

ENROLLED  
CS/HB 449

2007 Legislature

1                   A bill to be entitled  
2           An act relating to criminal offenses; amending s. 810.02,  
3           F.S.; providing enhanced penalties for burglaries of  
4           authorized emergency vehicles; providing enhanced  
5           penalties for specified burglaries that are committed  
6           during a state of emergency declared by the Governor and  
7           facilitated by conditions arising from the emergency;  
8           prohibiting the release of a person arrested for  
9           committing a burglary during such a state of emergency  
10          until that person appears before a magistrate at a first-  
11          appearance hearing; requiring that a felony burglary  
12          committed during a state of emergency declared by the  
13          Governor be reclassified one level above the current  
14          ranking of the offense committed; amending s. 812.014,  
15          F.S.; providing enhanced penalties for the theft of  
16          certain law enforcement equipment taken from authorized  
17          emergency vehicles; providing enhanced penalties for the  
18          theft of certain property stolen during a state of  
19          emergency declared by the Governor and facilitated by  
20          conditions arising from the emergency; requiring that a  
21          felony theft committed during such a state of emergency be  
22          reclassified one level above the current ranking of the  
23          offense committed; amending s. 921.0022, F.S.; ranking  
24          newly created offenses in the offense severity ranking  
25          chart; providing an effective date.

26  
27   Be It Enacted by the Legislature of the State of Florida:  
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29 Section 1. Subsections (3) and (4) of section 810.02,  
30 Florida Statutes, are amended to read:

31 810.02 Burglary.--

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

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

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

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

44 (d) Conveyance, and there is another person in the  
45 conveyance at the time the offender enters or remains; or-

46 (e) Authorized emergency vehicle, as defined in s.  
47 316.003.

48  
49 However, if the burglary is committed within a county that is  
50 subject to a state of emergency declared by the Governor under  
51 chapter 252 after the declaration of emergency is made and the  
52 perpetration of the burglary is facilitated by conditions  
53 arising from the emergency, the burglary is a felony of the  
54 first degree, punishable as provided in s. 775.082, s. 775.083,  
55 or s. 775.084. As used in this subsection, the term "conditions  
56 arising from the emergency" means civil unrest, power outages,

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57 curfews, voluntary or mandatory evacuations, or a reduction in  
 58 the presence of or response time for first responders or  
 59 homeland security personnel. A person arrested for committing a  
 60 burglary within a county that is subject to such a state of  
 61 emergency may not be released until the person appears before a  
 62 committing magistrate at a first-appearance hearing. For  
 63 purposes of sentencing under chapter 921, a felony offense that  
 64 is reclassified under this subsection is ranked one level above  
 65 the ranking under s. 921.0022 or s. 921.0023 of the offense  
 66 committed.

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

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

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

77  
 78 However, if the burglary is committed within a county that is  
 79 subject to a state of emergency declared by the Governor under  
 80 chapter 252 after the declaration of emergency is made and the  
 81 perpetration of the burglary is facilitated by conditions  
 82 arising from the emergency, the burglary is a felony of the  
 83 second degree, punishable as provided in s. 775.082, s. 775.083,  
 84 or s. 775.084. As used in this subsection, the term "conditions

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85 arising from the emergency" means civil unrest, power outages,  
 86 curfews, voluntary or mandatory evacuations, or a reduction in  
 87 the presence of or response time for first responders or  
 88 homeland security personnel. A person arrested for committing a  
 89 burglary within a county that is subject to such a state of  
 90 emergency may not be released until the person appears before a  
 91 committing magistrate at a first-appearance hearing. For  
 92 purposes of sentencing under chapter 921, a felony offense that  
 93 is reclassified under this subsection is ranked one level above  
 94 the ranking under s. 921.0022 or s. 921.0023 of the offense  
 95 committed.

