

By the Committees on Criminal and Civil Justice Appropriations;
Criminal Justice; and Senators Atwater, Gaetz, Lynn, Fasano,
Baker and Haridopolos

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1 A bill to be entitled

2 An act relating to criminal activity; creating s. 16.62,
3 F.S.; creating the Coordinating Council on Criminal Gang
4 Reduction Strategies within the Department of Legal
5 Affairs; providing for membership and administration of
6 the council; providing duties of the council; requiring
7 the Department of Legal Affairs to provide staff and
8 administrative support to the council; providing for the
9 expiration of the council; amending s. 775.0846, F.S.;
10 providing that a person commits a felony of the third
11 degree if he or she is in possession of a bulletproof vest
12 when committing or attempting to commit certain specified
13 crimes; amending s. 775.13, F.S.; requiring certain felons
14 whose offenses related to criminal gangs to register with
15 the sheriff; providing penalties; amending s. 790.23,
16 F.S.; providing penalties for certain persons possessing a
17 firearm; amending s. 823.05, F.S.; revising provisions
18 relating to the enjoining of public nuisances to include
19 certain nuisances related to criminal gangs and criminal
20 gang activities; providing for enjoining such nuisances;
21 providing for local laws; amending s. 874.01, F.S.;
22 revising a short title; amending s. 874.02, F.S.; revising
23 legislative findings and intent; amending s. 874.03, F.S.;
24 creating and revising definitions; redefining "criminal
25 street gangs" as "criminal gangs"; amending s. 874.04,
26 F.S.; conforming provisions; revising an evidentiary
27 standard; creating s. 874.045, F.S.; providing that ch.
28 874, F.S., does not preclude arrest and prosecution under
29 other specified provisions; amending s. 874.05, F.S.;

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30 revising provisions relating to soliciting or causing
31 another to join a criminal gang; amending s. 874.06, F.S.;
32 authorizing the state to bring civil actions for certain
33 violations; providing that a plaintiff has a superior
34 claim to property or proceeds; providing penalties for
35 knowing violation of certain orders; amending s. 874.08,
36 F.S.; conforming provisions relating to forfeiture;
37 amending s. 874.09, F.S.; providing additional powers for
38 the Department of Law Enforcement and local law
39 enforcement agencies relating to crime data information;
40 creating s. 874.10, F.S.; prohibiting persons from
41 initiating, organizing, planning, financing, directing,
42 managing, or supervising criminal gang-related activity;
43 providing penalties; creating s. 874.11, F.S.; prohibiting
44 use of electronic communications to further the interests
45 of a criminal gang; providing penalties; creating s.
46 874.12, F.S.; defining the term "identification document";
47 prohibiting possession of certain identification documents
48 for specified purposes; providing penalties; amending s.
49 893.138, F.S.; conforming terminology to changes made by
50 the act; amending s. 895.02, F.S.; adding certain offenses
51 to the definition of "racketeering activity"; conforming
52 terminology to changes made by this act; amending s.
53 903.046, F.S.; adding to the list of items a court may
54 consider when determining whether to release a defendant
55 on bail; amending s. 914.22, F.S.; revising the penalties
56 for tampering with or harassing witnesses; amending s.
57 943.031, F.S.; revising provisions relating to the Florida
58 Violent Crime and Drug Control Council; providing duties

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59 | concerning criminal gangs; creating the Drug Control
60 | Strategy and Criminal Gangs Committee; providing for
61 | duties of the committee concerning funding of certain
62 | programs; providing for reports; amending s. 947.18, F.S.;
63 | prohibiting certain parolees from communicating with
64 | criminal gang members; providing exceptions; amending s.
65 | 947.1405, F.S.; prohibiting certain conditional releasees
66 | from communicating with criminal gang members; providing
67 | exceptions; creating s. 948.033, F.S., prohibiting certain
68 | probationers or community controllees from communicating
69 | with criminal gang members; providing exceptions; amending
70 | s. 921.0022, F.S.; adding offenses to the offense severity
71 | ranking chart of the Criminal Punishment Code; conforming
72 | terminology to changes made by this act; amending ss.
73 | 921.0024, 921.141, 943.325, 984.03, 985.03, 985.047, and
74 | 985.433, F.S.; conforming cross-references and terminology
75 | to changes made by this act; providing a directive to the
76 | Division of Statutory Revision; providing an effective
77 | date.

78 |
79 | Be It Enacted by the Legislature of the State of Florida:

80 |
81 | Section 1. Section 16.62, Florida Statutes, is created to
82 | read:

83 | 16.62 Coordinating Council on Criminal Gang Reduction
84 | Strategies.--

85 | (1) The Coordinating Council on Criminal Gang Reduction
86 | Strategies is established within the Department of Legal Affairs
87 | and may consist of the following 11 members:

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88 (a) The Attorney General or his or her designee.

89 (b) The executive director of the Department of Law
90 Enforcement or his or her designee.

91 (c) The Commissioner of Education or his or her designee.

92 (d) The Secretary of Children and Family Services or his or
93 her designee.

94 (e) The Secretary of Corrections or his or her designee.

95 (f) The Secretary of Juvenile Justice or his or her
96 designee.

97 (g) The director of the Office of Drug Control or his or
98 her designee.

99 (h) The director of the Florida Highway Patrol or his or
100 her designee.

101 (i) The President of the Florida Sheriffs Association or
102 his or her designee.

103 (j) The President of the Florida Police Chiefs Association
104 or his or her designee.

105 (k) The President of the Florida Prosecuting Attorneys
106 Association or his or her designee.

107 (2) The Attorney General shall serve as chair of the
108 council, and the executive director of the Department of law
109 Enforcement shall serve as vice chair of the council. In the
110 absence of the chair, the vice chair shall serve as chair.

111 (3) The council shall meet at the call of the chair. A
112 majority of the members of the council constitutes a quorum, and
113 action by a majority of the council shall be official.

114 (4) Members of the council may leave the council at any
115 time upon notification to chair.

116 (5) The council shall:

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117 (a) Gather, compile, assimilate, and facilitate the
118 distribution to government agencies and community organizations
119 of information on criminal gangs and at-risk youth prevention and
120 intervention programs in this state.

121 (b) Develop a statewide strategy to stop the growth of,
122 reduce the number of, and render ineffectual criminal gangs in
123 this state.

124 (c) Coordinate and give guidance and support to efforts by
125 federal, state, and local government agencies; federal, state,
126 and local law enforcement agencies; at-risk youth prevention and
127 intervention organizations; and elected officials and community
128 leaders to combat criminal gangs and reduce criminal gang-related
129 crime and violence in this state, including the formation of
130 regional task forces and local and regional coalitions whose
131 membership and direction the council may determine.

132 (d) Coordinate with any state agency, any political
133 subdivision, or any school district of the state in the
134 performance of its duties.

135 (e) Request from any department, division, board, bureau,
136 commission, or other agency of the state, or of any political
137 subdivision thereof, cooperation and assistance in the
138 performance of its duties.

139 (6) (a) The business of the council shall be presented to
140 the council in the form of an agenda. The agenda shall be set by
141 the chair and shall include items of business requested by the
142 council members.

143 (b) The minutes for each meeting must be submitted to the
144 chair within 14 days after each meeting.

145 (7) The Department of Legal Affairs shall provide staff and

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146 administrative support to the council.

147 (8) Members of the council or their designees shall serve
148 without compensation. Notwithstanding s. 20.052, members are not
149 entitled to reimbursement for per diem and travel expenses.

150 (9) The council is subject to the provisions of chapter
151 119, related to public records, and the provisions of chapter
152 286, related to public meetings.

153 (10) The council shall be dissolved on June 30, 2009.

154 Section 2. Section 775.0846, Florida Statutes, is amended
155 to read:

156 775.0846 Possession of ~~Wearing~~ bulletproof vest while
157 committing certain offenses.--

158 (1) As used in ~~For the purposes of~~ this section, the term
159 "bulletproof vest" means a bullet-resistant soft body armor
160 providing, as a minimum standard, the level of protection known
161 as "threat level I," which shall mean at least seven layers of
162 bullet-resistant material providing protection from three shots
163 of 158-grain lead ammunition fired from a .38 caliber handgun at
164 a velocity of 850 feet per second.

165 (2) A person commits ~~is guilty of~~ the unlawful possession
166 ~~wearing~~ of a bulletproof vest when, acting alone or with one or
167 more other persons ~~and while possessing a firearm~~, he or she
168 commits or attempts to commit any murder, sexual battery,
169 robbery, burglary, arson, aggravated assault, aggravated battery,
170 kidnapping, escape, breaking and entering with intent to commit a
171 felony, criminal gang-related offense under chapter 874,
172 narcotics offense under chapter 893, or aircraft piracy and, in
173 the course of and in furtherance of any such crime, he or she
174 possesses ~~wears~~ a bulletproof vest.

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175 (3) Any person who is convicted of a violation of this
176 section commits ~~is guilty of~~ a felony of the third degree,
177 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

178 Section 3. Subsections (2), (4), (5), (6), and (7) of
179 section 775.13, Florida Statutes, are amended to read:

180 775.13 Registration of convicted felons, exemptions;
181 penalties.--

182 (2) Any person who has been convicted of a felony in any
183 court of this state shall, within 48 hours after entering any
184 county in this state, register with the sheriff of said county,
185 be fingerprinted and photographed, and list the crime for which
186 convicted, place of conviction, sentence imposed, if any, name,
187 aliases, if any, address, and occupation. If the felony
188 conviction is for an offense that was found, pursuant to s.
189 874.04, to have been committed for the purpose of benefiting,
190 promoting, or furthering the interests of a criminal gang, the
191 registrant shall identify himself or herself as such an offender.
192 The Department of Law Enforcement, in consultation with
193 appropriate local law enforcement agencies, may develop
194 standardized practices for the inclusion of gang affiliation at
195 the time of offender registration.

196 ~~(4) In lieu of registering with the sheriff as required by~~
197 ~~this section, such registration may be made with the Department~~
198 ~~of Law Enforcement, and is subject to the same terms and~~
199 ~~conditions as required for registration with the sheriff.~~

200 ~~(4)-(5)~~ This section does not apply to an offender:

201 (a) Who has had his or her civil rights restored;

202 (b) Who has received a full pardon for the offense for
203 which convicted;

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204 (c) Who has been lawfully released from incarceration or
205 other sentence or supervision for a felony conviction for more
206 than 5 years prior to such time for registration, unless the
207 offender is a fugitive from justice on a felony charge or has
208 been convicted of any offense since release from such
209 incarceration or other sentence or supervision;

210 (d) Who is a parolee or probationer under the supervision
211 of the United States Parole Commission if the commission knows of
212 and consents to the presence of the offender in Florida or is a
213 probationer under the supervision of any federal probation
214 officer in the state or who has been lawfully discharged from
215 such parole or probation;

216 (e) Who is a sexual predator and has registered as required
217 under s. 775.21;

218 (f) Who is a sexual offender and has registered as required
219 in s. 943.0435 or s. 944.607; or

220 (g) Who is a career offender who has registered as required
221 in s. 775.261 or s. 944.609.

222 ~~(5)(6)~~ The failure of any such convicted felon to comply
223 with this section;

224 (a) With regard to any felon not listed in paragraph (b),
225 constitutes a misdemeanor of the second degree, punishable as
226 provided in s. 775.082 or s. 775.083.

227 (b) With regard to any felon who has been found, pursuant
228 to s. 874.04, to have committed any offense for the purpose of
229 benefiting, promoting, or furthering the interests of a criminal
230 gang, constitutes a felony of the third degree, punishable as
231 provided in s. 775.082, s. 775.083, or s. 775.084.

232 ~~(6)(7)~~ ~~All laws and parts of laws in conflict herewith are~~

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233 ~~hereby repealed, provided that~~ Nothing in this section shall be
234 construed to affect any law of this state relating to
235 registration of criminals where the penalties for registration,
236 notification, or reporting obligations are in addition to, or in
237 excess of, those imposed by this section.

238 Section 4. Section 790.23, Florida Statutes, is amended to
239 read:

240 790.23 Felons and delinquents; possession of firearms,
241 ammunition, or electric weapons or devices unlawful.--

242 (1) It is unlawful for any person to own or to have in his
243 or her care, custody, possession, or control any firearm,
244 ammunition, or electric weapon or device, or to carry a concealed
245 weapon, including a tear gas gun or chemical weapon or device, if
246 that person has been:

247 (a) Convicted of a felony in the courts of this state;

248 (b) Found, in the courts of this state, to have committed a
249 delinquent act that would be a felony if committed by an adult
250 and such person is under 24 years of age;

251 (c) Convicted of or found to have committed a crime against
252 the United States which is designated as a felony;

253 (d) Found to have committed a delinquent act in another
254 state, territory, or country that would be a felony if committed
255 by an adult and which was punishable by imprisonment for a term
256 exceeding 1 year and such person is under 24 years of age; or

257 (e) Found guilty of an offense that is a felony in another
258 state, territory, or country and which was punishable by
259 imprisonment for a term exceeding 1 year.

