

CHAMBER ACTION

1 The Justice Council recommends the following:

2  
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to criminal acts committed during a state  
7 of emergency; amending s. 810.02, F.S.; providing enhanced  
8 penalties for specified burglaries that are committed  
9 during a state of emergency; providing that a person  
10 arrested for committing a burglary during a state of  
11 emergency may not be released until that person appears  
12 before a magistrate at a first-appearance hearing;  
13 directing that a felony burglary committed during a state  
14 of emergency be reclassified one level above the current  
15 ranking of the offense committed; amending s. 812.014,  
16 F.S.; providing enhanced penalties for the theft of  
17 certain property stolen during a state of emergency;  
18 directing that a felony theft committed during a state of  
19 emergency be reclassified one level above the current  
20 ranking of the offense committed; providing an effective  
21 date.

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

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Section 1. Subsections (3) and (4) of section 810.02, Florida Statutes, are amended to read:

810.02 Burglary.--

(3) Burglary is a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if, in the course of committing the offense, the offender does not make an assault or battery and is not and does not become armed with a dangerous weapon or explosive, and the offender enters or remains in a:

(a) Dwelling, and there is another person in the dwelling at the time the offender enters or remains;

(b) Dwelling, and there is not another person in the dwelling at the time the offender enters or remains;

(c) Structure, and there is another person in the structure at the time the offender enters or remains; or

(d) Conveyance, and there is another person in the conveyance at the time the offender enters or remains.

However, if the burglary is committed within an area that is subject to a state of emergency declared by the Governor under chapter 252, the burglary is a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A person arrested for committing a burglary within an area that is subject to a state of emergency declared by the Governor under chapter 252 may not be released until the person appears before a committing magistrate at a first-appearance hearing. For purposes of sentencing under chapter 921, a felony offense

52 | that is reclassified under this subsection is ranked one level  
 53 | above the ranking under s. 921.0022 or s. 921.0023 of the  
 54 | offense committed.

55 | (4) Burglary is a felony of the third degree, punishable  
 56 | as provided in s. 775.082, s. 775.083, or s. 775.084, if, in the  
 57 | course of committing the offense, the offender does not make an  
 58 | assault or battery and is not and does not become armed with a  
 59 | dangerous weapon or explosive, and the offender enters or  
 60 | remains in a:

61 | (a) Structure, and there is not another person in the  
 62 | structure at the time the offender enters or remains; or

63 | (b) Conveyance, and there is not another person in the  
 64 | conveyance at the time the offender enters or remains.

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 66 | However, if the burglary is committed within an area that is  
 67 | subject to a state of emergency declared by the Governor under  
 68 | chapter 252, the burglary is a felony of the second degree,  
 69 | punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

70 | A person arrested for committing a burglary within an area that  
 71 | is subject to a state of emergency declared by the Governor  
 72 | under chapter 252 may not be released until the person appears  
 73 | before a committing magistrate at a first-appearance hearing.

74 | For purposes of sentencing under chapter 921, a felony offense  
 75 | that is reclassified under this subsection is ranked one level  
 76 | above the ranking under s. 921.0022 or s. 921.0023 of the  
 77 | offense committed.

78 | Section 2. Paragraphs (b) and (c) of subsection (2) of  
 79 | section 812.014, Florida Statutes, are amended to read:

80 812.014 Theft.--

81 (2)

82 (b)1. If the property stolen is valued at \$20,000 or more,  
83 but less than \$100,000;

84 2. The property stolen is cargo valued at less than  
85 \$50,000 that has entered the stream of interstate or intrastate  
86 commerce from the shipper's loading platform to the consignee's  
87 receiving dock; or

88 3. The property stolen is emergency medical equipment,  
89 valued at \$300 or more, that is taken from a facility licensed  
90 under chapter 395 or from an aircraft or vehicle permitted under  
91 chapter 401,

92  
93 the offender commits grand theft in the second degree,  
94 punishable as a felony of the second degree, as provided in s.  
95 775.082, s. 775.083, or s. 775.084. Emergency medical equipment  
96 means mechanical or electronic apparatus used to provide  
97 emergency services and care as defined in s. 395.002(10) or to  
98 treat medical emergencies. However, if the property is stolen  
99 within an area that is subject to a state of emergency declared  
100 by the Governor under chapter 252, the offender commits a felony  
101 of the first degree, punishable as provided in s. 775.082, s.  
102 775.083, or s. 775.084. For purposes of sentencing under chapter  
103 921, a felony offense that is reclassified under this paragraph  
104 is ranked one level above the ranking under s. 921.0022 or s.  
105 921.0023 of the offense committed.

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106 (c) It is grand theft of the third degree and a felony of  
107 the third degree, punishable as provided in s. 775.082, s.  
108 775.083, or s. 775.084, if the property stolen is:

- 109 1. Valued at \$300 or more, but less than \$5,000.
- 110 2. Valued at \$5,000 or more, but less than \$10,000.
- 111 3. Valued at \$10,000 or more, but less than \$20,000.
- 112 4. A will, codicil, or other testamentary instrument.
- 113 5. A firearm.
- 114 6. A motor vehicle, except as provided in paragraph

115 (2)(a).

116 7. Any commercially farmed animal, including any animal of  
117 the equine, bovine, or swine class, or other grazing animal, and  
118 including aquaculture species raised at a certified aquaculture  
119 facility. If the property stolen is aquaculture species raised  
120 at a certified aquaculture facility, then a \$10,000 fine shall  
121 be imposed.

122 8. Any fire extinguisher.

123 9. Any amount of citrus fruit consisting of 2,000 or more  
124 individual pieces of fruit.

125 10. Taken from a designated construction site identified  
126 by the posting of a sign as provided for in s. 810.09(2)(d).

127 11. Any stop sign.

128 12. Anhydrous ammonia.

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130 However, if the property is stolen within an area that is  
131 subject to a state of emergency declared by the Governor under  
132 chapter 252 and the property is valued at \$5,000 or more, but  
133 less than \$10,000, as provided under subparagraph 2., or the

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134 property is valued at \$10,000 or more, but less than \$20,000, as  
135 provided under subparagraph 3., the offender commits a felony of  
136 the second degree, punishable as provided in s. 775.082, s.  
137 775.083, or s. 775.084. For purposes of sentencing under chapter  
138 921, a felony offense that is reclassified under this paragraph  
139 is ranked one level above the ranking under s. 921.0022 or s.  
140 921.0023 of the offense committed.

141 Section 3. This act shall take effect July 1, 2005.