

By Senator Ring

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1 A bill to be entitled  
2 An act relating to stalking; amending s. 784.048, F.S.;  
3 redefining the terms "harass," "credible threat," and  
4 "cyberstalk"; defining the terms "electronic  
5 communication," "electronic communication device," and  
6 "immediate family"; increasing criminal penalties;  
7 providing for reclassification of criminal penalties for  
8 certain offenses; providing for a civil cause of action  
9 and remedies; providing that the civil remedies are in  
10 addition to any other civil, administrative, or criminal  
11 remedies provided by law; amending s. 921.0022, F.S.,  
12 relating to the offense severity ranking chart; conforming  
13 provisions to changes made by the act; providing an  
14 effective date.

15  
16 Be It Enacted by the Legislature of the State of Florida:

17  
18 Section 1. Section 784.048, Florida Statutes, is amended to  
19 read:

20 784.048 Stalking; definitions; penalties.--

21 (1) As used in this section, the term:

22 (a) "Harass" means to engage in a course of conduct, or to  
23 cause or encourage another to engage in a course of conduct,  
24 directed at a specific person which ~~that~~ causes substantial  
25 emotional distress in such person and serves no legitimate  
26 purpose.

27 (b) "Course of conduct" means a pattern of conduct composed  
28 of a series of acts over a period of time, however short,  
29 evidencing a continuity of purpose. Constitutionally protected

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30 activity is not included within the meaning of "course of  
31 conduct." Such constitutionally protected activity includes  
32 picketing or other organized protests.

33 (c) "Credible threat" means any a threat, including a  
34 threat delivered by means of an electronic communication device,  
35 made with the intent to cause the person who is the target of the  
36 threat to reasonably fear bodily injury or death to himself or  
37 herself or to a member of his or her immediate family ~~for his or~~  
38 ~~her safety. The threat must be against the life of, or a threat~~  
39 ~~to cause bodily injury to, a person.~~

40 (d) "Cyberstalk" means to engage in a course of conduct, or  
41 to cause or encourage another to engage in a course of conduct,  
42 to communicate, or to cause to be communicated, words, images, or  
43 language by or through the use of electronic mail or electronic  
44 communication, directed at a specific person, causing substantial  
45 emotional distress to that person and serving no legitimate  
46 purpose.

47 (e) "Electronic communication" means any transfer of signs,  
48 signals, writings, images, sounds, data, or intelligence of any  
49 nature transmitted in whole or in part by a wire, radio,  
50 electromagnetic, photoelectronic, or photooptical system that  
51 affects interstate or foreign commerce.

52 (f) "Electronic communication device" means any type of  
53 instrument, device, machine, equipment, or software that is  
54 capable of transmitting, acquiring, encrypting, transferring,  
55 decrypting, or receiving any signs, signals, writings, data,  
56 images, sounds, or intelligence of any nature by wire, radio,  
57 optical, or other electromagnetic system. The term includes, but  
58 is not limited to, telephones, cellular phones, computers, video

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59 recorders, fax machines, or pagers.

60 (g) "Immediate family" means spouses, former spouses,  
61 persons related by blood or marriage, persons who are presently  
62 residing together as if a family or who have resided together in  
63 the past as if a family, and persons who are parents of a child  
64 in common regardless of whether they have been married. With the  
65 exception of persons who have a child in common, the immediate  
66 family members must be currently residing or have within the  
67 previous 6 months resided together in the same single dwelling  
68 unit.

69 (2) Any person who willfully, maliciously, and repeatedly  
70 follows, harasses, or cyberstalks another person commits the  
71 offense of stalking, a felony ~~misdemeanor~~ of the third ~~first~~  
72 degree, punishable as provided in s. 775.082, ~~or~~ s. 775.083, or  
73 s. 775.084.

74 (3) Any person who willfully, maliciously, and repeatedly  
75 follows, harasses, or cyberstalks another person, and  
76 purposefully engages in a course of conduct involving ~~makes~~ a  
77 credible threat with the intent to place that person in  
78 reasonable fear of death or bodily injury of the person, or the  
79 person's immediate family ~~child, sibling, spouse, parent, or~~  
80 ~~dependent~~, commits the offense of aggravated stalking, a felony  
81 of the second ~~third~~ degree, punishable as provided in s. 775.082,  
82 s. 775.083, or s. 775.084.

83 (4) Any person who, after an injunction for protection  
84 against repeat violence, sexual violence, or dating violence  
85 pursuant to s. 784.046, or an injunction for protection against  
86 domestic violence pursuant to s. 741.30, or after any other  
87 court-imposed prohibition of conduct toward the subject person or

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88 that person's property, knowingly, willfully, maliciously, and  
89 repeatedly follows, harasses, or cyberstalks another person  
90 commits the offense of aggravated stalking, a felony of the  
91 second ~~third~~ degree, punishable as provided in s. 775.082, s.  
92 775.083, or s. 775.084.