260 (2) This section shall not apply to a person convicted of a
261 felony whose civil rights and firearm authority have been

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262 restored.

263 (3) Except as otherwise provided in subsection (4), any
264 person who violates this section commits a felony of the second
265 degree, punishable as provided in s. 775.082, s. 775.083, or s.
266 775.084.

267 (4) Notwithstanding the provisions of s. 874.04, if the
268 offense described in subsection (1) has been committed by a
269 person who has previously qualified or currently qualifies for
270 the penalty enhancements provided for in s. 874.04, the offense
271 is a felony of the first degree, punishable by a term of years
272 not exceeding life or as provided in s. 775.082, s. 775.083, or
273 s. 775.084.

274 Section 5. Section 823.05, Florida Statutes, is amended to
275 read:

276 823.05 Places and groups engaged in criminal gang-related
277 activity declared a nuisance; may be abated and enjoined.--

278 (1) Whoever shall erect, establish, continue, or maintain,
279 own or lease any building, booth, tent or place which tends to
280 annoy the community or injure the health of the community, or
281 become manifestly injurious to the morals or manners of the
282 people as described in s. 823.01, ~~or shall be frequented by the~~
283 ~~class of persons mentioned in s. 856.02,~~ or any house or place of
284 prostitution, assignation, lewdness or place or building where
285 games of chance are engaged in violation of law or any place
286 where any law of the state is violated, shall be deemed guilty of
287 maintaining a nuisance, and the building, erection, place, tent
288 or booth and the furniture, fixtures, and contents are declared a
289 nuisance. All such places or persons shall be abated or enjoined
290 as provided in ss. 60.05 and 60.06.

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291 (2) (a) As used in this subsection, the terms "criminal
292 gang," "criminal gang member," "criminal gang associate," and
293 "criminal gang-related activity" have the same meanings as
294 provided in s. 874.03.

295 (b) A criminal gang, criminal gang member, or criminal gang
296 associate who engages in the commission of criminal gang-related
297 activity is a public nuisance. Any and all such persons shall be
298 abated or enjoined as provided in ss. 60.05 and 60.06.

299 (c) The use of a location on two or more occasions by a
300 criminal gang, criminal gang members, or criminal gang associates
301 for the purpose of engaging in criminal gang-related activity is
302 a public nuisance. Such use of a location as a public nuisance
303 shall be abated or enjoined as provided in ss. 60.05 and 60.06.

304 (d) Nothing in this subsection shall prevent a local
305 governing body from adopting and enforcing laws consistent with
306 this chapter relating to criminal gangs and gang violence. Where
307 local laws duplicate or supplement this chapter, this chapter
308 shall be construed as providing alternative remedies and not as
309 preempting the field.

310 (e) The state, through the Department of Legal Affairs or
311 any state attorney, or any of the state's agencies,
312 instrumentalities, subdivisions, or municipalities having
313 jurisdiction over conduct in violation of a provision of this
314 chapter may institute civil proceedings under this subsection. In
315 any action brought under this subsection, the circuit court shall
316 proceed as soon as practicable to the hearing and determination.
317 Pending final determination, the circuit court may at any time
318 enter such injunctions, prohibitions, or restraining orders, or
319 take such actions, including the acceptance of satisfactory

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320 performance bonds, as the court may deem proper.

321 Section 6. Section 874.01, Florida Statutes, is amended to
322 read:

323 874.01 Short title.--This chapter may be cited as the
324 "Criminal ~~Street~~ Gang Prevention Act ~~of 1996~~."

325 Section 7. Section 874.02, Florida Statutes, is amended to
326 read:

327 874.02 Legislative findings and intent.--

328 (1) The Legislature finds that it is the right of every
329 person, regardless of race, color, creed, religion, national
330 origin, sex, age, sexual orientation, or handicap, to be secure
331 and protected from fear, intimidation, and physical harm caused
332 by the activities of criminal ~~street~~ gangs and their members. It
333 is not the intent of this chapter to interfere with the exercise
334 of the constitutionally protected rights of freedom of expression
335 and association. The Legislature recognizes the constitutional
336 right of every citizen to harbor and express beliefs on any
337 lawful subject whatsoever, to lawfully associate with others who
338 share similar beliefs, to petition lawfully constituted authority
339 for a redress of perceived grievances, and to participate in the
340 electoral process.

341 (2) The Legislature finds, however, that the state is
342 facing a mounting crisis caused by criminal ~~street~~ gangs whose
343 members threaten and terrorize peaceful citizens and commit a
344 multitude of crimes. These criminal ~~street~~ gang activities, both
345 individually and collectively, present a clear and present
346 danger. Street gangs, terrorist organizations, and hate groups
347 have evolved into increasingly sophisticated and complex
348 organized crime groups in their criminal tactics, schemes, and

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349 brutality. The state has a compelling interest in preventing
350 criminal ~~street~~ gang activity and halting the real and present
351 danger posed by the proliferation of criminal gangs and the
352 graduation from more primitive forms of criminal gangs to highly
353 sophisticated criminal gangs. For these reasons, and the
354 Legislature finds that the provisions of this chapter ~~act~~ are
355 essential ~~necessary~~ to maintain ~~the~~ public order and safety.

356 (3) It is the intent of the Legislature to outlaw certain
357 conduct associated with the existence and proliferation of
358 criminal gangs, provide ~~eradicate the terror created by criminal~~
359 ~~street gangs and their members by providing~~ enhanced criminal
360 penalties, and eliminate ~~and by eliminating~~ the patterns,
361 profits, proceeds, instrumentalities, and property facilitating
362 criminal ~~street~~ gang activity, including criminal ~~street~~ gang
363 recruitment.

364 (4) The Legislature finds that the timely reporting and
365 exchange of criminal gang information facilitates the ability of
366 law enforcement agencies to monitor and anticipate criminal
367 activities of gangs and their members. Additionally, the timely
368 and standardized reporting of such criminal gang information
369 supports the identification of gang members via the criminal
370 justice information system and directly contributes to law
371 enforcement officers' safety. For these reasons, it is the intent
372 of the Legislature to encourage state and local law enforcement
373 agencies to facilitate the exchange of crime data information
374 through the statewide criminal gang database as provided in s.
375 874.09.

376 Section 8. Section 874.03, Florida Statutes, is amended to
377 read:

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378 874.03 Definitions.--As used in this chapter:

379 (1) "Criminal ~~street~~ gang" means a formal or informal
380 ongoing organization, association, or group that has as one of
381 its primary activities the commission of criminal or delinquent
382 acts, and that consists of three or more persons who have a
383 common name or common identifying signs, colors, or symbols,
384 including, but not limited to, terrorist organizations and hate
385 groups and have two or more members who, individually or
386 collectively, engage in or have engaged in a pattern of criminal
387 street gang activity.

388 (a) As used in this subsection, "ongoing" means that the
389 organization was in existence during the time period charged in a
390 petition, information, indictment, or action for civil injunctive
391 relief.

392 (b) As used in this subsection, "primary activities" means
393 that a criminal gang spends a substantial amount of time engaged
394 in such activity, although such activity need not be the only, or
395 even the most important activity, in which the criminal gang
396 engages.

397 (2) "Criminal gang associate" means a person who:

398 (a) Admits to criminal gang association; or

399 (b) Meets any single defining criterion for criminal gang
400 membership described in subsection (3).

401 (3) ~~(2)~~ "Criminal ~~street~~ gang member" is a person who ~~is a~~
402 ~~member of a criminal street gang as defined in subsection (1) and~~
403 ~~who~~ meets two or more of the following criteria:

404 (a) Admits to criminal ~~street~~ gang membership.

405 (b) Is identified as a criminal ~~street~~ gang member by a
406 parent or guardian.

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407 (c) Is identified as a criminal ~~street~~ gang member by a
408 documented reliable informant.

409 (d) Adopts the style of dress of a criminal gang ~~Resides in~~
410 ~~or frequents a particular criminal street gang's area and adopts~~
411 ~~their style of dress, their use of hand signs, or their tattoos,~~
412 ~~and associates with known criminal street gang members.~~

413 (e) Adopts the use of a hand sign identified as used by a
414 criminal gang.

415 (f) Has a tattoo identified as used by a criminal gang.

416 (g) Associates with one or more known criminal gang
417 members.

418 (h) ~~(e)~~ Is identified as a criminal ~~street~~ gang member by an
419 informant of previously untested reliability and such
420 identification is corroborated by independent information.

421 ~~(f)~~ ~~Has been arrested more than once in the company of~~
422 ~~identified criminal street gang members for offenses which are~~
423 ~~consistent with usual criminal street gang activity.~~

424 (i) ~~(g)~~ Is identified as a criminal ~~street~~ gang member by
425 physical evidence ~~such as photographs or other documentation.~~

426 (j) ~~(h)~~ Has been observed ~~stopped~~ in the company of one or
427 more known criminal ~~street~~ gang members four or more times.
428 Observation in a custodial setting requires a willful
429 association. It is the intent of the legislature to allow this
430 criterion to be used to identify gang members who recruit and
431 organize in jails, prisons, and other detention settings.

432 (k) Has authored any communication indicating
433 responsibility for the commission of any crime by the criminal
434 gang.

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436 Where a single act or factual transaction satisfies the
437 requirements of more than one of the criteria in this subsection,
438 each of those criteria has thereby been satisfied for the
439 purposes of the statute.

440 ~~(3) "Pattern of criminal street gang activity" means the~~
441 ~~commission or attempted commission of, or solicitation or~~
442 ~~conspiracy to commit, two or more felony or three or more~~
443 ~~misdemeanor offenses, or one felony and two misdemeanor offenses,~~
444 ~~or the comparable number of delinquent acts or violations of law~~
445 ~~which would be felonies or misdemeanors if committed by an adult,~~
446 ~~on separate occasions within a 3-year period.~~

447 ~~(4) For purposes of law enforcement identification and~~
448 ~~tracking only:~~

449 ~~(a) "criminal street gang associate" means a person who:~~

- 450 ~~1. Admits to criminal street gang association; or~~
451 ~~2. Meets any single defining criterion for criminal street~~
452 ~~gang membership described in subsection (2).~~

453 ~~(b) "Gang-related incident" means an incident that, upon~~
454 ~~investigation, meets any of the following conditions:~~

- 455 ~~1. The participants are identified as criminal street gang~~
456 ~~members or criminal street gang associates, acting, individually~~
457 ~~or collectively, to further any criminal purpose of the gang;~~

458 ~~2. A reliable informant identifies an incident as criminal~~
459 ~~street gang activity; or~~

460 ~~3. an informant of previously untested reliability~~
461 ~~identifies an incident as criminal street gang activity and it is~~
462 ~~corroborated by independent information.~~

463 (4) "Criminal gang-related activity" means:

464 (a) An activity committed with the intent to benefit,

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465 promote, or further the interests of a criminal gang, or for the
466 purposes of increasing a person's own standing or position within
467 a criminal gang;

468 (b) An activity in which the participants are identified as
469 criminal gang members or criminal gang associates acting
470 individually or collectively to further any criminal purpose of a
471 criminal gang;

472 (c) An activity that is identified as criminal gang
473 activity by a documented reliable informant; or

474 (d) An activity that is identified as criminal gang
475 activity by an informant of previously untested reliability and
476 such identification is corroborated by independent information.

477 (5) "Electronic communication" has the meaning provided in
478 s. 934.02 and includes, but is not limited to, photographs,
479 video, telephone communications, text messages, facsimile,
480 electronic mail messages as defined in s. 668.602, and instant
481 message real-time communications with other individuals through
482 the Internet or other means.

483 (6) "Hate group" means an organization whose primary
484 purpose is to promote animosity, hostility, and malice against a
485 person or persons or against the property of a person or persons
486 because of race, religion, disability, sexual orientation,
487 ethnicity, or national origin.

488 (7) "Terrorist organization" means any organized group
489 engaged in or organized for the purpose of engaging in terrorism
490 as defined in s. 775.30. This definition shall not be construed
491 to prevent prosecution under this chapter of individuals acting
492 alone.

