL 5
23	316.027(1)(a)	3rd	Accidents involving personal
24			injuries, failure to stop;
25			leaving scene.
26	316.1935(4)	2nd	Aggravated fleeing or eluding.
27	322.34(6)	3rd	Careless operation of motor
28			vehicle with suspended license,
29			resulting in death or serious
30			bodily injury.
31			

1	327.30(5)	3rd	Vessel accidents involving
2			personal injury; leaving scene.
3	381.0041(11)(b)	3rd	Donate blood, plasma, or organs
4			knowing HIV positive.
5	790.01(2)	3rd	Carrying a concealed firearm.
6	790.162	2nd	Threat to throw or discharge
7			destructive device.
8	790.163	2nd	False report of deadly explosive.
9	790.165(2)	3rd	Manufacture, sell, possess, or
10			deliver hoax bomb.
11	790.221(1)	2nd	Possession of short-barreled
12			shotgun or machine gun.
13	790.23	2nd	Felons in possession of firearms
14			or electronic weapons or devices.
15	800.04(6)(c)	3rd	Lewd or lascivious conduct;
16			offender less than 18 years.
17	800.04(7)(c)	2nd	Lewd or lascivious exhibition;
18			offender 18 years or older.
19	806.111(1)	3rd	Possess, manufacture, or dispense
20			fire bomb with intent to damage
21			any structure or property.
22	<u>812.0145(2)(b)</u>	<u>2nd</u>	<u>Theft from person 65 years of age</u>
23			<u>or older; \$10,000 or more but</u>
24			<u>less than \$50,000.</u>
25	812.015(8)	3rd	Retail theft; property stolen is
26			valued at \$300 or more and one or
27			more specified acts.
28	812.019(1)	2nd	Stolen property; dealing in or
29			trafficking in.
30	812.131(2)(b)	3rd	Robbery by sudden snatching.
31			

1	812.16(2)	3rd	Owning, operating, or conducting
2			a chop shop.
3	817.034(4)(a)2.	2nd	Communications fraud, value
4			\$20,000 to \$50,000.
5	817.234(11)(b)	2nd	Insurance fraud; property value
6			\$20,000 or more but less than
7			\$100,000.
8	817.568(2)(b)	2nd	Fraudulent use of personal
9			identification information; value
10			of benefit, services received,
11			payment avoided, or amount of
12			injury or fraud, \$75,000 or more.
13	817.625(2)(b)	2nd	Second or subsequent fraudulent
14			use of scanning device or
15			reencoder.
16	825.1025(4)	3rd	Lewd or lascivious exhibition in
17			the presence of an elderly person
18			or disabled adult.
19	827.071(4)	2nd	Possess with intent to promote
20			any photographic material, motion
21			picture, etc., which includes
22			sexual conduct by a child.
23	843.01	3rd	Resist officer with violence to
24			person; resist arrest with
25			violence.
26	874.05(2)	2nd	Encouraging or recruiting another
27			to join a criminal street gang;
28			second or subsequent offense.
29			
30			
31			

1	893.13(1)(a)1.	2nd	Sell, manufacture, or deliver
2			cocaine (or other s.
3			893.03(1)(a), (1)(b), (1)(d),
4			(2)(a), (2)(b), or (2)(c)4.
5			drugs).
6	893.13(1)(c)2.	2nd	Sell, manufacture, or deliver
7			cannabis (or other s.
8			893.03(1)(c), (2)(c)1., (2)(c)2.,
9			(2)(c)3., (2)(c)5., (2)(c)6.,
10			(2)(c)7., (2)(c)8., (2)(c)9.,
11			(3), or (4) drugs) within 1,000
12			feet of a child care facility or
13			school.
14	893.13(1)(d)1.	1st	Sell, manufacture, or deliver
15			cocaine (or other s.
16			893.03(1)(a), (1)(b), (1)(d),
17			(2)(a), (2)(b), or (2)(c)4.
18			drugs) within 200 feet of
19			university or public park.
20	893.13(1)(e)2.	2nd	Sell, manufacture, or deliver
21			cannabis or other drug prohibited
22			under s. 893.03(1)(c), (2)(c)1.,
23			(2)(c)2., (2)(c)3., (2)(c)5.,
24			(2)(c)6., (2)(c)7., (2)(c)8.,
25			(2)(c)9., (3), or (4) within
26			1,000 feet of property used for
27			religious services or a specified
28			business site.
29			
30			
31			