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

98 812.014 Theft.--

99 (2)

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

102 2. The property stolen is cargo valued at less than  
 103 \$50,000 that has entered the stream of interstate or intrastate  
 104 commerce from the shipper's loading platform to the consignee's  
 105 receiving dock; ~~or~~

106 3. The property stolen is emergency medical equipment,  
 107 valued at \$300 or more, that is taken from a facility licensed  
 108 under chapter 395 or from an aircraft or vehicle permitted under  
 109 chapter 401; or

110 4. The property stolen is law enforcement equipment,  
 111 valued at \$300 or more, that is taken from an authorized  
 112 emergency vehicle, as defined in s. 316.003,

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113  
114 the offender commits grand theft in the second degree,  
115 punishable as a felony of the second degree, as provided in s.  
116 775.082, s. 775.083, or s. 775.084. Emergency medical equipment  
117 means mechanical or electronic apparatus used to provide  
118 emergency services and care as defined in s. 395.002(10) or to  
119 treat medical emergencies. Law enforcement equipment means any  
120 property, device, or apparatus used by any law enforcement  
121 officer as defined in s. 943.10 in the officer's official  
122 business. However, if the property is stolen within a county  
123 that is subject to a state of emergency declared by the Governor  
124 under chapter 252, the theft is committed after the declaration  
125 of emergency is made, and the perpetration of the theft is  
126 facilitated by conditions arising from the emergency, the theft  
127 is a felony of the first degree, punishable as provided in s.  
128 775.082, s. 775.083, or s. 775.084. As used in this paragraph,  
129 the term "conditions arising from the emergency" means civil  
130 unrest, power outages, curfews, voluntary or mandatory  
131 evacuations, or a reduction in the presence of or response time  
132 for first responders or homeland security personnel. For  
133 purposes of sentencing under chapter 921, a felony offense that  
134 is reclassified under this paragraph is ranked one level above  
135 the ranking under s. 921.0022 or s. 921.0023 of the offense  
136 committed.

137 (c) It is grand theft of the third degree and a felony of  
138 the third degree, punishable as provided in s. 775.082, s.  
139 775.083, or s. 775.084, if the property stolen is:

140 1. Valued at \$300 or more, but less than \$5,000.

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- 141           2. Valued at \$5,000 or more, but less than \$10,000.
- 142           3. Valued at \$10,000 or more, but less than \$20,000.
- 143           4. A will, codicil, or other testamentary instrument.
- 144           5. A firearm.
- 145           6. A motor vehicle, except as provided in paragraph
- 146           (2) (a).
- 147           7. Any commercially farmed animal, including any animal of
- 148           the equine, bovine, or swine class, or other grazing animal, and
- 149           including aquaculture species raised at a certified aquaculture
- 150           facility. If the property stolen is aquaculture species raised
- 151           at a certified aquaculture facility, then a \$10,000 fine shall
- 152           be imposed.
- 153           8. Any fire extinguisher.
- 154           9. Any amount of citrus fruit consisting of 2,000 or more
- 155           individual pieces of fruit.
- 156           10. Taken from a designated construction site identified
- 157           by the posting of a sign as provided for in s. 810.09(2)(d).
- 158           11. Any stop sign.
- 159           12. Anhydrous ammonia.

160

161   However, if the property is stolen within a county that is

162   subject to a state of emergency declared by the Governor under

163   chapter 252, the property is stolen after the declaration of

164   emergency is made, and the perpetration of the theft is

165   facilitated by conditions arising from the emergency, the

166   offender commits a felony of the second degree, punishable as

167   provided in s. 775.082, s. 775.083, or s. 775.084, if the

168   property is valued at \$5,000 or more, but less than \$10,000, as

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169 provided under subparagraph 2., or if the property is valued at  
 170 \$10,000 or more, but less than \$20,000, as provided under  
 171 subparagraph 3. As used in this paragraph, the term "conditions  
 172 arising from the emergency" means civil unrest, power outages,  
 173 curfews, voluntary or mandatory evacuations, or a reduction in  
 174 the presence of or the response time for first responders or  
 175 homeland security personnel. For purposes of sentencing under  
 176 chapter 921, a felony offense that is reclassified under this  
 177 paragraph is ranked one level above the ranking under s.  
 178 921.0022 or s. 921.0023 of the offense committed.