493 Section 9. Section 874.04, Florida Statutes, is amended to

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494 read:

495 874.04 Gang-related offenses ~~Criminal street gang activity~~;
496 enhanced penalties.--Upon a finding by the fact finder ~~court at~~
497 ~~sentencing~~ that the defendant committed the charged offense for
498 the purpose of benefiting, promoting, or furthering the interests
499 of a criminal ~~street~~ gang, the penalty for any felony or
500 misdemeanor, or any delinquent act or violation of law which
501 would be a felony or misdemeanor if committed by an adult, may be
502 enhanced. Penalty enhancement affects the applicable statutory
503 maximum penalty only. Each of the findings required as a basis
504 for such sentence shall be found beyond a reasonable doubt ~~by a~~
505 ~~preponderance of the evidence~~. The enhancement will be as
506 follows:

507 (1) (a) A misdemeanor of the second degree may be punished
508 as if it were a misdemeanor of the first degree.

509 (b) A misdemeanor of the first degree may be punished as if
510 it were a felony of the third degree. For purposes of sentencing
511 under chapter 921 and determining incentive gain-time eligibility
512 under chapter 944, such offense is ranked in level 1 of the
513 offense severity ranking chart. The criminal ~~street~~ gang
514 multiplier in s. 921.0024 does not apply to misdemeanors enhanced
515 under this paragraph.

516 (2) (a) A felony of the third degree may be punished as if
517 it were a felony of the second degree.

518 (b) A felony of the second degree may be punished as if it
519 were a felony of the first degree.

520 (c) A felony of the first degree may be punished as if it
521 were a life felony.

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523 For purposes of sentencing under chapter 921 and determining
524 incentive gain-time eligibility under chapter 944, such felony
525 offense is ranked as provided in s. 921.0022 or s. 921.0023, and
526 without regard to the penalty enhancement in this subsection. ~~For~~
527 ~~purposes of this section, penalty enhancement affects the~~
528 ~~applicable statutory maximum penalty only.~~

529 Section 10. Section 874.045, Florida Statutes, is created
530 to read:

531 874.045 Arrest and prosecution under other
532 provisions.--Nothing in this chapter shall prohibit the arrest
533 and prosecution of a criminal gang member under chapter 876,
534 chapter 895, chapter 896, s. 893.20, or any other applicable
535 provision of law except to the extent otherwise prohibited
536 pursuant to a statutory or constitutional provision.

537 Section 11. Section 874.05, Florida Statutes, is amended to
538 read:

539 874.05 Causing, encouraging, soliciting, or recruiting
540 criminal ~~street~~ gang membership.--

541 (1) Except as provided in subsection (2), a person who
542 intentionally causes, encourages, solicits, or recruits another
543 person to become a criminal gang member where ~~join a criminal~~
544 ~~street gang that requires as~~ a condition of membership or
545 continued membership is the commission of any crime commits a
546 felony of the third degree, punishable as provided in s. 775.082,
547 s. 775.083, or s. 775.084.

548 (2) A person who commits ~~Upon~~ a second or subsequent
549 violation ~~offense, the person~~ commits a felony of the second
550 degree, punishable as provided in s. 775.082, s. 775.083, or s.
551 775.084.

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552 Section 12. Section 874.06, Florida Statutes, is amended to
553 read:

554 874.06 Civil cause of action.--

555 (1) A person or organization establishing, by clear and
556 convincing evidence, coercion, intimidation, threats, or other
557 harm to that person or organization in violation of this chapter
558 has a civil cause of action for treble damages, an injunction, or
559 any other appropriate relief in law or equity. Upon prevailing,
560 the plaintiff may recover reasonable attorney's fees in the trial
561 and appellate courts and the costs of investigation and
562 litigation that are reasonably incurred and costs.

563 (2) (a) For purposes of this subsection, the term "state"
564 includes any of the state's agencies, instrumentalities,
565 subdivisions, or municipalities, and includes, but is not limited
566 to, state attorneys and the Office of Statewide Prosecution of
567 the Department of Legal Affairs.

568 (b) In addition to any remedies provided for by ss. 60.05
569 and 823.05, the state has a civil cause of action against any
570 person or organization if it proves by clear and convincing
571 evidence that it has been injured by reason of a violation of
572 this chapter by the person or organization. The state has a civil
573 cause of action for treble damages, injunctive relief, or any
574 other relief in law or equity which the court deems appropriate.
575 If the state prevails, it may also recover attorney's fees in the
576 trial and appellate courts and the costs of investigation and
577 litigation that are reasonably incurred. The state may not
578 recover punitive damages. The defendant is entitled to recover
579 reasonable attorney's fees and court costs if the court finds
580 that the state raised a claim that was without factual or legal

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581 support and was vexatious, frivolous, or brought in bad faith.

582 (3) A prevailing plaintiff under subsection (1) has a right
583 or claim that is superior to any right or claim that the state
584 has in the same property or proceeds.

585 (4) A person who knowingly violates a temporary or
586 permanent order issued under this section or s. 60.05 commits a
587 misdemeanor of the first degree, punishable as provided in s.
588 775.082 or s. 775.083.

589 Section 13. Section 874.08, Florida Statutes, is amended to
590 read:

591 874.08 Criminal gang activity and Profits, proceeds, and
592 ~~instrumentalities of criminal street gangs or criminal street~~
593 ~~gang~~ recruitment; forfeiture.--All profits, proceeds, and
594 instrumentalities of criminal ~~street~~ gang activity and all
595 property used or intended or attempted to be used to facilitate
596 the criminal activity of any criminal ~~street~~ gang or of any
597 criminal ~~street~~ gang member; and all profits, proceeds, and
598 instrumentalities of criminal ~~street~~ gang recruitment and all
599 property used or intended or attempted to be used to facilitate
600 criminal ~~street~~ gang recruitment are subject to seizure and
601 forfeiture under the Florida Contraband Forfeiture Act, s.
602 932.704.

603 Section 14. Section 874.09, Florida Statutes, is amended to
604 read:

605 874.09 Crime data information.--

606 (1) The Department of Law Enforcement may:

607 (a) Develop and manage a statewide criminal ~~street~~ gang
608 database to facilitate the exchange of information pursuant to
609 the intent and purpose of this chapter.

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610 (b) Notify all law enforcement agencies that reports of
611 criminal gang members or associates shall be entered into the
612 database as soon as the minimum level of data specified by the
613 department is available to the reporting agency and no waiting
614 period for the entry of that data exists.

615 (c) Compile and retain information regarding criminal gangs
616 and their members and associates in a manner that allows the
617 information to be used by law enforcement and other agencies
618 deemed appropriate for investigative purposes.

619 (d) Compile and maintain a data repository relating to
620 criminal gangs and their members and associates in order to
621 develop and improve techniques used by law enforcement agencies
622 and prosecutors in the investigation, apprehension, and
623 prosecution of members and affiliates of criminal gangs.

624 (2) Local law enforcement agencies may:

625 (a) After carrying out any arrest of any individual who
626 they believe is a member or associate of a criminal gang, create
627 or update that individual's electronic file within the database.

628 (b) Notify the prosecutor of the accused individual's
629 suspected criminal gang membership or associate status.

630 Section 15. Section 874.10, Florida Statutes, is created to
631 read:

632 874.10 Directing the activities of a criminal gang.--Any
633 person who knowingly initiates, organizes, plans, finances,
634 directs, manages, or supervises criminal gang-related activity
635 commits a felony of the first degree, punishable by imprisonment
636 for a term of years not exceeding life or as provided in s.
637 775.082, s. 775.083, or s. 775.084.

638 Section 16. Section 874.11, Florida Statutes, is created to

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639 read:

640 874.11 Electronic communication.--Any person who, for the
641 purpose of benefiting, promoting, or furthering the interests of
642 a criminal gang, uses electronic communication to intimidate or
643 harass other persons, or to advertise his or her presence in the
644 community, including, but not limited to, such activities as
645 distributing, selling, transmitting, or posting on the Internet
646 any audio, video, or still image of criminal activity, commits a
647 felony of the third degree, punishable as provided in s. 775.082,
648 s. 775.083, or s. 775.084.

649 Section 17. Section 874.12, Florida Statutes, is created to
650 read:

651 874.12 Identification documents; unlawful possession or
652 creation.--

653 (1) For purposes of this section, the term "identification
654 document" includes, but is not limited to, a social security card
655 or number, a birth certificate, a driver's license, an
656 identification card issued pursuant to s. 322.051, a
657 naturalization certificate, an alien registration number, a
658 passport, and any access credentials for a publicly operated
659 facility or an infrastructure facility covered under 18 U.S.C. s.
660 2332f.

661 (2) Any person possessing or manufacturing any blank,
662 forged, stolen, fictitious, fraudulent, counterfeit, or otherwise
663 unlawfully issued identification document for the purpose of
664 benefiting, promoting, or furthering the interests of a criminal
665 gang commits a felony of the second degree, punishable as
666 provided in s. 775.082, s. 775.083, or s. 775.084.

667 Section 18. Subsection (2) of section 893.138, Florida

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668 Statutes, is amended to read:

669 893.138 Local administrative action to abate drug-related,
670 prostitution-related, or stolen-property-related public nuisances
671 and criminal ~~street~~ gang activity.--

672 (2) Any place or premises that has been used:

673 (a) On more than two occasions within a 6-month period, as
674 the site of a violation of s. 796.07;

675 (b) On more than two occasions within a 6-month period, as
676 the site of the unlawful sale, delivery, manufacture, or
677 cultivation of any controlled substance;

678 (c) On one occasion as the site of the unlawful possession
679 of a controlled substance, where such possession constitutes a
680 felony and that has been previously used on more than one
681 occasion as the site of the unlawful sale, delivery, manufacture,
682 or cultivation of any controlled substance;

683 (d) By a criminal ~~street~~ gang for the purpose of conducting
684 ~~a pattern of~~ criminal ~~street~~ gang activity as defined by s.
685 874.03; or

686 (e) On more than two occasions within a 6-month period, as
687 the site of a violation of s. 812.019 relating to dealing in
688 stolen property

689
690 may be declared to be a public nuisance, and such nuisance may be
691 abated pursuant to the procedures provided in this section.

692 Section 19. Paragraph (a) of subsection (1) and subsection
693 (3) of section 895.02, Florida Statutes, are amended to read:

694 895.02 Definitions.--As used in ss. 895.01-895.08, the
695 term:

696 (1) "Racketeering activity" means to commit, to attempt to

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697 | commit, to conspire to commit, or to solicit, coerce, or
698 | intimidate another person to commit:

699 | (a) Any crime that is chargeable by petition, indictment,
700 | or information under the following provisions of the Florida
701 | Statutes:

702 | 1. Section 210.18, relating to evasion of payment of
703 | cigarette taxes.

704 | 2. Section 316.1935, relating to fleeing or attempting to
705 | elude a law enforcement officer and aggravated fleeing or
706 | eluding.

707 | ~~3.2.~~ Section 403.727(3) (b), relating to environmental
708 | control.

709 | ~~4.3.~~ Section 409.920 or s. 409.9201, relating to Medicaid
710 | fraud.

711 | ~~5.4.~~ Section 414.39, relating to public assistance fraud.

712 | ~~6.5.~~ Section 440.105 or s. 440.106, relating to workers'
713 | compensation.

714 | ~~7.6.~~ Section 443.071(4), relating to creation of a
715 | fictitious employer scheme to commit unemployment compensation
716 | fraud.

717 | ~~8.7.~~ Section 465.0161, relating to distribution of
718 | medicinal drugs without a permit as an Internet pharmacy.

719 | ~~9.8.~~ Sections 499.0051, 499.0052, 499.00535, 499.00545, and
720 | 499.0691, relating to crimes involving contraband and adulterated
721 | drugs.

722 | ~~10.9.~~ Part IV of chapter 501, relating to telemarketing.

723 | ~~11.10.~~ Chapter 517, relating to sale of securities and
724 | investor protection.

725 | ~~12.11.~~ Section 550.235, s. 550.3551, or s. 550.3605,

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726 relating to dogracing and horseracing.

727 ~~13.12.~~ Chapter 550, relating to jai alai frontons.

728 ~~14.13.~~ Section 551.109, relating to slot machine gaming.

729 ~~15.14.~~ Chapter 552, relating to the manufacture,

730 distribution, and use of explosives.

731 ~~16.15.~~ Chapter 560, relating to money transmitters, if the

732 violation is punishable as a felony.

733 ~~17.16.~~ Chapter 562, relating to beverage law enforcement.

734 ~~18.17.~~ Section 624.401, relating to transacting insurance

735 without a certificate of authority, s. 624.437(4)(c)1., relating

736 to operating an unauthorized multiple-employer welfare

737 arrangement, or s. 626.902(1)(b), relating to representing or

738 aiding an unauthorized insurer.

739 ~~19.18.~~ Section 655.50, relating to reports of currency

740 transactions, when such violation is punishable as a felony.