93 (5) Any person who willfully, maliciously, and repeatedly  
94 follows, harasses, or cyberstalks a minor under 16 years of age  
95 commits the offense of aggravated stalking, a felony of the  
96 second ~~third~~ degree, punishable as provided in s. 775.082, s.  
97 775.083, or s. 775.084.

98 (6) Any law enforcement officer may arrest, without a  
99 warrant, any person he or she has probable cause to believe has  
100 violated the provisions of this section.

101 (7) Any person who, after having been sentenced for a  
102 violation of s. 794.011 or s. 800.04, and prohibited from  
103 contacting the victim of the offense under s. 921.244, willfully,  
104 maliciously, and repeatedly follows, harasses, or cyberstalks the  
105 victim commits the offense of aggravated stalking, a felony of  
106 the second ~~third~~ degree, punishable as provided in s. 775.082, s.  
107 775.083, or s. 775.084.

108 (8) If a person is charged with violating any provision of  
109 this section and conceals his or her identification from the  
110 person who is the victim of the violation, uses the electronic  
111 bandwidth of another person while violating this section, or  
112 destroys evidence of a person's violation of this section, the  
113 offense for which the person is charged shall be reclassified as  
114 follows:

115 (a) In the case of aggravated stalking of a minor younger  
116 than 16 years of age, from a felony of the second degree to a

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117 felony of the first degree.

118 (b) In the case of aggravated stalking, from a felony of  
 119 the second degree to a felony of the first degree.

120 (c) In the case of stalking, from a felony of the third  
 121 degree to a felony of the second degree.

122 (9)(8) The punishment imposed under this section shall run  
 123 consecutive to any former sentence imposed for a conviction for  
 124 any offense under s. 794.011 or s. 800.04.

125 (10)(a) Notwithstanding any other remedy or relief to which  
 126 a person is entitled, a person suffering damage as a result of a  
 127 violation of this section may bring an action to recover or  
 128 obtain actual, punitive, and treble damages, equitable relief,  
 129 reasonable attorney's fees, investigative costs, court costs,  
 130 witness costs, deposition expenses, and any other relief a court  
 131 considers proper.

132 (b) The remedies of this subsection are in addition to any  
 133 other civil, administrative, or criminal remedies provided by  
 134 law.

135 Section 2. Paragraphs (f) and (g) of subsection (3) of  
 136 section 921.0022, Florida Statutes, are amended to read:

137 921.0022 Criminal Punishment Code; offense severity ranking  
 138 chart.--

139 (3) OFFENSE SEVERITY RANKING CHART

140 (f) LEVEL 6

141

Florida Statute	Felony Degree	Description
316.193 (2) (b)	3rd	Felony DUI, 4th or subsequent

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			conviction.
143			
	499.0051 (3)	2nd	Forgery of pedigree papers.
144			
	499.0051 (4)	2nd	Purchase or receipt of legend drug from unauthorized person.
145			
	499.0051 (5)	2nd	Sale of legend drug to unauthorized person.
146			
	775.0875 (1)	3rd	Taking firearm from law enforcement officer.
147			
	784.021 (1) (a)	3rd	Aggravated assault; deadly weapon without intent to kill.
148			
	784.021 (1) (b)	3rd	Aggravated assault; intent to commit felony.
149			
	784.041	3rd	Felony battery; domestic battery by strangulation.
150			
	784.048 (3)	<u>2nd</u> <del>3rd</del>	Aggravated stalking; credible threat.
151			
	784.048 (5)	<u>2nd</u> <del>3rd</del>	Aggravated stalking of person under 16.
152			
	784.07 (2) (c)	2nd	Aggravated assault on law

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			enforcement officer.
153	784.074 (1) (b)	2nd	Aggravated assault on sexually violent predators facility staff.
154	784.08 (2) (b)	2nd	Aggravated assault on a person 65 years of age or older.
155	784.081 (2)	2nd	Aggravated assault on specified official or employee.
156	784.082 (2)	2nd	Aggravated assault by detained person on visitor or other detainee.
157	784.083 (2)	2nd	Aggravated assault on code inspector.
158	787.02 (2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
159	790.115 (2) (d)	2nd	Discharging firearm or weapon on school property.
160	790.161 (2)	2nd	Make, possess, or throw destructive device with intent

