

A bill to be entitled

An act relating to criminal acts committed during a state of emergency; amending s. 810.02, F.S.; providing enhanced penalties for specified burglaries that are committed during, and facilitated by specified conditions arising from, a state of emergency declared by the Governor; prohibiting the release of a person arrested for committing a burglary during such a state of emergency until that person appears before a magistrate at a first-appearance hearing; requiring that a felony burglary committed during a state of emergency be reclassified one level above the current ranking of the offense committed; amending s. 812.014, F.S.; providing enhanced penalties for the theft of certain property stolen during, and facilitated by specified conditions arising from, a state of emergency declared by the Governor; requiring that a felony theft committed during a state of emergency be reclassified one level above the current ranking of the offense committed; providing an effective date.

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

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

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29 assault or battery and is not and does not become armed with a  
30 dangerous weapon or explosive, and the offender enters or  
31 remains in a:

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

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

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

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

40

41 However, if the burglary is committed after the declaration of  
42 emergency within a county that is subject to a state of  
43 emergency declared by the Governor under chapter 252 and the  
44 perpetration of the burglary is facilitated by conditions  
45 arising from the emergency, the burglary is a felony of the  
46 first degree, punishable as provided in s. 775.082, s. 775.083,  
47 or s. 775.084. As used in this subsection, the term "conditions  
48 arising from the emergency" means civil unrest, power outages,  
49 curfews, voluntary or mandatory evacuations, or a reduction in  
50 the presence of or the response time for first responders or  
51 homeland security personnel. A person arrested for committing a  
52 burglary within a county that is subject to such a state of  
53 emergency may not be released until the person appears before a  
54 committing magistrate at a first-appearance hearing. For  
55 purposes of sentencing under chapter 921, a felony offense that  
56 is reclassified under this subsection is ranked one level above

57 the ranking under s. 921.0022 or s. 921.0023 of the offense  
58 committed.

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

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

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

69  
70 However, if the burglary is committed after the declaration of  
71 emergency within a county that is subject to a state of  
72 emergency declared by the Governor under chapter 252 and the  
73 perpetration of the burglary is facilitated by conditions  
74 arising from the emergency, the burglary is a felony of the  
75 second degree, punishable as provided in s. 775.082, s. 775.083,  
76 or s. 775.084. As used in this subsection, the term "conditions  
77 arising from the emergency" means civil unrest, power outages,  
78 curfews, voluntary or mandatory evacuations, or a reduction in  
79 the presence of or the response time for first responders or  
80 homeland security personnel. A person arrested for committing a  
81 burglary within a county that is subject to such a state of  
82 emergency may not be released until the person appears before a  
83 committing magistrate at a first-appearance hearing. For  
84 purposes of sentencing under chapter 921, a felony offense that

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85 is reclassified under this subsection is ranked one level above  
86 the ranking under s. 921.0022 or s. 921.0023 of the offense  
87 committed.

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

90 812.014 Theft.--

91 (2)

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

94 2. The property stolen is cargo valued at less than  
95 \$50,000 that has entered the stream of interstate or intrastate  
96 commerce from the shipper's loading platform to the consignee's  
97 receiving dock; or

98 3. The property stolen is emergency medical equipment,  
99 valued at \$300 or more, that is taken from a facility licensed  
100 under chapter 395 or from an aircraft or vehicle permitted under  
101 chapter 401,

102  
103 the offender commits grand theft in the second degree,  
104 punishable as a felony of the second degree, as provided in s.  
105 775.082, s. 775.083, or s. 775.084. Emergency medical equipment  
106 means mechanical or electronic apparatus used to provide  
107 emergency services and care as defined in s. 395.002(10) or to  
108 treat medical emergencies. However, if the property is stolen  
109 within a county that is subject to a state of emergency declared  
110 by the Governor under chapter 252, the theft is committed after  
111 the declaration of emergency, and the perpetration of the theft  
112 is facilitated by conditions arising from the emergency, the

113 theft is a felony of the first degree, punishable as provided in  
 114 s. 775.082, s. 775.083, or s. 775.084. As used in this  
 115 paragraph, the term "conditions arising from the emergency"  
 116 means civil unrest, power outages, curfews, voluntary or  
 117 mandatory evacuations, or a reduction in the presence of or the  
 118 response time for first responders or homeland security  
 119 personnel. For purposes of sentencing under chapter 921, a  
 120 felony offense that is reclassified under this paragraph is  
 121 ranked one level above the ranking under s. 921.0022 or s.  
 122 921.0023 of the offense committed.

123 (c) It is grand theft of the third degree and a felony of  
 124 the third degree, punishable as provided in s. 775.082, s.  
 125 775.083, or s. 775.084, if the property stolen is:

- 126 1. Valued at \$300 or more, but less than \$5,000.
- 127 2. Valued at \$5,000 or more, but less than \$10,000.
- 128 3. Valued at \$10,000 or more, but less than \$20,000.
- 129 4. A will, codicil, or other testamentary instrument.
- 130 5. A firearm.
- 131 6. A motor vehicle, except as provided in paragraph

132 (2) (a).

133 7. Any commercially farmed animal, including any animal of  
 134 the equine, bovine, or swine class, or other grazing animal, and  
 135 including aquaculture species raised at a certified aquaculture  
 136 facility. If the property stolen is aquaculture species raised  
 137 at a certified aquaculture facility, then a \$10,000 fine shall  
 138 be imposed.

139 8. Any fire extinguisher.

140 9. Any amount of citrus fruit consisting of 2,000 or more

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141 individual pieces of fruit.

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

144 11. Any stop sign.

145 12. Anhydrous ammonia.

146  
 147 However, if the property is stolen within a county that is  
 148 subject to a state of emergency declared by the Governor under  
 149 chapter 252, the theft is committed after the declaration of  
 150 emergency, and the perpetration of the theft is facilitated by  
 151 conditions arising from the emergency, the offender commits a  
 152 felony of the second degree, punishable as provided in s.  
 153 775.082, s. 775.083, or s. 775.084, if the property is valued at  
 154 \$5,000 or more, but less than \$10,000, as provided under  
 155 subparagraph 2., or if the property is valued at \$10,000 or  
 156 more, but less than \$20,000, as provided under subparagraph 3.  
 157 As used in this paragraph, the term "conditions arising from the  
 158 emergency" means civil unrest, power outages, curfews, voluntary  
 159 or mandatory evacuations, or a reduction in the presence of or  
 160 the response time for first responders or homeland security  
 161 personnel. For purposes of sentencing under chapter 921, a  
 162 felony offense that is reclassified under this paragraph is  
 163 ranked one level above the ranking under s. 921.0022 or s.  
 164 921.0023 of the offense committed.

165 Section 3. This act shall take effect July 1, 2006.