741 ~~20.19.~~ Chapter 687, relating to interest and usurious

742 practices.

743 ~~21.20.~~ Section 721.08, s. 721.09, or s. 721.13, relating to

744 real estate timeshare plans.

745 22. Section 775.13(5)(b), relating to registration of

746 persons found to have committed any offense for the purpose of

747 benefiting, promoting, or furthering the interests of a criminal

748 gang.

749 23. Section 777.03, relating to commission of crimes by

750 accessories after the fact.

751 ~~24.21.~~ Chapter 782, relating to homicide.

752 ~~25.22.~~ Chapter 784, relating to assault and battery.

753 ~~26.23.~~ Chapter 787, relating to kidnapping or human

754 trafficking.

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755 ~~27.24.~~ Chapter 790, relating to weapons and firearms.

756 28. Chapter 794, relating to sexual battery, but only if
757 such crime was committed with the intent to benefit, promote, or
758 further the interests of a criminal gang, or for the purpose of
759 increasing a criminal gang member's own standing or position
760 within a criminal gang.

761 ~~29.25.~~ Section 796.03, s. 796.035, s. 796.04, s. 796.045,
762 s. 796.05, or s. 796.07, relating to prostitution and sex
763 trafficking.

764 ~~30.26.~~ Chapter 806, relating to arson and criminal
765 mischief.

766 ~~31.27.~~ Chapter 810 ~~Section 810.02(2)(c),~~ relating to
767 ~~specified burglary and trespass of a dwelling or structure.~~

768 ~~32.28.~~ Chapter 812, relating to theft, robbery, and related
769 crimes.

770 ~~33.29.~~ Chapter 815, relating to computer-related crimes.

771 ~~34.30.~~ Chapter 817, relating to fraudulent practices, false
772 pretenses, fraud generally, and credit card crimes.

773 ~~35.31.~~ Chapter 825, relating to abuse, neglect, or
774 exploitation of an elderly person or disabled adult.

775 ~~36.32.~~ Section 827.071, relating to commercial sexual
776 exploitation of children.

777 ~~37.33.~~ Chapter 831, relating to forgery and counterfeiting.

778 ~~38.34.~~ Chapter 832, relating to issuance of worthless
779 checks and drafts.

780 ~~39.35.~~ Section 836.05, relating to extortion.

781 ~~40.36.~~ Chapter 837, relating to perjury.

782 ~~41.37.~~ Chapter 838, relating to bribery and misuse of
783 public office.

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784 ~~42.38.~~ Chapter 843, relating to obstruction of justice.

785 ~~43.39.~~ Section 847.011, s. 847.012, s. 847.013, s. 847.06,
786 or s. 847.07, relating to obscene literature and profanity.

787 ~~44.40.~~ Section 849.09, s. 849.14, s. 849.15, s. 849.23, or
788 s. 849.25, relating to gambling.

789 ~~45.41.~~ Chapter 874, relating to criminal ~~street~~ gangs.

790 ~~46.42.~~ Chapter 893, relating to drug abuse prevention and
791 control.

792 ~~47.43.~~ Chapter 896, relating to offenses related to
793 financial transactions.

794 ~~48.44.~~ Sections 914.22 and 914.23, relating to tampering
795 with or harassing a witness, victim, or informant, and
796 retaliation against a witness, victim, or informant.

797 ~~49.45.~~ Sections 918.12 and 918.13, relating to tampering
798 with jurors and evidence.

799 (3) "Enterprise" means any individual, sole proprietorship,
800 partnership, corporation, business trust, union chartered under
801 the laws of this state, or other legal entity, or any unchartered
802 union, association, or group of individuals associated in fact
803 although not a legal entity; and it includes illicit as well as
804 licit enterprises and governmental, as well as other, entities. A
805 criminal ~~street~~ gang, as defined in s. 874.03, constitutes an
806 enterprise.

807 Section 20. Subsection (2) of section 903.046, Florida
808 Statutes, is amended to read:

809 903.046 Purpose of and criteria for bail determination.--

810 (2) When determining whether to release a defendant on bail
811 or other conditions, and what that bail or those conditions may
812 be, the court shall consider:

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- 813 (a) The nature and circumstances of the offense charged.
- 814 (b) The weight of the evidence against the defendant.
- 815 (c) The defendant's family ties, length of residence in the
816 community, employment history, financial resources, and mental
817 condition.
- 818 (d) The defendant's past and present conduct, including any
819 record of convictions, previous flight to avoid prosecution, or
820 failure to appear at court proceedings. However, any defendant
821 who had failed to appear on the day of any required court
822 proceeding in the case at issue, but who had later voluntarily
823 appeared or surrendered, shall not be eligible for a recognizance
824 bond; and any defendant who failed to appear on the day of any
825 required court proceeding in the case at issue and who was later
826 arrested shall not be eligible for a recognizance bond or for any
827 form of bond which does not require a monetary undertaking or
828 commitment equal to or greater than \$2,000 or twice the value of
829 the monetary commitment or undertaking of the original bond,
830 whichever is greater. Notwithstanding anything in this section,
831 the court has discretion in determining conditions of release if
832 the defendant proves circumstances beyond his or her control for
833 the failure to appear. This section may not be construed as
834 imposing additional duties or obligations on a governmental
835 entity related to monetary bonds.
- 836 (e) The nature and probability of danger which the
837 defendant's release poses to the community.
- 838 (f) The source of funds used to post bail or procure an
839 appearance bond, particularly whether the proffered funds, real
840 property, property, or any proposed collateral or bond premium
841 may be linked to or derived from the crime alleged to have been

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842 committed or from any other criminal or illicit activities. The
843 burden of establishing the noninvolvement in or nonderivation
844 from criminal or other illicit activity of such proffered funds,
845 real property, property, or any proposed collateral or bond
846 premium falls upon the defendant or other person proffering them
847 to obtain the defendant's release.

848 (g) Whether the defendant is already on release pending
849 resolution of another criminal proceeding or on probation,
850 parole, or other release pending completion of a sentence.

851 (h) The street value of any drug or controlled substance
852 connected to or involved in the criminal charge. It is the
853 finding and intent of the Legislature that crimes involving drugs
854 and other controlled substances are of serious social concern,
855 that the flight of defendants to avoid prosecution is of similar
856 serious social concern, and that frequently such defendants are
857 able to post monetary bail using the proceeds of their unlawful
858 enterprises to defeat the social utility of pretrial bail.
859 Therefore, the courts should carefully consider the utility and
860 necessity of substantial bail in relation to the street value of
861 the drugs or controlled substances involved.

862 (i) The nature and probability of intimidation and danger
863 to victims.

864 (j) Whether there is probable cause to believe that the
865 defendant committed a new crime while on pretrial release.

866 (k) Any other facts that the court considers relevant.

867 (l) Whether the crime charged is a violation of chapter 874
868 or alleged to be subject to enhanced punishment under chapter
869 874. If any such violation is charged against a defendant or if
870 the defendant is charged with a crime that is alleged to be

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871 subject to such enhancement, he or she shall not be eligible for
872 release on bail or surety bond until the first appearance on the
873 case in order to ensure the full participation of the prosecutor
874 and the protection of the public.

875 Section 21. Section 914.22, Florida Statutes, is amended to
876 read:

877 914.22 Tampering with or harassing a witness, victim, or
878 informant; penalties.--

879 (1) A person who knowingly uses intimidation or physical
880 force, or threatens another person, or attempts to do so, or
881 engages in misleading conduct toward another person, or offers
882 pecuniary benefit or gain to another person, with intent to cause
883 or induce any person to:

884 (a) Withhold testimony, or withhold a record, document, or
885 other object, from an official investigation or official
886 proceeding;

887 (b) Alter, destroy, mutilate, or conceal an object with
888 intent to impair the integrity or availability of the object for
889 use in an official investigation or official proceeding;

890 (c) Evade legal process summoning that person to appear as
891 a witness, or to produce a record, document, or other object, in
892 an official investigation or an official proceeding;

893 (d) Be absent from an official proceeding to which such
894 person has been summoned by legal process;

895 (e) Hinder, delay, or prevent the communication to a law
896 enforcement officer or judge of information relating to the
897 commission or possible commission of an offense or a violation of
898 a condition of probation, parole, or release pending a judicial
899 proceeding; or

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900 (f) Testify untruthfully in an official investigation or an
901 official proceeding,

902
903 commits the crime of tampering with a witness, victim, or
904 informant a felony of the third degree, punishable as provided in
905 s. 775.082, s. 775.083, or s. 775.084.

906 (2) Tampering with a witness, victim, or informant is a:

907 (a) Felony of the third degree, punishable as provided in
908 s. 775.082, s. 775.083, or s. 775.084, where the official
909 investigation or official proceeding affected involves the
910 investigation or prosecution of a misdemeanor.

911 (b) Felony of the second degree, punishable as provided in
912 s. 775.082, s. 775.083, or s. 775.084, where the official
913 investigation or official proceeding affected involves the
914 investigation or prosecution of a third degree felony.

915 (c) Felony of the first degree, punishable as provided in
916 s. 775.082, s. 775.083, or s. 775.084, where the official
917 investigation or official proceeding affected involves the
918 investigation or prosecution of a second degree felony.

919 (d) Felony of the first degree, punishable by a term of
920 years not exceeding life or as provided in s. 775.082, s.
921 775.083, or s. 775.084, where the official investigation or
922 official proceeding affected involves the investigation or
923 prosecution of a first degree felony or a first degree felony
924 punishable by a term of years not exceeding life.

925 (e) Life felony, punishable as provided in s. 775.082, s.
926 775.083, or s. 775.084, where the official investigation or
927 official proceeding affected involves the investigation or
928 prosecution of a life or capital felony.

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929 (f) Felony of the third degree, punishable as provided in
930 s. 775.082, s. 775.083, or s. 775.084, where the offense level of
931 the affected official investigation or official proceeding is
932 indeterminable or where the affected official investigation or
933 official proceeding involves a noncriminal investigation or
934 proceeding.

935 (3)~~(2)~~ Whoever intentionally harasses another person and
936 thereby hinders, delays, prevents, or dissuades any person from:

937 (a) Attending or testifying in an official proceeding or
938 cooperating in an official investigation;

939 (b) Reporting to a law enforcement officer or judge the
940 commission or possible commission of an offense or a violation of
941 a condition of probation, parole, or release pending a judicial
942 proceeding;

943 (c) Arresting or seeking the arrest of another person in
944 connection with an offense; or

945 (d) Causing a criminal prosecution, or a parole or
946 probation revocation proceeding, to be sought or instituted, or
947 from assisting in such prosecution or proceeding;

948
949 or attempts to do so, commits the crime of harassing a witness,
950 victim, or informant is guilty of a misdemeanor of the first
951 degree, punishable as provided in s. 775.082 or s. 775.083.

952 (4) Harassing a witness, victim, or informant is a:

953 (a) Misdemeanor of the first degree, punishable as provided
954 in s. 775.082 or s. 775.083, where the official investigation or
955 official proceeding affected involves the investigation or
956 prosecution of a misdemeanor.

957 (b) Felony of the third degree, punishable as provided in

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958 s. 775.082, s. 775.083, or s. 775.084, where the official
959 investigation or official proceeding affected involves the
960 investigation or prosecution of a third degree felony.

961 (c) Felony of the second degree, punishable as provided in
962 s. 775.082, s. 775.083, or s. 775.084, where the official
963 investigation or official proceeding affected involves the
964 investigation or prosecution of a second degree felony.

965 (d) Felony of the first degree, punishable as provided in
966 s. 775.082, s. 775.083, or s. 775.084, where the official
967 investigation or official proceeding affected involves the
968 investigation or prosecution of a first degree felony.

969 (e) Felony of the first degree, punishable by a term of
970 years not exceeding life or as provided in s. 775.082, s.
971 775.083, or s. 775.084, where the official investigation or
972 official proceeding affected involves the investigation or
973 prosecution of a felony of the first degree punishable by a term
974 of years not exceeding life or a prosecution of a life or capital
975 felony.

976 (f) Felony of the third degree, punishable as provided in
977 s. 775.082, s. 775.083, or s. 775.084, where the offense level of
978 the affected official investigation or official proceeding is
979 indeterminable or where the affected official investigation or
980 official proceeding involves a noncriminal investigation or
981 proceeding.

982 (5)(3) For the purposes of this section:

983 (a) An official proceeding need not be pending or about to
984 be instituted at the time of the offense; and

985 (b) The testimony or the record, document, or other object
986 need not be admissible in evidence or free of a claim of

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987 | privilege.