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			to do bodily harm or damage property.
161	790.164(1)	2nd	False report of deadly explosive, weapon of mass destruction, or act of arson or violence to state property.
162	790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.
163	794.011(8)(a)	3rd	Solicitation of minor to participate in sexual activity by custodial adult.
164	794.05(1)	2nd	Unlawful sexual activity with specified minor.
165	800.04(5)(d)	3rd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender less than 18 years.
166	800.04(6)(b)	2nd	Lewd or lascivious conduct; offender 18 years of age or older.
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168	806.031 (2)	2nd	Arson resulting in great bodily harm to firefighter or any other person.
169	810.02 (3) (c)	2nd	Burglary of occupied structure; unarmed; no assault or battery.
170	812.014 (2) (b) 1.	2nd	Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree.
171	812.014 (6)	2nd	Theft; property stolen \$3,000 or more; coordination of others.
172	812.015 (9) (a)	2nd	Retail theft; property stolen \$300 or more; second or subsequent conviction.
173	812.015 (9) (b)	2nd	Retail theft; property stolen \$3,000 or more; coordination of others.
174	812.13 (2) (c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).
	817.034 (4) (a) 1.	1st	Communications fraud, value greater than \$50,000.

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175	817.4821 (5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.
176	825.102 (1)	3rd	Abuse of an elderly person or disabled adult.
177	825.102 (3) (c)	3rd	Neglect of an elderly person or disabled adult.
178	825.1025 (3)	3rd	Lewd or lascivious molestation of an elderly person or disabled adult.
179	825.103 (2) (c)	3rd	Exploiting an elderly person or disabled adult and property is valued at less than \$20,000.
180	827.03 (1)	3rd	Abuse of a child.
181	827.03 (3) (c)	3rd	Neglect of a child.
182	827.071 (2) & (3)	2nd	Use or induce a child in a sexual performance, or promote or direct such performance.
183	836.05	2nd	Threats; extortion.

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184	836.10	2nd	Written threats to kill or do bodily injury.
185	843.12	3rd	Aids or assists person to escape.
186	847.0135(2)	3rd	Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.
187	914.23	2nd	Retaliation against a witness, victim, or informant, with bodily injury.
188	944.35(3)(a)2.	3rd	Committing malicious battery upon or inflicting cruel or inhuman treatment on an inmate or offender on community supervision, resulting in great bodily harm.
189	944.40	2nd	Escapes.
190	944.46	3rd	Harboring, concealing, aiding escaped prisoners.
191	944.47(1)(a)5.	2nd	Introduction of contraband (firearm, weapon, or

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192			explosive) into correctional facility.
	951.22 (1)	3rd	Intoxicating drug, firearm, or weapon introduced into county facility.
193			
194	(g) LEVEL 7		
195			
	Florida Statute	Felony Degree	Description
196			
	316.027 (1) (b)	1st	Accident involving death, failure to stop; leaving scene.
197			
	316.193 (3) (c) 2.	3rd	DUI resulting in serious bodily injury.
198			
	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.
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200	327.35 (3) (c) 2.	3rd	Vessel BUI resulting in serious bodily injury.
201	402.319 (2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
202	409.920 (2)	3rd	Medicaid provider fraud.
203	456.065 (2)	3rd	Practicing a health care profession without a license.
204	456.065 (2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
205	458.327 (1)	3rd	Practicing medicine without a license.
206	459.013 (1)	3rd	Practicing osteopathic medicine without a license.
207	460.411 (1)	3rd	Practicing chiropractic medicine without a license.

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208	461.012 (1)	3rd	Practicing podiatric medicine without a license.
209	462.17	3rd	Practicing naturopathy without a license.
210	463.015 (1)	3rd	Practicing optometry without a license.
211	464.016 (1)	3rd	Practicing nursing without a license.
212	465.015 (2)	3rd	Practicing pharmacy without a license.
213	466.026 (1)	3rd	Practicing dentistry or dental hygiene without a license.
214	467.201	3rd	Practicing midwifery without a license.
215	468.366	3rd	Delivering respiratory care services without a license.
216	483.828 (1)	3rd	Practicing as clinical laboratory personnel without a license.
	483.901 (9)	3rd	Practicing medical physics

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217			without a license.
	484.013 (1) (c)	3rd	Preparing or dispensing optical devices without a prescription.
218			
	484.053	3rd	Dispensing hearing aids without a license.
219			
	494.0018 (2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
220			
	560.123 (8) (b) 1.	3rd	Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by money transmitter.
221			
	560.125 (5) (a)	3rd	Money transmitter business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
222			
	655.50 (10) (b) 1.	3rd	Failure to report financial transactions exceeding \$300