179 Section 3. Paragraph (g) of subsection (3) of section  
 180 921.0022, Florida Statutes, is amended to read:

181 921.0022 Criminal Punishment Code; offense severity  
 182 ranking chart.--

183 (3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
		(g) LEVEL 7
316.027(1)(b)	1st	Accident involving death, failure to stop; leaving scene.
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.

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188	316.1935 (3) (b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
189	327.35 (3) (c) 2.	3rd	Vessel BUI resulting in serious bodily injury.
189	402.319 (2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfigurement, permanent

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190	409.920 (2)	3rd	disability, or death. Medicaid provider fraud.
191	456.065 (2)	3rd	Practicing a health care profession without a license.
192	456.065 (2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
193	458.327 (1)	3rd	Practicing medicine without a license.
194	459.013 (1)	3rd	Practicing osteopathic medicine without a license.
195	460.411 (1)	3rd	Practicing chiropractic medicine without a

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196			license.
	461.012 (1)	3rd	Practicing podiatric medicine without a license.
197			
	462.17	3rd	Practicing naturopathy without a license.
198			
	463.015 (1)	3rd	Practicing optometry without a license.
199			
	464.016 (1)	3rd	Practicing nursing without a license.
200			
	465.015 (2)	3rd	Practicing pharmacy without a license.
201			
	466.026 (1)	3rd	Practicing dentistry or dental hygiene without a license.
202			
	467.201	3rd	Practicing midwifery without a license.
203			
	468.366	3rd	Delivering

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204	483.828 (1)	3rd	respiratory care services without a license. Practicing as clinical laboratory personnel without a license.
205	483.901 (9)	3rd	Practicing medical physics without a license.
206	484.013 (1) (c)	3rd	Preparing or dispensing optical devices without a prescription.
207	484.053	3rd	Dispensing hearing aids without a license.
208	494.0018 (2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property

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209	560.123 (8) (b) 1.	3rd	unlawfully obtained exceeded \$50,000 and there were five or more victims.
210	560.125 (5) (a)	3rd	Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by money transmitter.
211	655.50 (10) (b) 1.	3rd	Money transmitter business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
212			Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.

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213	775.21(10)(a)	3rd	Sexual predator; failure to register; failure to renew driver's license or identification card; other registration violations.
214	775.21(10)(b)	3rd	Sexual predator working where children regularly congregate.
215	775.21(10)(g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
216	782.051(3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.

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217	782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
218	782.071	2nd	Killing of human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide).
219	782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
219	784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or

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220	784.045 (1) (a) 2.	2nd	disfigurement. Aggravated battery; using deadly weapon.
221	784.045 (1) (b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
222	784.048 (4)	3rd	Aggravated stalking; violation of injunction or court order.
223	784.048 (7)	3rd	Aggravated stalking; violation of court order.
224	784.07 (2) (d)	1st	Aggravated battery on law enforcement officer.
225	784.074 (1) (a)	1st	Aggravated battery on sexually violent predators facility staff.
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227	784.08 (2) (a)	1st	Aggravated battery on a person 65 years of age or older.
228	784.081 (1)	1st	Aggravated battery on specified official or employee.
229	784.082 (1)	1st	Aggravated battery by detained person on visitor or other detainee.
230	784.083 (1)	1st	Aggravated battery on code inspector.
231	790.07 (4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
232	790.16 (1)	1st	Discharge of a machine gun under specified circumstances.

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233	790.165 (2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
234	790.165 (3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
235	790.166 (3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
236	790.166 (4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
	796.03	2nd	Procuring any person

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237	800.04 (5) (c) 1.	2nd	under 16 years for prostitution.
238	800.04 (5) (c) 2.	2nd	Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years.
239	806.01 (2)	2nd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender 18 years or older.
240	810.02 (3) (a)	2nd	Maliciously damage structure by fire or explosive.
241	810.02 (3) (b)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
			Burglary of unoccupied dwelling;

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242	810.02 (3) (d)	2nd	unarmed; no assault or battery.
243	<u>810.02 (3) (e)</u>	<u>2nd</u>	Burglary of occupied conveyance; unarmed; no assault or battery.
244	812.014 (2) (a) 1.	1st	<u>Burglary of</u> <u>authorized emergency</u> <u>vehicle.</u>
245	812.014 (2) (b) 2.	2nd	Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.
246			Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.