988 | ~~(6)~~~~(4)~~ In a prosecution for an offense under this section,
989 | no state of mind need be proved with respect to the circumstance:

990 | (a) That the official proceeding before a judge, court,
991 | grand jury, or government agency is before a judge or court of
992 | the state, a state or local grand jury, or a state agency; or

993 | (b) That the judge is a judge of the state or that the law
994 | enforcement officer is an officer or employee of the state or a
995 | person authorized to act for or on behalf of the state or serving
996 | the state as an adviser or consultant.

997 | Section 22. Section 943.031, Florida Statutes, is amended
998 | to read:

999 | 943.031 Florida Violent Crime and Drug Control Council.--

1000 | (1) FINDINGS.--The Legislature finds that there is a need
1001 | to develop and implement a statewide strategy to address violent
1002 | criminal activity, including crimes committed by criminal gangs,
1003 | and drug control efforts by state and local law enforcement
1004 | agencies, including investigations of illicit money laundering.
1005 | In recognition of this need, the Florida Violent Crime and Drug
1006 | Control Council is created within the department. The council
1007 | shall serve in an advisory capacity to the department.

1008 | ~~(2)~~~~(1)~~ MEMBERSHIP.--The council shall consist of 14
1009 | members, as follows:

1010 | (a) The Attorney General or a designate.

1011 | (b) A designate of the executive director of the Department
1012 | of Law Enforcement.

1013 | (c) The secretary of the Department of Corrections or a
1014 | designate.

1015 | (d) The Secretary of Juvenile Justice or a designate.

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- 1016 (e) The Commissioner of Education or a designate.
- 1017 (f) The president of the Florida Network of Victim/Witness
1018 Services, Inc., or a designate.
- 1019 (g) The director of the Office of Drug Control within the
1020 Executive Office of the Governor, or a designate.
- 1021 (h) The Chief Financial Officer, or a designate.
- 1022 (i) Six members appointed by the Governor, consisting of
1023 two sheriffs, two chiefs of police, one medical examiner, and one
1024 state attorney or their designates.

1025

1026 The Governor, when making appointments under this subsection,
1027 must take into consideration representation by geography,
1028 population, ethnicity, and other relevant factors to ensure that
1029 the membership of the council is representative of the state at
1030 large. Designates appearing on behalf of a council member who is
1031 unable to attend a meeting of the council are empowered to vote
1032 on issues before the council to the same extent the designating
1033 council member is so empowered.

1034 (3)~~(2)~~ TERMS OF MEMBERSHIP; OFFICERS; COMPENSATION;
1035 STAFF.--

1036 (a) Members appointed by the Governor shall be appointed
1037 for terms of 2 years. The other members are standing members of
1038 the council. In no event shall a member serve beyond the time he
1039 or she ceases to hold the office or employment which was the
1040 basis for appointment to the council. In the event of a vacancy,
1041 an appointment to fill the vacancy shall be only for the
1042 unexpired term.

1043 (b) The Legislature finds that the council serves a
1044 legitimate state, county, and municipal purpose and that service

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1045 on the council is consistent with a member's principal service in
1046 a public office or employment. Membership on the council does not
1047 disqualify a member from holding any other public office or being
1048 employed by a public entity, except that no member of the
1049 Legislature shall serve on the council.

1050 (c) The members of the council shall elect a chair and a
1051 vice chair every 2 years, to serve for a 2-year term. As deemed
1052 appropriate, other officers may be elected by the members.

1053 (d) Members of the council or their designates shall serve
1054 without compensation but are entitled to reimbursement for per
1055 diem and travel expenses pursuant to s. 112.061. Reimbursements
1056 made pursuant to this paragraph may be paid from either the
1057 Violent Crime Investigative Emergency and Drug Control Strategy
1058 Implementation Account within the Department of Law Enforcement
1059 Operating Trust Fund or from other appropriations provided to the
1060 department by the Legislature in the General Appropriations Act.

1061 (e) The department shall provide the council with staff
1062 necessary to assist the council in the performance of its duties.

1063 (4)~~(3)~~ MEETINGS.--The council must meet at least
1064 semiannually. Additional meetings may be held when it is
1065 determined by the chair that extraordinary circumstances require
1066 an additional meeting of the council. A majority of the members
1067 of the council constitutes a quorum.

1068 (5)~~(4)~~ DUTIES OF COUNCIL.--The council shall provide advice
1069 and make recommendations, as necessary, to the executive director
1070 of the department.

1071 (a) The council may advise the executive director on the
1072 feasibility of undertaking initiatives which include, but are not
1073 limited to, the following:

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1074 1. Establishing a program which provides grants to criminal
1075 justice agencies that develop and implement effective violent
1076 crime prevention and investigative programs and which provides
1077 grants to law enforcement agencies for the purpose of drug
1078 control, criminal gang, and illicit money laundering
1079 investigative efforts or task force efforts that are determined
1080 by the council to significantly contribute to achieving the
1081 state's goal of reducing drug-related crime as articulated by the
1082 Office of Drug Control, that represent significant criminal gang
1083 investigative efforts, that represent a significant illicit money
1084 laundering investigative effort, or that otherwise significantly
1085 support statewide strategies developed by the Statewide Drug
1086 Policy Advisory Council established under s. 397.333, subject to
1087 the limitations provided in this section. The grant program may
1088 include an innovations grant program to provide startup funding
1089 for new initiatives by local and state law enforcement agencies
1090 to combat violent crime or to implement drug control, criminal
1091 gang, or illicit money laundering investigative efforts or task
1092 force efforts by law enforcement agencies, including, but not
1093 limited to, initiatives such as:

- 1094 a. Providing enhanced community-oriented policing.
- 1095 b. Providing additional undercover officers and other
1096 investigative officers to assist with violent crime
1097 investigations in emergency situations.
- 1098 c. Providing funding for multiagency or statewide drug
1099 control, criminal gang, or illicit money laundering investigative
1100 efforts or task force efforts that cannot be reasonably funded
1101 completely by alternative sources and that significantly
1102 contribute to achieving the state's goal of reducing drug-related

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1103 crime as articulated by the Office of Drug Control, that
1104 represent significant criminal gang investigative efforts, that
1105 represent a significant illicit money laundering investigative
1106 effort, or that otherwise significantly support statewide
1107 strategies developed by the Statewide Drug Policy Advisory
1108 Council established under s. 397.333.

1109 2. Expanding the use of automated fingerprint
1110 identification systems at the state and local level.

1111 3. Identifying methods to prevent violent crime.

1112 4. Identifying methods to enhance multiagency or statewide
1113 drug control, criminal gang, or illicit money laundering
1114 investigative efforts or task force efforts that significantly
1115 contribute to achieving the state's goal of reducing drug-related
1116 crime as articulated by the Office of Drug Control, that
1117 represent significant criminal gang investigative efforts, that
1118 represent a significant illicit money laundering investigative
1119 effort, or that otherwise significantly support statewide
1120 strategies developed by the Statewide Drug Policy Advisory
1121 Council established under s. 397.333.

1122 5. Enhancing criminal justice training programs which
1123 address violent crime, drug control, ~~or~~ illicit money laundering
1124 investigative techniques, or efforts to control and eliminate
1125 criminal gangs.

1126 6. Developing and promoting crime prevention services and
1127 educational programs that serve the public, including, but not
1128 limited to:

1129 a. Enhanced victim and witness counseling services that
1130 also provide crisis intervention, information referral,
1131 transportation, and emergency financial assistance.

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1132 b. A well-publicized rewards program for the apprehension
1133 and conviction of criminals who perpetrate violent crimes.

1134 7. Enhancing information sharing and assistance in the
1135 criminal justice community by expanding the use of community
1136 partnerships and community policing programs. Such expansion may
1137 include the use of civilian employees or volunteers to relieve
1138 law enforcement officers of clerical work in order to enable the
1139 officers to concentrate on street visibility within the
1140 community.

1141 (b) The full council shall:

1142 1. Receive periodic reports from regional violent crime
1143 investigation and statewide drug control strategy implementation
1144 coordinating teams which relate to violent crime trends or the
1145 investigative needs or successes in the regions, including
1146 discussions regarding the activity of significant criminal gangs
1147 in the region, factors, and trends relevant to the implementation
1148 of the statewide drug strategy, and the results of drug control
1149 and illicit money laundering investigative efforts funded in part
1150 by the council.

1151 2. Maintain and use ~~utilize~~ criteria for the disbursement
1152 of funds from the Violent Crime Investigative Emergency and Drug
1153 Control Strategy Implementation Account or any other account from
1154 which the council may disburse proactive investigative funds as
1155 may be established within the Department of Law Enforcement
1156 Operating Trust Fund or other appropriations provided to the
1157 Department of Law Enforcement by the Legislature in the General
1158 Appropriations Act. The criteria shall allow for the advancement
1159 of funds to reimburse agencies regarding violent crime
1160 investigations as approved by the full council and the

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1161 advancement of funds to implement proactive drug control
1162 strategies or significant criminal gang investigative efforts as
1163 authorized by the Drug Control Strategy and Criminal Gang
1164 Committee or the Victim and Witness Protection Review Committee.
1165 Regarding violent crime investigation reimbursement, an expedited
1166 approval procedure shall be established for rapid disbursement of
1167 funds in violent crime emergency situations.

1168 (c) As used in this section, "significant criminal gang
1169 investigative efforts" eligible for proactive funding must
1170 involve at a minimum an effort against a known criminal gang
1171 that:

1172 1. Involves multiple law enforcement agencies.

1173 2. Reflects a dedicated significant investigative effort on
1174 the part of each participating agency in personnel, time devoted
1175 to the investigation, and agency resources dedicated to the
1176 effort.

1177 3. Reflects a dedicated commitment by a prosecuting
1178 authority to ensure that cases developed by the investigation
1179 will be timely and effectively prosecuted.

1180 4. Demonstrates a strategy and commitment to dismantling
1181 the criminal gang via seizures of assets, significant money
1182 laundering and organized crime investigations and prosecutions,
1183 or similar efforts.

1184
1185 The council may require satisfaction of additional elements, to
1186 include reporting criminal investigative and criminal
1187 intelligence information related to criminal gang activity and
1188 members in a manner required by the department, as a prerequisite
1189 for receiving proactive criminal gang funding.

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- 1190 (6) DRUG CONTROL STRATEGY AND CRIMINAL GANG COMMITTEE.--
1191 (a) The Drug Control Strategy and Criminal Gang Committee
1192 is created within the Florida Violent Crime and Drug Control
1193 Council, consisting of the following council members:
1194 1. The Attorney General or a designate.
1195 2. The designate of the executive director of the
1196 Department of Law Enforcement.
1197 3. The Secretary of Corrections or a designate.
1198 4. The director of the Office of Drug Control within the
1199 Executive Office of the Governor or a designate.
1200 5. The state attorney, the two sheriffs, and the two chiefs
1201 of police, or their designates.
1202 (b) The committee shall
1203 ~~3-~~ review and approve all requests for disbursement of
1204 funds from the Violent Crime Investigative Emergency and Drug
1205 Control Strategy Implementation Account within the Department of
1206 Law Enforcement Operating Trust Fund and from other
1207 appropriations provided to the department by the Legislature in
1208 the General Appropriations Act. An expedited approval procedure
1209 shall be established for rapid disbursement of funds in violent
1210 crime emergency situations.
1211 (c) Those receiving any proactive funding provided by the
1212 council through the committee shall be required to report the
1213 results of the investigations to the council once the
1214 investigation has been completed. The committee shall also
1215 require ongoing status reports on ongoing investigations using
1216 such findings in its closed sessions.
1217 (7)(5)- REPORTS.--The council shall report annually on its
1218 activities, on or before December 30 of each calendar year, to

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1219 the executive director, the President of the Senate, the Speaker
1220 of the House of Representatives, and the chairs of the Senate and
1221 House committees having principal jurisdiction over criminal law.
1222 Comments and responses of the executive director to the report
1223 are to be included.

1224 (8)~~(6)~~ VICTIM AND WITNESS PROTECTION REVIEW COMMITTEE.--

1225 (a) The Victim and Witness Protection Review Committee is
1226 created within the Florida Violent Crime and Drug Control
1227 Council, consisting of the statewide prosecutor or a state
1228 attorney, a sheriff, a chief of police, and the designee of the
1229 executive director of the Department of Law Enforcement. The
1230 committee shall be appointed from the membership of the council
1231 by the chair of the council after the chair has consulted with
1232 the executive director of the Department of Law Enforcement.
1233 Committee members shall meet in conjunction with the meetings of
1234 the council.

1235 (b) The committee shall:

1236 1. Maintain and use ~~utilize~~ criteria for disbursing funds
1237 to reimburse law enforcement agencies for costs associated with
1238 providing victim and witness protective or temporary relocation
1239 services.

