

By the Committee on Criminal Justice; and Senators Villalobos, Peaden, Campbell and Cowin

307-2413-02

1                                   A bill to be entitled

2           An act relating to falsification of records;

3           amending ss. 839.13, 921.0022, F.S.;

4           prescribing penalties for falsifying records of

5           an individual in the care and custody of a

6           state agency; specifying unlawful acts relating

7           to the Department of Children and Family

8           Services; providing for construction of the act

9           in pari materia with laws enacted at the

10          Regular Session; providing an effective date.

11

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

13

14          Section 1. Section 839.13, Florida Statutes, is

15 amended to read:

16          839.13 Falsifying records.--

17          (1) Except as provided in subsection (2),if any

18 judge, justice, mayor, alderman, clerk, sheriff, coroner, or

19 other public officer, or employee or agent of or contractor

20 with a public agency,or any person whatsoever, shall steal,

21 embezzle, alter, corruptly withdraw, falsify or avoid any

22 record, process, charter, gift, grant, conveyance, or

23 contract, or any paper filed in any judicial proceeding in any

24 court of this state, or shall knowingly and willfully take

25 off, discharge or conceal any issue, forfeited recognizance,

26 or other forfeiture, or other paper above mentioned, or shall

27 forge, deface, or falsify any document or instrument recorded,

28 or filed in any court, or any registry, acknowledgment, or

29 certificate, or shall fraudulently alter, deface, or falsify

30 any minutes, documents, books, or any proceedings whatever of

31 or belonging to any public office within this state; or if any

1 person shall cause or procure any of the offenses aforesaid to  
2 be committed, or be in anywise concerned therein, the person  
3 so offending shall be guilty of a misdemeanor of the first  
4 degree, punishable as provided in s. 775.082 or s. 775.083.

5 (2)(a) Any person who knowingly falsifies, alters,  
6 destroys, defaces, overwrites, removes, or discards an  
7 official record relating to an individual in the care and  
8 custody of a state agency, which act has the potential to  
9 detrimentally affect the health, safety, or welfare of that  
10 individual, commits a felony of the third degree, punishable  
11 as provided in s. 775.082, s. 775.083, or s. 775.084. For the  
12 purposes of this paragraph, the term "care and custody"  
13 includes, but is not limited to, a child abuse protective  
14 investigation, protective supervision, foster care and related  
15 services, or a protective investigation or protective  
16 supervision of a vulnerable adult, as defined in chapter 39,  
17 chapter 409, or chapter 415.

18 (b) Any person who commits a violation of paragraph  
19 (a) which contributes to great bodily harm to or the death of  
20 an individual in the care and custody of a state agency  
21 commits a felony of the second degree, punishable as provided  
22 in s. 775.082, s. 775.083, or s. 775.084. For the purposes of  
23 this paragraph, the term "care and custody" includes, but is  
24 not limited to, a child abuse protective investigation,  
25 protective supervision, foster care and related services, or a  
26 protective investigation or protective supervision of a  
27 vulnerable adult, as defined in chapter 39, chapter 409, or  
28 chapter 415.

29 (c) Any person who knowingly falsifies, alters,  
30 destroys, defaces, overwrites, removes, or discards records of  
31 the Department of Children and Family Services or its contract

1 provider with the intent to conceal a fact material to a child  
2 abuse protective investigation, protective supervision, foster  
3 care and related services, or a protective investigation or  
4 protective supervision of a vulnerable adult, as defined in  
5 chapter 39, chapter 409, or chapter 415, commits a felony of  
6 the third degree, punishable as provided in s. 775.082, s.  
7 775.083, or s. 775.084. Nothing in this paragraph prohibits  
8 prosecution for a violation of paragraph (a) or paragraph (b)  
9 involving records described in this paragraph.

10 (d) This section does not prohibit the disposing or  
11 archiving of records as otherwise provided by law. In  
12 addition, this section does not prohibit any person from  
13 correcting or updating records.

14 (3)(2) In any prosecution under this section, it shall  
15 not be necessary to prove the ownership or value of any paper  
16 or instrument involved.

17 Section 2. Paragraphs (d) and (e) of subsection (3) of  
18 section 921.0022, Florida Statutes, as amended by section 2 of  
19 chapter 2001-358, Laws of Florida, are amended to read:

20 921.0022 Criminal Punishment Code; offense severity  
21 ranking chart.--

22 (3) OFFENSE SEVERITY RANKING CHART

23  
24 Florida Felony  
25 Statute Degree Description

26  
27  
28 (d) LEVEL 4  
29  
30  
31

1	316.1935(3)	2nd	Driving at high speed or with
2			wanton disregard for safety while
3			fleeing or attempting to elude
4			law enforcement officer who is in
5			a marked patrol vehicle with
6			siren and lights activated.
7	784.07(2)(b)	3rd	Battery of law enforcement
8			officer, firefighter, intake
9			officer, etc.
10	784.074(1)(c)	3rd	Battery of sexually violent
11			predators facility staff.
12	784.075	3rd	Battery on detention or
13			commitment facility staff.
14	784.078	3rd	Battery of facility employee by
15			throwing, tossing, or expelling
16			certain fluids or materials.
17	784.08(2)(c)	3rd	Battery on a person 65 years of
18			age or older.
19	784.081(3)	3rd	Battery on specified official or
20			employee.
21	784.082(3)	3rd	Battery by detained person on
22			visitor or other detainee.
23	784.083(3)	3rd	Battery on code inspector.
24	784.085	3rd	Battery of child by throwing,
25			tossing, projecting, or expelling
26			certain fluids or materials.
27	787.03(1)	3rd	Interference with custody;
28			wrongly takes child from
29			appointed guardian.
30			
31			

1	787.04(2)	3rd	Take, entice, or remove child
2			beyond state limits with criminal
3			intent pending custody
4			proceedings.
5	787.04(3)	3rd	Carrying child beyond state lines
6			with criminal intent to avoid
7			producing child at custody
8			hearing or delivering to
9			designated person.
10	790.115(1)	3rd	Exhibiting firearm or weapon
11			within 1,000 feet of a school.
12	790.115(2)(b)	3rd	Possessing electric weapon or
13			device, destructive device, or
14			other weapon on school property.
15	790.115(2)(c)	3rd	Possessing firearm on school
16			property.
17	800.04(7)(d)	3rd	Lewd or lascivious exhibition;
18			offender less than 18 years.
19	810.02(4)(a)	3rd	Burglary, or attempted burglary,
20			of an unoccupied structure;
21			unarmed; no assault or battery.
22	810.02(4)(b)	3rd	Burglary, or attempted burglary,
23			of an unoccupied conveyance;
24			unarmed; no assault or battery.
25	810.06	3rd	Burglary; possession of tools.
26	810.08(2)(c)	3rd	Trespass on property, armed with
27			firearm or dangerous weapon.
28	812.014(2)(c)3.	3rd	Grand theft, 3rd degree \$10,000
29			or more but less than \$20,000.
30			
31			

1	812.014		
2	(2)(c)4.-10.	3rd	Grand theft, 3rd degree, a will,
3			firearm, motor vehicle,
4			livestock, etc.
5	812.0195(2)	3rd	Dealing in stolen property by use
6			of the Internet; property stolen
7			\$300 or more.
8	817.563(1)	3rd	Sell or deliver substance other
9			than controlled substance agreed
10			upon, excluding s. 893.03(5)
11			drugs.
12	817.568(2)(a)	3rd	Fraudulent use of personal
13			identification information.
14	817.625(2)(a)	3rd	Fraudulent use of scanning device
15			or reencoder.
16	828.125(1)	2nd	Kill, maim, or cause great bodily
17			harm or permanent breeding
18			disability to any registered
19			horse or cattle.
20	837.02(1)	3rd	Perjury in official proceedings.
21	837.021(1)	3rd	Make contradictory statements in
22			official proceedings.
23	<u>839.13(2)(a)</u>	<u>3rd</u>	<u>Falsifying records of an</u>
24			<u>individual in the care and</u>
25			<u>custody of a state agency.</u>
26	<u>839.13(2)(c)</u>	<u>3rd</u>	<u>Falsifying records of the</u>
27			<u>Department of Children and Family</u>
28			<u>Services.</u>
29	843.021	3rd	Possession of a concealed
30			handcuff key by a person in
31			custody.

1	843.025	3rd	Deprive law enforcement,
2			correctional, or correctional
3			probation officer of means of
4			protection or communication.
5	843.15(1)(a)	3rd	Failure to appear while on bail
6			for felony (bond estreatment or
7			bond jumping).
8	874.05(1)	3rd	Encouraging or recruiting another
9			to join a criminal street gang.
10	893.13(2)(a)1.	2nd	Purchase of cocaine (or other s.
11			893.03(1)(a), (b), or (d),
12			(2)(a), (2)(b), or (2)(c)4.
13			drugs).
14	914.14(2)	3rd	Witnesses accepting bribes.
15	914.22(1)	3rd	Force, threaten, etc., witness,
16			victim, or informant.
17	914.23(2)	3rd	Retaliation against a witness,
18			victim, or informant, no bodily
19			injury.
20	918.12	3rd	Tampering with jurors.
21	934.215	3rd	Use of two-way communications
22			device to facilitate commission
23			of a crime.
24			(e) LEVEL 5
25	316.027(1)(a)	3rd	Accidents involving personal
26			injuries, failure to stop;
27			leaving scene.
28	316.1935(4)	2nd	Aggravated fleeing or eluding.
29			
30			
31			

1	322.34(6)	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	800.04(6)(c)	3rd	Lewd or lascivious conduct;
20			offender less than 18 years.
21	800.04(7)(c)	2nd	Lewd or lascivious exhibition;
22			offender 18 years or older.
23	806.111(1)	3rd	Possess, manufacture, or dispense
24			fire bomb with intent to damage
25			any structure or property.
26	812.015(8)	3rd	Retail theft; property stolen is
27			valued at \$300 or more and one or
28			more specified acts.
29	812.019(1)	2nd	Stolen property; dealing in or
30			trafficking in.
31	812.131(2)(b)	3rd	Robbery by sudden snatching.