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247	812.014 (2) (b) 3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
248	<u>812.014 (2) (b) 4.</u>	<u>2nd</u>	<u>Property stolen, law enforcement equipment from authorized emergency vehicle.</u>
249	812.0145 (2) (a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
250	812.019 (2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
251	812.131 (2) (a)	2nd	Robbery by sudden snatching.

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252	812.133 (2) (b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
253	817.234 (8) (a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
254	817.234 (9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
255	817.234 (11) (c)	1st	Insurance fraud; property value \$100,000 or more.
255	817.2341 (2) (b) & (3) (b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an

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256	825.102 (3) (b)	2nd	insuring entity which are a significant cause of the insolvency of that entity.
257	825.103 (2) (b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
258	827.03 (3) (b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000.
259	827.04 (3)	3rd	Neglect of a child causing great bodily harm, disability, or disfigurement.
			Impregnation of a

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260	837.05 (2)	3rd	child under 16 years of age by person 21 years of age or older.
261	838.015	2nd	Giving false information about alleged capital felony to a law enforcement officer.
262	838.016	2nd	Bribery.  Unlawful compensation or reward for official behavior.
263	838.021 (3) (a)	2nd	Unlawful harm to a public servant.
264	838.22	2nd	Bid tampering.
265	847.0135 (3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful

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266	872.06	2nd	sex act.
267	893.13 (1) (c) 1.	1st	Abuse of a dead human body.
268	893.13 (1) (e) 1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03 (1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c) 4.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
			Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03 (1) (a),

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269	893.13 (4) (a)	1st	(1) (b), (1) (d), (2) (a), (2) (b), or (2) (c)4., within 1,000 feet of property used for religious services or a specified business site.
270	893.135 (1) (a) 1.	1st	Deliver to minor cocaine (or other s. 893.03 (1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c)4. drugs).
271	893.135 (1) (b) 1.a.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
272	893.135 (1) (c) 1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
	893.135 (1) (c) 1.a.	1st	Trafficking in

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273	893.135 (1) (d) 1.	1st	illegal drugs, more than 4 grams, less than 14 grams.
274	893.135 (1) (e) 1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
275	893.135 (1) (f) 1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
276	893.135 (1) (g) 1.a.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
277	893.135 (1) (h) 1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
			Trafficking in gamma-hydroxybutyric acid (GHB), 1

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278	893.135 (1) (j) 1.a.	1st	kilogram or more, less than 5 kilograms.
279	893.135 (1) (k) 2.a.	1st	Trafficking in 1,4- Butanediol, 1 kilogram or more, less than 5 kilograms.
280	896.101 (5) (a)	3rd	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
281	896.104 (4) (a) 1.	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.
			Structuring transactions to evade reporting or registration requirements, financial

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282	943.0435(4)(c)	2nd	<p>transactions exceeding \$300 but less than \$20,000.</p>
283	943.0435(8)	2nd	<p>Sexual offender vacating permanent residence; failure to comply with reporting requirements.</p>
284	943.0435(9)(a)	3rd	<p>Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.</p>
285	943.0435(13)	3rd	<p>Sexual offender; failure to comply with reporting requirements.</p> <p>Failure to report or providing false information about a</p>

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286	943.0435(14)	3rd	sexual offender; harbor or conceal a sexual offender.
287	944.607(9)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.
288	944.607(10)(a)	3rd	Sexual offender; failure to comply with reporting requirements.
289	944.607(12)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
			Failure to report or providing false information about a sexual offender; harbor or conceal a

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944.607(13)

3rd

sexual offender.

Sexual offender;  
failure to report  
and reregister;  
failure to respond  
to address  
verification.

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Section 4. This act shall take effect July 1, 2007.