1240 2. Review and approve or deny, in whole or in part, all
1241 reimbursement requests submitted by law enforcement agencies.

1242 (c) The lead law enforcement agency providing victim or
1243 witness protective or temporary relocation services pursuant to
1244 the provisions of s. 914.25 may submit a request for
1245 reimbursement to the Victim and Witness Protection Review
1246 Committee in a format approved by the committee. The lead law
1247 enforcement agency shall submit such reimbursement request on

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1248 | behalf of all law enforcement agencies that cooperated in
1249 | providing protective or temporary relocation services related to
1250 | a particular criminal investigation or prosecution. As part of
1251 | the reimbursement request, the lead law enforcement agency must
1252 | indicate how any reimbursement proceeds will be distributed among
1253 | the agencies that provided protective or temporary relocation
1254 | services.

1255 | (d) The committee, in its discretion, may use funds
1256 | available to the committee to provide all or partial
1257 | reimbursement to the lead law enforcement agency for such costs,
1258 | or may decline to provide any reimbursement.

1259 | (e) The committee may conduct its meeting by teleconference
1260 | or conference phone calls when the chair of the committee finds
1261 | that the need for reimbursement is such that delaying until the
1262 | next scheduled council meeting will adversely affect the
1263 | requesting agency's ability to provide the protection services.

1264 | (9)~~(7)~~ CONFIDENTIALITY; EXEMPTED PORTIONS OF COUNCIL
1265 | MEETINGS AND RECORDS.--

1266 | (a) The Legislature finds that during limited portions of
1267 | the meetings of the Florida Violent Crime and Drug Control
1268 | Council it is necessary that the council be presented with and
1269 | discuss details, information, and documents related to active
1270 | criminal investigations or matters constituting active criminal
1271 | intelligence, as those concepts are defined by s. 119.011. These
1272 | presentations and discussions are necessary for the council to
1273 | make its funding decisions as required by the Legislature. The
1274 | Legislature finds that to reveal the contents of documents
1275 | containing active criminal investigative or intelligence
1276 | information or to allow active criminal investigative or active

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1277 criminal intelligence matters to be discussed in a meeting open
1278 to the public negatively impacts the ability of law enforcement
1279 agencies to efficiently continue their investigative or
1280 intelligence gathering activities. The Legislature finds that
1281 information coming before the council that pertains to active
1282 criminal investigations or intelligence should remain
1283 confidential and exempt from public disclosure. The Legislature
1284 finds that the Florida Violent Crime and Drug Control Council
1285 may, by declaring only those portions of council meetings in
1286 which active criminal investigative or active criminal
1287 intelligence information is to be presented or discussed closed
1288 to the public, assure an appropriate balance between the policy
1289 of this state that meetings be public and the policy of this
1290 state to facilitate efficient law enforcement efforts.

1291 (b) The Florida Violent Crime and Drug Control Council
1292 shall be considered a "criminal justice agency" within the
1293 definition of s. 119.011(4).

1294 (c)1. The Florida Violent Crime and Drug Control Council
1295 may close portions of meetings during which the council will hear
1296 or discuss active criminal investigative information or active
1297 criminal intelligence information, and such portions of meetings
1298 shall be exempt from the provisions of s. 286.011 and s. 24(b),
1299 Art. I of the State Constitution, provided that the following
1300 conditions are met:

1301 a. The chair of the council shall advise the council at a
1302 public meeting that, in connection with the performance of a
1303 council duty, it is necessary that the council hear or discuss
1304 active criminal investigative information or active criminal
1305 intelligence information.

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1306 b. The chair's declaration of necessity for closure and the
1307 specific reasons for such necessity shall be stated in writing in
1308 a document that shall be a public record and shall be filed with
1309 the official records of the council.

1310 c. The entire closed session shall be recorded. The
1311 recording shall include the times of commencement and termination
1312 of the closed session, all discussion and proceedings, and the
1313 names of all persons present. No portion of the session shall be
1314 off the record. Such recording shall be maintained by the
1315 council.

1316 2. Only members of the council, Department of Law
1317 Enforcement staff supporting the council's function, and other
1318 persons whose presence has been authorized by the chair of the
1319 council shall be allowed to attend the exempted portions of the
1320 council meetings. The council shall assure that any closure of
1321 its meetings as authorized by this section is limited so that the
1322 general policy of this state in favor of public meetings is
1323 maintained.

1324 (d) A tape recording of, and any minutes and notes
1325 generated during, that portion of a Florida Violent Crime and
1326 Drug Control Council meeting which is closed to the public
1327 pursuant to this section are confidential and exempt from s.
1328 119.07(1) and s. 24(a), Art. I of the State Constitution until
1329 such time as the criminal investigative information or criminal
1330 intelligence information ceases to be active.

1331 Section 23. Section 947.18, Florida Statutes, is amended to
1332 read:

1333 947.18 Conditions of parole.--No person shall be placed on
1334 parole merely as a reward for good conduct or efficient

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1335 performance of duties assigned in prison. No person shall be
1336 placed on parole until and unless the commission finds that there
1337 is reasonable probability that, if the person is placed on
1338 parole, he or she will live and conduct himself or herself as a
1339 respectable and law-abiding person and that the person's release
1340 will be compatible with his or her own welfare and the welfare of
1341 society. No person shall be placed on parole unless and until the
1342 commission is satisfied that he or she will be suitably employed
1343 in self-sustaining employment or that he or she will not become a
1344 public charge. The commission shall determine the terms upon
1345 which such person shall be granted parole. If the person's
1346 conviction was for a controlled substance violation, one of the
1347 conditions must be that the person submit to random substance
1348 abuse testing intermittently throughout the term of supervision,
1349 upon the direction of the correctional probation officer as
1350 defined in s. 943.10(3). In addition to any other lawful
1351 condition of parole, the commission may make the payment of the
1352 debt due and owing to the state under s. 960.17 or the payment of
1353 the attorney's fees and costs due and owing to the state under s.
1354 938.29 a condition of parole subject to modification based on
1355 change of circumstances. If the person's conviction was for a
1356 crime that was found to have been committed for the purpose of
1357 benefiting, promoting, or furthering the interests of a criminal
1358 gang, one of the conditions must be that the person be prohibited
1359 from knowingly associating with other criminal gang members or
1360 associates, except as authorized by law enforcement officials,
1361 prosecutorial authorities, or the court, for the purpose of
1362 aiding in the investigation of criminal activity.

1363 Section 24. Subsection (11) is added to section 947.1405,

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1364 Florida Statutes, to read:

1365 947.1405 Conditional release program.--

1366 (11) Effective for a releasee whose crime was committed on
1367 or after October 1, 2008, and who has been found to have
1368 committed the crime for the purpose of benefiting, promoting, or
1369 furthering the interests of a criminal gang, the commission
1370 shall, in addition to any other conditions imposed, impose a
1371 condition prohibiting the releasee from knowingly associating
1372 with other criminal gang members or associates, except as
1373 authorized by law enforcement officials, prosecutorial
1374 authorities, or the court, for the purpose of aiding in the
1375 investigation of criminal activity.

1376 Section 25. Section 948.033, Florida Statutes, is created
1377 to read:

1378 948.033 Condition of probation or community control;
1379 criminal gang.--Effective for a probationer or community
1380 controllee whose crime was committed on or after October 1, 2008,
1381 and who has been found to have committed the crime for the
1382 purpose of benefiting, promoting, or furthering the interests of
1383 a criminal gang, the court shall, in addition to any other
1384 conditions imposed, impose a condition prohibiting the
1385 probationer or community controllee from knowingly associating
1386 with other criminal gang members or associates, except as
1387 authorized by law enforcement officials, prosecutorial
1388 authorities, or the court, for the purpose of aiding in the
1389 investigation of criminal activity.

1390 Section 26. Paragraphs (d), (e), and (g) of subsection (3)
1391 of section 921.0022, Florida Statutes, are amended to read:

1392 921.0022 Criminal Punishment Code; offense severity ranking

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1393	chart.--		
1394	(3)	OFFENSE SEVERITY RANKING CHART	
1395	(d)	LEVEL 4	
1396			
	Florida	Felony	Description
	Statute	Degree	
1397	316.1935(3)(a)	2nd	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.
1398	499.0051(1)	3rd	Failure to maintain or deliver pedigree papers.
1399	499.0051(2)	3rd	Failure to authenticate pedigree papers.
1400	499.0051(6)	2nd	Sale or delivery, or possession with intent to sell, contraband legend drugs.
1401	784.07(2)(b)	3rd	Battery of law enforcement officer, firefighter, intake officer, etc.
1402	784.074(1)(c)	3rd	Battery of sexually violent predators facility staff.

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1403	784.075	3rd	Battery on detention or commitment facility staff.
1404	784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.
1405	784.08 (2) (c)	3rd	Battery on a person 65 years of age or older.
1406	784.081 (3)	3rd	Battery on specified official or employee.
1407	784.082 (3)	3rd	Battery by detained person on visitor or other detainee.
1408	784.083 (3)	3rd	Battery on code inspector.
1409	784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.
1410	787.03 (1)	3rd	Interference with custody; wrongly takes minor from appointed guardian.
1411	787.04 (2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.

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1412	787.04 (3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.
1413	790.115 (1)	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.
1414	790.115 (2) (b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
1415	790.115 (2) (c)	3rd	Possessing firearm on school property.
1416	800.04 (7) (d)	3rd	Lewd or lascivious exhibition; offender less than 18 years.
1417	810.02 (4) (a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
1418	810.02 (4) (b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.
1419	810.06	3rd	Burglary; possession of tools.
1420			

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1421	810.08 (2) (c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
1422	812.014 (2) (c) 3.	3rd	Grand theft, 3rd degree \$10,000 or more but less than \$20,000.
1423	812.014 (2) (c) 4.- 10.	3rd	Grand theft, 3rd degree, a will, firearm, motor vehicle, livestock, etc.
1424	812.0195 (2)	3rd	Dealing in stolen property by use of the Internet; property stolen \$300 or more.
1425	817.563 (1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.
1426	817.568 (2) (a)	3rd	Fraudulent use of personal identification information.
1427	817.625 (2) (a)	3rd	Fraudulent use of scanning device or reencoder.
1428	828.125 (1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.

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1429	837.02 (1)	3rd	Perjury in official proceedings.
1430	837.021 (1)	3rd	Make contradictory statements in official proceedings.
1431	838.022	3rd	Official misconduct.
1432	839.13 (2) (a)	3rd	Falsifying records of an individual in the care and custody of a state agency.
1433	839.13 (2) (c)	3rd	Falsifying records of the Department of Children and Family Services.
1434	843.021	3rd	Possession of a concealed handcuff key by a person in custody.
1435	843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
1436	843.15 (1) (a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
1437	874.05 (1)	3rd	Encouraging or recruiting another to join a criminal street gang.

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1438	893.13(2)(a)1.	2nd	Purchase of cocaine (or other s. 893.03(1)(a), (b), or (d), (2)(a), (2)(b), or (2)(c)4. drugs).
1439	914.14(2)	3rd	Witnesses accepting bribes.
1440	914.22(1)	3rd	Force, threaten, etc., witness, victim, or informant.
1441	914.23(2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.
1442	918.12	3rd	Tampering with jurors.
1443	934.215	3rd	Use of two-way communications device to facilitate commission of a crime.
1444	(e)	LEVEL 5	
1445	Florida Statute	Felony Degree	Description
1446	316.027(1)(a)	3rd	Accidents involving personal injuries, failure to stop; leaving scene.
1447	316.1935(4)(a)	2nd	Aggravated fleeing or eluding.
1448			

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1449	322.34 (6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
1450	327.30 (5)	3rd	Vessel accidents involving personal injury; leaving scene.
1451	381.0041 (11) (b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
1452	440.10 (1) (g)	2nd	Failure to obtain workers' compensation coverage.
1453	440.105 (5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
1454	440.381 (2)	2nd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
1455	624.401 (4) (b) 2.	2nd	Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.
	626.902 (1) (c)	2nd	Representing an unauthorized insurer; repeat offender.

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1456	790.01 (2)	3rd	Carrying a concealed firearm.
1457	790.162	2nd	Threat to throw or discharge destructive device.
1458	790.163 (1)	2nd	False report of deadly explosive or weapon of mass destruction.
1459	790.221 (1)	2nd	Possession of short-barreled shotgun or machine gun.
1460	790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
1461	800.04 (6) (c)	3rd	Lewd or lascivious conduct; offender less than 18 years.
1462	800.04 (7) (c)	2nd	Lewd or lascivious exhibition; offender 18 years or older.
1463	806.111 (1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
1464	812.0145 (2) (b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.