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			but less than \$20,000 by financial institution.
223	775.21 (10) (a)	3rd	Sexual predator; failure to register; failure to renew driver's license or identification card; other registration violations.
224	775.21 (10) (b)	3rd	Sexual predator working where children regularly congregate.
225	775.21 (10) (g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
226	782.051 (3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
227	782.07 (1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
228	782.071	2nd	Killing of a human being or



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			viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide).
229	782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
230	784.045 (1) (a) 1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
231	784.045 (1) (a) 2.	2nd	Aggravated battery; using deadly weapon.
232	784.045 (1) (b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
233	784.048 (4)	<u>2nd</u> <del>3rd</del>	Aggravated stalking; violation of injunction or court order.
234	784.048 (7)	<u>2nd</u> <del>3rd</del>	Aggravated stalking; violation of court order.
235	784.07 (2) (d)	1st	Aggravated battery on law enforcement officer.

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236	784.074 (1) (a)	1st	Aggravated battery on sexually violent predators facility staff.
237	784.08 (2) (a)	1st	Aggravated battery on a person 65 years of age or older.
238	784.081 (1)	1st	Aggravated battery on specified official or employee.
239	784.082 (1)	1st	Aggravated battery by detained person on visitor or other detainee.
240	784.083 (1)	1st	Aggravated battery on code inspector.
241	790.07 (4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
242	790.16 (1)	1st	Discharge of a machine gun under specified circumstances.
243	790.165 (2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.

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244	790.165 (3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
245	790.166 (3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
246	790.166 (4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
247	794.08 (4)	3rd	Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
248	796.03	2nd	Procuring any person under 16 years for prostitution.
249	800.04 (5) (c) 1.	2nd	Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years.

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250	800.04 (5) (c) 2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender 18 years or older.
251	806.01 (2)	2nd	Maliciously damage structure by fire or explosive.
252	810.02 (3) (a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
253	810.02 (3) (b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
254	810.02 (3) (d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
255	810.02 (3) (e)	2nd	Burglary of authorized emergency vehicle.
256	812.014 (2) (a) 1.	1st	Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law enforcement officer; property

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			stolen while causing other property damage; 1st degree grand theft.
257	812.014 (2) (b) 2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.
258	812.014 (2) (b) 3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
259	812.014 (2) (b) 4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.
260	812.0145 (2) (a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
261	812.019 (2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
262	812.131 (2) (a)	2nd	Robbery by sudden snatching.
263	812.133 (2) (b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
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265	817.234 (8) (a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
266	817.234 (9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
267	817.234 (11) (c)	1st	Insurance fraud; property value \$100,000 or more.
268	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 insuring entity which are a significant cause of the insolvency of that entity.
269	825.102 (3) (b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
	825.103 (2) (b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more,

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			but less than \$100,000.
270	827.03 (3) (b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
271	827.04 (3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
272	837.05 (2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
273	838.015	2nd	Bribery.
274	838.016	2nd	Unlawful compensation or reward for official behavior.
275	838.021 (3) (a)	2nd	Unlawful harm to a public servant.
276	838.22	2nd	Bid tampering.
277	847.0135 (3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
278	847.0135 (4)	2nd	Traveling to meet a minor to

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279		2nd	commit an unlawful sex act.
280	872.06	2nd	Abuse of a dead human body.
281	893.13(1)(c)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.
282	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 property used for religious services or a specified business site.
	893.13(4)(a)	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).



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283	893.135 (1) (a) 1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
284	893.135 (1) (b) 1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
285	893.135 (1) (c) 1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
286	893.135 (1) (d) 1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
287	893.135 (1) (e) 1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
288	893.135 (1) (f) 1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
289	893.135 (1) (g) 1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
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291	893.135 (1) (h) 1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
292	893.135 (1) (j) 1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
293	893.135 (1) (k) 2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
294	896.101 (5) (a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.
295	896.104 (4) (a) 1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.
296	943.0435 (4) (c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.

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297	943.0435(8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
298	943.0435(9)(a)	3rd	Sexual offender; failure to comply with reporting requirements.
299	943.0435(13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
300	943.0435(14)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.
301	944.607(9)	3rd	Sexual offender; failure to comply with reporting requirements.
302	944.607(10)(a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
	944.607(12)	3rd	Failure to report or providing false information about a

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sexual offender; harbor or  
conceal a sexual offender.

303

944.607(13)

3rd

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

304

985.4815(10)

3rd

Sexual offender; failure to  
submit to the taking of a  
digitized photograph.

305

985.4815(12)

3rd

Failure to report or providing  
false information about a  
sexual offender; harbor or  
conceal a sexual offender.

306

985.4815(13)

3rd

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

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308

Section 3. This act shall take effect October 1, 2008.