1	893.13(1)(f)1.	1st	Sell, manufacture, or deliver
2			cocaine (or other s.
3			893.03(1)(a), (1)(b), (1)(d), or
4			(2)(a), (2)(b), or (2)(c)4.
5			drugs) within 200 feet of public
6			housing facility.
7	893.13(4)(b)	2nd	Deliver to minor cannabis (or
8			other s. 893.03(1)(c), (2)(c)1.,
9			(2)(c)2., (2)(c)3., (2)(c)5.,
10			(2)(c)6., (2)(c)7., (2)(c)8.,
11			(2)(c)9., (3), or (4) drugs).
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	402.319(2)	2nd	Misrepresentation and negligence
18			or intentional act resulting in
19			great bodily harm, permanent
20			disfiguration, permanent
21			disability, or death.
22	409.920(2)	3rd	Medicaid provider fraud.
23	456.065(2)	3rd	Practicing a health care
24			profession without a license.
25	456.065(2)	2nd	Practicing a health care
26			profession without a license
27			which results in serious bodily
28			injury.
29	458.327(1)	3rd	Practicing medicine without a
30			license.
31			

1	459.013(1)	3rd	Practicing osteopathic medicine
2			without a license.
3	460.411(1)	3rd	Practicing chiropractic medicine
4			without a license.
5	461.012(1)	3rd	Practicing podiatric medicine
6			without a license.
7	462.17	3rd	Practicing naturopathy without a
8			license.
9	463.015(1)	3rd	Practicing optometry without a
10			license.
11	464.016(1)	3rd	Practicing nursing without a
12			license.
13	465.015(2)	3rd	Practicing pharmacy without a
14			license.
15	466.026(1)	3rd	Practicing dentistry or dental
16			hygiene without a license.
17	467.201	3rd	Practicing midwifery without a
18			license.
19	468.366	3rd	Delivering respiratory care
20			services without a license.
21	483.828(1)	3rd	Practicing as clinical laboratory
22			personnel without a license.
23	483.901(9)	3rd	Practicing medical physics
24			without a license.
25	484.013(1)(c)	3rd	Preparing or dispensing optical
26			devices without a prescription.
27	484.053	3rd	Dispensing hearing aids without a
28			license.
29			
30			
31			

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	560.123(8)(b)1.	3rd	Failure to report currency or
8			payment instruments exceeding
9			\$300 but less than \$20,000 by
10			money transmitter.
11	560.125(5)(a)	3rd	Money transmitter business by
12			unauthorized person, currency or
13			payment instruments exceeding
14			\$300 but less than \$20,000.
15	655.50(10)(b)1.	3rd	Failure to report financial
16			transactions exceeding \$300 but
17			less than \$20,000 by financial
18			institution.
19	782.051(3)	2nd	Attempted felony murder of a
20			person by a person other than the
21			perpetrator or the perpetrator of
22			an attempted felony.
23	782.07(1)	2nd	Killing of a human being by the
24			act, procurement, or culpable
25			negligence of another
26			(manslaughter).
27	782.071	2nd	Killing of human being or viable
28			fetus by the operation of a motor
29			vehicle in a reckless manner
30			(vehicular homicide).
31			

1	782.072	2nd	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	784.074(1)(a)	1st	Aggravated battery on sexually
17			violent predators facility staff.
18	784.08(2)(a)	1st	Aggravated battery on a person 65
19			years of age or older.
20	784.081(1)	1st	Aggravated battery on specified
21			official or employee.
22	784.082(1)	1st	Aggravated battery by detained
23			person on visitor or other
24			detainee.
25	784.083(1)	1st	Aggravated battery on code
26			inspector.
27	790.07(4)	1st	Specified weapons violation
28			subsequent to previous conviction
29			of s. 790.07(1) or (2).
30	790.16(1)	1st	Discharge of a machine gun under
31			specified circumstances.