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1465	812.015 (8)	3rd	Retail theft; property stolen is valued at \$300 or more and one or more specified acts.
1466	812.019 (1)	2nd	Stolen property; dealing in or trafficking in.
1467	812.131 (2) (b)	3rd	Robbery by sudden snatching.
1468	812.16 (2)	3rd	Owning, operating, or conducting a chop shop.
1469	817.034 (4) (a) 2.	2nd	Communications fraud, value \$20,000 to \$50,000.
1470	817.234 (11) (b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
1471	817.2341 (1), (2) (a) & (3) (a)	3rd	Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.
1472	817.568 (2) (b)	2nd	Fraudulent use of personal identification information; value of benefit, services received, payment

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1473			avoided, or amount of injury or fraud, \$5,000 or more or use of personal identification information of 10 or more individuals.
	817.625 (2) (b)	2nd	Second or subsequent fraudulent use of scanning device or reencoder.
1474			
	825.1025 (4)	3rd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
1475			
	827.071 (4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.
1476			
	827.071 (5)	3rd	Possess any photographic material, motion picture, etc., which includes sexual conduct by a child.
1477			
	839.13 (2) (b)	2nd	Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.
1478			
	843.01	3rd	Resist officer with violence to person; resist arrest with violence.
1479			

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1480	847.0137(2) & (3)	3rd	Transmission of pornography by electronic device or equipment.
1481	847.0138(2) & (3)	3rd	Transmission of material harmful to minors to a minor by electronic device or equipment.
1482	874.05(2)	2nd	Encouraging or recruiting another to join a criminal street gang; second or subsequent offense.
1483	893.13(1)(a)1.	2nd	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).
1484	893.13(1)(c)2.	2nd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
	893.13(1)(d)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a),

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1485	893.13(1)(e)2.	2nd	(1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs) within 1,000 feet of university.
1486	893.13(1)(f)1.	1st	Sell, manufacture, or deliver cannabis or other drug prohibited under s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) within 1,000 feet of property used for religious services or a specified business site.
1487	893.13(4)(b)	2nd	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), or (2)(a), (2)(b), or (2)(c)4. drugs) within 1,000 feet of public housing facility.
1488			Deliver to minor cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs).
1489	(g)	LEVEL 7	
1490	Florida	Felony	Description

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	Statute	Degree	
1491	316.027 (1) (b)	1st	Accident involving death, failure to stop; leaving scene.
1492	316.193 (3) (c) 2.	3rd	DUI resulting in serious bodily injury.
1493	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.
1494	327.35 (3) (c) 2.	3rd	Vessel BUI resulting in serious bodily injury.
1495	402.319 (2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
1496	409.920 (2)	3rd	Medicaid provider fraud.
1497	456.065 (2)	3rd	Practicing a health care profession without a license.

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1498	456.065 (2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
1499	458.327 (1)	3rd	Practicing medicine without a license.
1500	459.013 (1)	3rd	Practicing osteopathic medicine without a license.
1501	460.411 (1)	3rd	Practicing chiropractic medicine without a license.
1502	461.012 (1)	3rd	Practicing podiatric medicine without a license.
1503	462.17	3rd	Practicing naturopathy without a license.
1504	463.015 (1)	3rd	Practicing optometry without a license.
1505	464.016 (1)	3rd	Practicing nursing without a license.
1506	465.015 (2)	3rd	Practicing pharmacy without a license.
1507			

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1508	466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.
1509	467.201	3rd	Practicing midwifery without a license.
1510	468.366	3rd	Delivering respiratory care services without a license.
1511	483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.
1512	483.901(9)	3rd	Practicing medical physics without a license.
1513	484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.
1514	484.053	3rd	Dispensing hearing aids without a license.
1515	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.
	560.123(8)(b)1.	3rd	Failure to report currency or payment instruments exceeding \$300

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1516	560.125 (5) (a)	3rd	but less than \$20,000 by money transmitter.
1517	655.50 (10) (b) 1.	3rd	Money transmitter business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
1518	775.21 (10) (a)	3rd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.
1519	775.21 (10) (b)	3rd	Sexual predator; failure to register; failure to renew driver's license or identification card; other registration violations.
1520	775.21 (10) (g)	3rd	Sexual predator working where children regularly congregate.
1521	782.051 (3)	2nd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
			Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.

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1522	782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
1523	782.071	2nd	Killing of a human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide).
1524	782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
1525	784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
1526	784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
1527	784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
1528	784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.
1529	784.048(7)	3rd	Aggravated stalking; violation of court order.

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1530	784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
1531	784.074(1)(a)	1st	Aggravated battery on sexually violent predators facility staff.
1532	784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.
1533	784.081(1)	1st	Aggravated battery on specified official or employee.
1534	784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.
1535	784.083(1)	1st	Aggravated battery on code inspector.
1536	790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
1537	790.16(1)	1st	Discharge of a machine gun under specified circumstances.
1538	790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
1539			

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1540	790.165 (3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
1541	790.166 (3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
1542	790.166 (4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
1543	<u>790.23</u>	<u>1st, PBL</u>	<u>Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.</u>
1544	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.
1545	796.03	2nd	Procuring any person under 16 years for prostitution.
	800.04 (5) (c) 1.	2nd	Lewd or lascivious molestation; victim less than 12 years of age;

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1546			offender less than 18 years.
	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.
1547			
	806.01 (2)	2nd	Maliciously damage structure by fire or explosive.
1548			
	810.02 (3) (a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
1549			
	810.02 (3) (b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
1550			
	810.02 (3) (d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
1551			
	810.02 (3) (e)	2nd	Burglary of authorized emergency vehicle.
1552			
	812.014 (2) (a) 1.	1st	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.
1553			
	812.014 (2) (b) 2.	2nd	Property stolen, cargo valued at

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			less than \$50,000, grand theft in 2nd degree.
1554	812.014 (2) (b) 3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
1555	812.014 (2) (b) 4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.
1556	812.0145 (2) (a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
1557	812.019 (2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
1558	812.131 (2) (a)	2nd	Robbery by sudden snatching.
1559	812.133 (2) (b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
1560	817.234 (8) (a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
1561	817.234 (9)	2nd	Organizing, planning, or participating in an intentional

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1562			motor vehicle collision.
	817.234 (11) (c)	1st	Insurance fraud; property value \$100,000 or more.
1563			
	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.
1564			
	825.102 (3) (b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
1565			
	825.103 (2) (b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000.
1566			
	827.03 (3) (b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
1567			
	827.04 (3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
1568			

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1569	837.05 (2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
1570	838.015	2nd	Bribery.
1571	838.016	2nd	Unlawful compensation or reward for official behavior.
1572	838.021 (3) (a)	2nd	Unlawful harm to a public servant.
1573	838.22	2nd	Bid tampering.
1574	847.0135 (3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
1575	847.0135 (4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
1576	872.06	2nd	Abuse of a dead human body.
	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

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			recreational facility or community center.
1577	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.
1578	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).
1579	893.135(1)(a)1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
1580	893.135(1)(b)1. a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
1581	893.135(1)(c)1. a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
1582	893.135(1)(d)1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
1583	893.135(1)(e)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5

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			kilograms.
1584	893.135 (1) (f) 1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
1585	893.135 (1) (g) 1. a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
1586	893.135 (1) (h) 1. a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
1587	893.135 (1) (j) 1. a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
1588	893.135 (1) (k) 2. a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
1589	896.101 (5) (a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.
1590	896.104 (4) (a) 1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.
1591			

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1592	943.0435(4)(c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.
1593	943.0435(8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
1594	943.0435(9)(a)	3rd	Sexual offender; failure to comply with reporting requirements.
1595	943.0435(13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
1596	943.0435(14)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.
1597	944.607(9)	3rd	Sexual offender; failure to comply with reporting requirements.
1598	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 sexual offender;

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1599			harbor or conceal a sexual offender.
1600	944.607(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.
1601	985.4815(10)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
1602	985.4815(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
1603			
1604			Section 27. Subsection (1) of section 921.0024, Florida
1605			Statutes, is amended to read:
1606			921.0024 Criminal Punishment Code; worksheet computations;
1607			scoresheets.--
1608			(1)(a) The Criminal Punishment Code worksheet is used to
1609			compute the subtotal and total sentence points as follows:
1610			
1611			FLORIDA CRIMINAL PUNISHMENT CODE
1612			WORKSHEET
1613			
1614			OFFENSE SCORE

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1629
1630

Primary Offense

Level	Sentence Points	Total
10	116	= _____
9	92	= _____
8	74	= _____
7	56	= _____
6	36	= _____
5	28	= _____
4	22	= _____
3	16	= _____
2	10	= _____
1	4	= _____

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		Total		
1631				
1632	Additional Offenses			
1633				
	Level	Sentence Points	Counts	Total
1634				
1635				
	10	58	x _____	= _____
1636				
	9	46	x _____	= _____
1637				
	8	37	x _____	= _____
1638				
	7	28	x _____	= _____
1639				
	6	18	x _____	= _____
1640				
	5	5.4	x _____	= _____
1641				
	4	3.6	x _____	= _____
1642				
	3	2.4	x _____	= _____
1643				
	2	1.2	x _____	= _____
1644				
	1	0.7	x _____	= _____
1645				
	M	0.2	x _____	= _____

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1646
1647
1648
1649
1650
1651
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1654
1655
1656
1657
1658
1659

Total

Victim Injury

Level	Sentence Points		Number	Total
2nd degree murder- death	240	x	_____	= _____
Death	120	x	_____	= _____
Severe	40	x	_____	= _____
Moderate	18	x	_____	= _____
Slight	4	x	_____	= _____
Sexual penetration	80	x	_____	= _____
Sexual contact	40	x	_____	= _____

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1660

Total

1661

1662 Primary Offense + Additional Offenses + Victim Injury =

1663 TOTAL OFFENSE SCORE

1664

1665 PRIOR RECORD SCORE

1666

1667 Prior Record

1668

Level	Sentence Points		Number	Total
-------	-----------------	--	--------	-------

1669

1670

10	29	x	_____	= _____
----	----	---	-------	---------

1671

9	23	x	_____	= _____
---	----	---	-------	---------

1672

8	19	x	_____	= _____
---	----	---	-------	---------

1673

7	14	x	_____	= _____
---	----	---	-------	---------

1674

6	9	x	_____	= _____
---	---	---	-------	---------

1675

5	3.6	x	_____	= _____
---	-----	---	-------	---------

1676

4	2.4	x	_____	= _____
---	-----	---	-------	---------

1677

3	1.6	x	_____	= _____
---	-----	---	-------	---------

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1678 | 2 0.8 x _____ = _____

1679 |

1680 | 1 0.5 x _____ = _____

1681 |

1682 | M 0.2 x _____ = _____

Total

1683 |

1684 | TOTAL OFFENSE SCORE

1685 | TOTAL PRIOR RECORD SCORE

1686 |

1687 | LEGAL STATUS

1688 | COMMUNITY SANCTION VIOLATION

1689 | PRIOR SERIOUS FELONY

1690 | PRIOR CAPITAL FELONY

1691 | FIREARM OR SEMIAUTOMATIC WEAPON

1692 | SUBTOTAL _____

1693 |

1694 | PRISON RELEASEE REOFFENDER (no) (yes)

1695 | VIOLENT CAREER CRIMINAL (no) (yes)

1696 | HABITUAL VIOLENT OFFENDER (no) (yes)

1697 | HABITUAL OFFENDER (no) (yes)

1698 | DRUG TRAFFICKER (no) (yes) (x multiplier)

1699 | LAW ENF. PROTECT. (no) (yes) (x multiplier)

1700 | MOTOR VEHICLE THEFT (no) (yes) (x multiplier)

1701 | CRIMINAL ~~STREET~~ GANG OFFENSE (no) (yes) (x multiplier)

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1702 DOMESTIC VIOLENCE IN THE PRESENCE OF RELATED CHILD (no) (yes)
1703 (x multiplier)

1704

1705 TOTAL SENTENCE POINTS _____

1706

1707 (b) WORKSHEET KEY:

1708

1709 Legal status points are assessed when any form of legal status
1710 existed at the time the offender committed an offense before the
1711 court for sentencing. Four (4) sentence points are assessed for
1712 an offender's legal status.

1713

1714 Community sanction violation points are assessed when a community
1715 sanction violation is before the court for sentencing. Six (6)
1716 sentence points are assessed for each community sanction
1717 violation and each successive community sanction violation,
1718 unless any of the following apply:

1719 1. If the community sanction violation includes a new
1720 felony conviction before the sentencing court, twelve (12)
1721 community sanction violation points are assessed for the
1722 violation, and for each successive community sanction violation
1723 involving a new felony conviction.