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	<u>839.13(2)(b)</u>	<u>2nd</u>	<u>Falsifying records of an</u>
24			<u>individual in the care and</u>
25			<u>custody of a state agency</u>
26			<u>involving great bodily harm or</u>
27			<u>death.</u>
28	843.01	3rd	Resist officer with violence to
29			person; resist arrest with
30			violence.
31			

1	874.05(2)	2nd	Encouraging or recruiting another
2			to join a criminal street gang;
3			second or subsequent offense.
4	893.13(1)(a)1.	2nd	Sell, manufacture, or deliver
5			cocaine (or other s.
6			893.03(1)(a), (1)(b), (1)(d),
7			(2)(a), (2)(b), or (2)(c)4.
8			drugs).
9	893.13(1)(c)2.	2nd	Sell, manufacture, or deliver
10			cannabis (or other s.
11			893.03(1)(c), (2)(c)1., (2)(c)2.,
12			(2)(c)3., (2)(c)5., (2)(c)6.,
13			(2)(c)7., (2)(c)8., (2)(c)9.,
14			(3), or (4) drugs) within 1,000
15			feet of a child care facility or
16			school.
17	893.13(1)(d)1.	1st	Sell, manufacture, or deliver
18			cocaine (or other s.
19			893.03(1)(a), (1)(b), (1)(d),
20			(2)(a), (2)(b), or (2)(c)4.
21			drugs) within 200 feet of
22			university or public park.
23	893.13(1)(e)2.	2nd	Sell, manufacture, or deliver
24			cannabis or other drug prohibited
25			under s. 893.03(1)(c), (2)(c)1.,
26			(2)(c)2., (2)(c)3., (2)(c)5.,
27			(2)(c)6., (2)(c)7., (2)(c)8.,
28			(2)(c)9., (3), or (4) within
29			1,000 feet of property used for
30			religious services or a specified
31			business site.

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 Section 3. If any law that is amended by this act was  
13 also amended by a law enacted at the 2002 Regular Session of  
14 the Legislature, such laws shall be construed as if they had  
15 been enacted at the same session of the Legislature, and full  
16 effect should be given to each if that is possible.

17 Section 4. This act shall take effect upon becoming a  
18 law.

19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

1                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
2                   COMMITTEE SUBSTITUTE FOR  
3                   Senate Bill 76-E

- 4 - Specifies that the first degree misdemeanor offense for  
5 falsification of records includes an employee or agent of  
6 or contractor with a public agency.
- 7 - Makes it a third degree felony, ranked in level 4, for  
8 any person to knowingly falsify, alter, destroy, deface,  
9 overwrite, remove, or discard an official record relating  
10 to an individual in the care and custody of a state  
11 agency, which act has the potential to detrimentally  
12 affect the health, safety, or welfare of that individual.
- 13 - Makes it a second degree felony, ranked in level 5, for  
14 any person to commit the above-described violation if the  
15 violation contributes to great bodily harm to or the  
16 death of an individual in the care and custody of a state  
17 agency.
- 18 - Provides that, for the purpose of the paragraphs creating  
19 the above-described third degree felony and second degree  
20 felony offenses, the term "care and custody" includes,  
21 but is not limited to, a child abuse protective  
22 investigation, protective supervision, foster care and  
23 related services, or a protective investigation or  
24 protective supervision of a vulnerable adult, as defined  
25 in chapters 39, 409, or 415, F.S.
- 26 - Makes it a third degree felony, ranked in level 4, for  
27 any person to knowingly falsify, alter, destroy, deface,  
28 overwrite, remove, or discard an official record of the  
29 Department of Children and Family Services or its  
30 contract provider with the intent to conceal a fact  
31 material to a child abuse protective investigation,  
protective supervision, foster care and related services,  
or a protective investigation or protective supervision  
of a vulnerable adult, as defined in chapters 39, 409, or  
415, F.S.
- Provides that nothing in the paragraph creating the third  
degree felony offense for falsification of Department of  
Children and Family Services records shall be construed  
to prohibit prosecution for the other falsification of  
records felony offenses described above and created by  
this bill.
- Provides that the newly created section does not prohibit  
the disposing or archiving of records as otherwise  
provided by law, and does not prohibit any person from  
correcting or updating records. -