1	790.166(3)	2nd	Possessing, selling, using, or
2			attempting to use a hoax weapon
3			of mass destruction.
4	796.03	2nd	Procuring any person under 16
5			years for prostitution.
6	800.04(5)(c)1.	2nd	Lewd or lascivious molestation;
7			victim less than 12 years of age;
8			offender less than 18 years.
9	800.04(5)(c)2.	2nd	Lewd or lascivious molestation;
10			victim 12 years of age or older
11			but less than 16 years; offender
12			18 years or older.
13	806.01(2)	2nd	Maliciously damage structure by
14			fire or explosive.
15	810.02(3)(a)	2nd	Burglary of occupied dwelling;
16			unarmed; no assault or battery.
17	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
18			unarmed; no assault or battery.
19	810.02(3)(d)	2nd	Burglary of occupied conveyance;
20			unarmed; no assault or battery.
21	812.014(2)(a)	1st	Property stolen, valued at
22			\$100,000 or more; cargo stolen
23			valued at \$50,000, or more;
24			property stolen while causing
25			other property damage; 1st degree
26			grand theft.
27	812.014(2)(b)2.	2nd	Property stolen, emergency
28			medical equipment; 2nd degree
29			grand theft.
30	<u>812.0145(2)(a)</u>	<u>1st</u>	<u>Theft from person 65 years of age</u>
31			<u>or older; \$50,000 or more.</u>

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	817.234(11)(c)	1st	Insurance fraud; property value
9			\$100,000 or more.
10	825.102(3)(b)	2nd	Neglecting an elderly person or
11			disabled adult causing great
12			bodily harm, disability, or
13			disfigurement.
14	825.1025(2)	2nd	Lewd or lascivious battery upon
15			an elderly person or disabled
16			adult.
17	825.103(2)(b)	2nd	Exploiting an elderly person or
18			disabled adult and property is
19			valued at \$20,000 or more, but
20			less than \$100,000.
21	827.03(3)(b)	2nd	Neglect of a child causing great
22			bodily harm, disability, or
23			disfigurement.
24	827.04(3)	3rd	Impregnation of a child under 16
25			years of age by person 21 years
26			of age or older.
27	837.05(2)	3rd	Giving false information about
28			alleged capital felony to a law
29			enforcement officer.
30	872.06	2nd	Abuse of a dead human body.
31			

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), (2)(b), or
5			(2)(c)4.) within 1,000 feet of a
6			child care facility or school.
7	893.13(1)(e)1.	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), (2)(b), or
11			(2)(c)4., within 1,000 feet of
12			property used for religious
13			services or a specified business
14			site.
15	893.13(4)(a)	1st	Deliver to minor cocaine (or
16			other s. 893.03(1)(a), (1)(b),
17			(1)(d), (2)(a), (2)(b), or
18			(2)(c)4. drugs).
19	893.135(1)(a)1.	1st	Trafficking in cannabis, more
20			than 25 lbs., less than 2,000
21			lbs.
22	893.135		
23	(1)(b)1.a.	1st	Trafficking in cocaine, more than
24			28 grams, less than 200 grams.
25	893.135		
26	(1)(c)1.a.	1st	Trafficking in illegal drugs,
27			more than 4 grams, less than 14
28			grams.
29			
30			
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	893.135		
16	(1)(h)1.a.	1st	Trafficking in
17			gamma-hydroxybutyric acid (GHB),
18			1 kilogram or more, less than 5
19			kilograms.
20	893.135		
21	(1)(i)1.a.	1st	Trafficking in 1,4-Butanediol, 1
22			kilogram or more, less than 5
23			kilograms.
24	893.135		
25	(1)(j)2.a.	1st	Trafficking in Phenethylamines,
26			10 grams or more, less than 200
27			grams.
28	896.101(5)(a)	3rd	Money laundering, financial
29			transactions exceeding \$300 but
30			less than \$20,000.
31			

1 896.104(4)(a)1. 3rd Structuring transactions to evade
2 reporting or registration
3 requirements, financial
4 transactions exceeding \$300 but
5 less than \$20,000.

6 Section 3. This act shall take effect October 1, 2002.
7

8 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
9 COMMITTEE SUBSTITUTE FOR
10 Senate Bill 992

- 11 1. Clarifies that theft of less than \$300 is a first degree
12 misdemeanor, which is consistent with the general theft
13 provisions.
14 2. Ranks the reclassified offenses in the Criminal
15 Punishment Code (at Levels 3, 5, and 7).
16 3. Requires knowledge or reasonable belief that the victim
17 was 65 years of age or older.
18
19
20
21
22
23
24
25
26
27
28
29
30
31