1724 2. If the community sanction violation is committed by a
1725 violent felony offender of special concern as defined in s.
1726 948.06:

1727 a. Twelve (12) community sanction violation points are
1728 assessed for the violation and for each successive violation of
1729 felony probation or community control where:

1730 (I) The violation does not include a new felony conviction;

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1731 | and

1732 | (II) The community sanction violation is not based solely
1733 | on the probationer or offender's failure to pay costs or fines or
1734 | make restitution payments.

1735 | b. Twenty-four (24) community sanction violation points are
1736 | assessed for the violation and for each successive violation of
1737 | felony probation or community control where the violation
1738 | includes a new felony conviction.

1739 |

1740 | Multiple counts of community sanction violations before the
1741 | sentencing court shall not be a basis for multiplying the
1742 | assessment of community sanction violation points.

1743 |

1744 | Prior serious felony points: If the offender has a primary
1745 | offense or any additional offense ranked in level 8, level 9, or
1746 | level 10, and one or more prior serious felonies, a single
1747 | assessment of thirty (30) points shall be added. For purposes of
1748 | this section, a prior serious felony is an offense in the
1749 | offender's prior record that is ranked in level 8, level 9, or
1750 | level 10 under s. 921.0022 or s. 921.0023 and for which the
1751 | offender is serving a sentence of confinement, supervision, or
1752 | other sanction or for which the offender's date of release from
1753 | confinement, supervision, or other sanction, whichever is later,
1754 | is within 3 years before the date the primary offense or any
1755 | additional offense was committed.

1756 |

1757 | Prior capital felony points: If the offender has one or more
1758 | prior capital felonies in the offender's criminal record, points
1759 | shall be added to the subtotal sentence points of the offender

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1760 equal to twice the number of points the offender receives for the
1761 primary offense and any additional offense. A prior capital
1762 felony in the offender's criminal record is a previous capital
1763 felony offense for which the offender has entered a plea of nolo
1764 contendere or guilty or has been found guilty; or a felony in
1765 another jurisdiction which is a capital felony in that
1766 jurisdiction, or would be a capital felony if the offense were
1767 committed in this state.

1768
1769 Possession of a firearm, semiautomatic firearm, or machine gun:
1770 If the offender is convicted of committing or attempting to
1771 commit any felony other than those enumerated in s. 775.087(2)
1772 while having in his or her possession: a firearm as defined in s.
1773 790.001(6), an additional eighteen (18) sentence points are
1774 assessed; or if the offender is convicted of committing or
1775 attempting to commit any felony other than those enumerated in s.
1776 775.087(3) while having in his or her possession a semiautomatic
1777 firearm as defined in s. 775.087(3) or a machine gun as defined
1778 in s. 790.001(9), an additional twenty-five (25) sentence points
1779 are assessed.

1780
1781 Sentencing multipliers:

1782
1783 Drug trafficking: If the primary offense is drug trafficking
1784 under s. 893.135, the subtotal sentence points are multiplied, at
1785 the discretion of the court, for a level 7 or level 8 offense, by
1786 1.5. The state attorney may move the sentencing court to reduce
1787 or suspend the sentence of a person convicted of a level 7 or
1788 level 8 offense, if the offender provides substantial assistance

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1789 as described in s. 893.135(4).

1790

1791 Law enforcement protection: If the primary offense is a violation
1792 of the Law Enforcement Protection Act under s. 775.0823(2), (3),
1793 or (4), the subtotal sentence points are multiplied by 2.5. If
1794 the primary offense is a violation of s. 775.0823(5), (6), (7),
1795 (8), or (9), the subtotal sentence points are multiplied by 2.0.
1796 If the primary offense is a violation of s. 784.07(3) or s.
1797 775.0875(1), or of the Law Enforcement Protection Act under s.
1798 775.0823(10) or (11), the subtotal sentence points are multiplied
1799 by 1.5.

1800

1801 Grand theft of a motor vehicle: If the primary offense is grand
1802 theft of the third degree involving a motor vehicle and in the
1803 offender's prior record, there are three or more grand thefts of
1804 the third degree involving a motor vehicle, the subtotal sentence
1805 points are multiplied by 1.5.

1806

1807 Offense related to a criminal ~~street~~ gang: If the offender is
1808 convicted of the primary offense and committed that offense for
1809 the purpose of benefiting, promoting, or furthering the interests
1810 of a criminal ~~street~~ gang as prohibited under s. 874.04, the
1811 subtotal sentence points are multiplied by 1.5.

1812

1813 Domestic violence in the presence of a child: If the offender is
1814 convicted of the primary offense and the primary offense is a
1815 crime of domestic violence, as defined in s. 741.28, which was
1816 committed in the presence of a child under 16 years of age who is
1817 a family or household member as defined in s. 741.28(3) with the

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1818 victim or perpetrator, the subtotal sentence points are
1819 multiplied by 1.5.

1820 Section 28. Paragraph (n) of subsection (5) of section
1821 921.141, Florida Statutes, is amended to read:

1822 921.141 Sentence of death or life imprisonment for capital
1823 felonies; further proceedings to determine sentence.--

1824 (5) AGGRAVATING CIRCUMSTANCES.--Aggravating circumstances
1825 shall be limited to the following:

1826 (n) The capital felony was committed by a criminal ~~street~~
1827 gang member, as defined in s. 874.03.

1828 Section 29. Paragraph (c) of subsection (10) of section
1829 943.325, Florida Statutes, is amended to read:

1830 943.325 Blood or other biological specimen testing for DNA
1831 analysis.--

1832 (10)

1833 (c) Any person previously convicted of an offense specified
1834 in this section, or a crime which, if committed in this state,
1835 would be an offense specified in this section, and who is also
1836 subject to the registration requirement imposed by s. 775.13,
1837 shall be subject to the collection requirement of this section
1838 when the appropriate agency described in this section verifies
1839 the identification information of the person. The collection
1840 requirement of this section does not apply to a person as
1841 described in s. 775.13(4) ~~s. 775.13(5)~~.

1842 Section 30. Subsection (30) of section 984.03, Florida
1843 Statutes, is amended to read:

1844 984.03 Definitions.--When used in this chapter, the term:

1845 (30) "Juvenile justice continuum" includes, but is not
1846 limited to, delinquency prevention programs and services designed

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1847 for the purpose of preventing or reducing delinquent acts,
1848 including criminal activity by criminal ~~youth~~ gangs and juvenile
1849 arrests, as well as programs and services targeted at children
1850 who have committed delinquent acts, and children who have
1851 previously been committed to residential treatment programs for
1852 delinquents. The term includes children-in-need-of-services and
1853 families-in-need-of-services programs; conditional release;
1854 substance abuse and mental health programs; educational and
1855 vocational programs; recreational programs; community services
1856 programs; community service work programs; and alternative
1857 dispute resolution programs serving children at risk of
1858 delinquency and their families, whether offered or delivered by
1859 state or local governmental entities, public or private for-
1860 profit or not-for-profit organizations, or religious or
1861 charitable organizations.

1862 Section 31. Paragraph (c) of subsection (15) and subsection
1863 (29) of section 985.03, Florida Statutes, are amended to read:

1864 985.03 Definitions.--As used in this chapter, the term:
1865 (15)

1866 (c) "Delinquency prevention programs" means programs
1867 designed for the purpose of reducing the occurrence of
1868 delinquency, including criminal ~~youth and street~~ gang activity,
1869 and juvenile arrests. The term excludes arbitration, diversionary
1870 or mediation programs, and community service work or other
1871 treatment available subsequent to a child committing a delinquent
1872 act.

1873 (29) "Juvenile justice continuum" includes, but is not
1874 limited to, delinquency prevention programs and services designed
1875 for the purpose of preventing or reducing delinquent acts,

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1876 including criminal activity by criminal ~~youth~~ gangs, and juvenile
1877 arrests, as well as programs and services targeted at children
1878 who have committed delinquent acts, and children who have
1879 previously been committed to residential treatment programs for
1880 delinquents. The term includes children-in-need-of-services and
1881 families-in-need-of-services programs; conditional release;
1882 substance abuse and mental health programs; educational and
1883 career programs; recreational programs; community services
1884 programs; community service work programs; and alternative
1885 dispute resolution programs serving children at risk of
1886 delinquency and their families, whether offered or delivered by
1887 state or local governmental entities, public or private for-
1888 profit or not-for-profit organizations, or religious or
1889 charitable organizations.

1890 Section 32. Paragraph (c) of subsection (1) of section
1891 985.047, Florida Statutes, is amended to read:

1892 985.047 Information systems.--

1893 (1)

1894 (c) As used in this section, "a juvenile who is at risk of
1895 becoming a serious habitual juvenile offender" means a juvenile
1896 who has been adjudicated delinquent and who meets one or more of
1897 the following criteria:

1898 1. Is arrested for a capital, life, or first degree felony
1899 offense or sexual battery.

1900 2. Has five or more arrests, at least three of which are
1901 for felony offenses. Three of such arrests must have occurred
1902 within the preceding 12-month period.

1903 3. Has 10 or more arrests, at least 2 of which are for
1904 felony offenses. Three of such arrests must have occurred within

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1905 the preceding 12-month period.

1906 4. Has four or more arrests, at least one of which is for a
1907 felony offense and occurred within the preceding 12-month period.

1908 5. Has 10 or more arrests, at least 8 of which are for any
1909 of the following offenses:

1910 a. Petit theft;

1911 b. Misdemeanor assault;

1912 c. Possession of a controlled substance;

1913 d. Weapon or firearm violation; or

1914 e. Substance abuse.

1915

1916 Four of such arrests must have occurred within the preceding 12-
1917 month period.

1918 6. Meets at least one of the criteria for criminal youth
1919 ~~and street~~ gang membership.

1920 Section 33. Paragraph (a) of subsection (6) and subsection
1921 (7) of section 985.433, Florida Statutes, are amended to read:

1922 985.433 Disposition hearings in delinquency cases.--When a
1923 child has been found to have committed a delinquent act, the
1924 following procedures shall be applicable to the disposition of
1925 the case:

1926 (6) The first determination to be made by the court is a
1927 determination of the suitability or nonsuitability for
1928 adjudication and commitment of the child to the department. This
1929 determination shall include consideration of the recommendations
1930 of the department, which may include a predisposition report. The
1931 predisposition report shall include, whether as part of the
1932 child's multidisciplinary assessment, classification, and
1933 placement process components or separately, evaluation of the

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1934 following criteria:

1935 (a) The seriousness of the offense to the community. If the
1936 court determines under chapter 874 that the child was a member of
1937 a criminal ~~street~~ gang at the time of the commission of the
1938 offense, the seriousness of the offense to the community shall be
1939 given great weight.

1940
1941 It is the intent of the Legislature that the criteria set forth
1942 in this subsection are general guidelines to be followed at the
1943 discretion of the court and not mandatory requirements of
1944 procedure. It is not the intent of the Legislature to provide for
1945 the appeal of the disposition made under this section.

1946 (7) If the court determines that the child should be
1947 adjudicated as having committed a delinquent act and should be
1948 committed to the department, such determination shall be in
1949 writing or on the record of the hearing. The determination shall
1950 include a specific finding of the reasons for the decision to
1951 adjudicate and to commit the child to the department, including
1952 any determination that the child was a member of a criminal
1953 ~~street~~ gang.

1954 (a) The juvenile probation officer shall recommend to the
1955 court the most appropriate placement and treatment plan,
1956 specifically identifying the restrictiveness level most
1957 appropriate for the child. If the court has determined that the
1958 child was a member of a criminal ~~street~~ gang, that determination
1959 shall be given great weight in identifying the most appropriate
1960 restrictiveness level for the child. The court shall consider the
1961 department's recommendation in making its commitment decision.

1962 (b) The court shall commit the child to the department at

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1963 the restrictiveness level identified or may order placement at a
1964 different restrictiveness level. The court shall state for the
1965 record the reasons that establish by a preponderance of the
1966 evidence why the court is disregarding the assessment of the
1967 child and the restrictiveness level recommended by the
1968 department. Any party may appeal the court's findings resulting
1969 in a modified level of restrictiveness under this paragraph.

1970 (c) The court may also require that the child be placed in
1971 a probation program following the child's discharge from
1972 commitment. Community-based sanctions under subsection (8) may be
1973 imposed by the court at the disposition hearing or at any time
1974 prior to the child's release from commitment.

1975 Section 34. The Division of Statutory Revision is directed
1976 to redesignate the title of chapter 874, Florida Statutes, as
1977 "Criminal Gang Enforcement and Prevention."

1978 Section 35. This act shall take effect October 1, 2008.