

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 a state of emergency declared by the Governor and facilitated by conditions arising from the emergency; 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 declared by the Governor 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 a state of emergency declared by the Governor and facilitated by conditions arising from the emergency; requiring that a felony theft committed during such 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

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29 course of committing the offense, the offender does not make an  
30 assault or battery and is not and does not become armed with a  
31 dangerous weapon or explosive, and the offender enters or  
32 remains in a:

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

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

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

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

41

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

57 is reclassified under this subsection is ranked one level above  
58 the ranking under s. 921.0022 or s. 921.0023 of the offense  
59 committed.

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

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

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

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

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85 purposes of sentencing under chapter 921, a felony offense that  
86 is reclassified under this subsection is ranked one level above  
87 the ranking under s. 921.0022 or s. 921.0023 of the offense  
88 committed.

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

91 812.014 Theft.--

92 (2)

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

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

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

103

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

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113 the theft is facilitated by conditions arising from the  
114 emergency, the theft is a felony of the first degree, punishable  
115 as provided in s. 775.082, s. 775.083, or s. 775.084. As used in  
116 this paragraph, the term "conditions arising from the emergency"  
117 means civil unrest, power outages, curfews, voluntary or  
118 mandatory evacuations, or a reduction in the presence of or  
119 response time for first responders or homeland security  
120 personnel. For purposes of sentencing under chapter 921, a  
121 felony offense that is reclassified under this paragraph is  
122 ranked one level above the ranking under s. 921.0022 or s.  
123 921.0023 of the offense committed.

124 (c) It is grand theft of the third degree and a felony of  
125 the third degree, punishable as provided in s. 775.082, s.  
126 775.083, or s. 775.084, if the property stolen is:

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

133 (2) (a).

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

140 8. Any fire extinguisher.

141           9. Any amount of citrus fruit consisting of 2,000 or more  
142 individual pieces of fruit.

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

145           11. Any stop sign.

146           12. Anhydrous ammonia.

147  
148 However, if the property is stolen within a county that is  
149 subject to a state of emergency declared by the Governor under  
150 chapter 252, the property is stolen after the declaration of  
151 emergency is made, and the perpetration of the theft is  
152 facilitated by conditions arising from the emergency, the  
153 offender commits a felony of the second degree, punishable as  
154 provided in s. 775.082, s. 775.083, or s. 775.084, if the  
155 property is valued at \$5,000 or more, but less than \$10,000, as  
156 provided under subparagraph 2., or if the property is valued at  
157 \$10,000 or more, but less than \$20,000, as provided under  
158 subparagraph 3. As used in this paragraph, the term "conditions  
159 arising from the emergency" means civil unrest, power outages,  
160 curfews, voluntary or mandatory evacuations, or a reduction in  
161 the presence of or the response time for first responders or  
162 homeland security personnel. For purposes of sentencing under  
163 chapter 921, a felony offense that is reclassified under this  
164 paragraph is ranked one level above the ranking under s.  
165 921.0022 or s. 921.0023 of the offense committed.

166           Section 3. This act shall take effect July 1, 2007.