



Section 812.135(2)(a)-(c), F.S., punishes home-invasion robbery as follows:

- A first degree felony,<sup>3</sup> which is punishable by imprisonment for a term of years not exceeding life imprisonment, if the person carries a firearm or other deadly weapon in the course of committing the offense.
- A first degree felony,<sup>4</sup> which is punishable by not more than 30-years imprisonment<sup>5</sup> if the person carries a weapon in the course of committing the offense.
- A first degree felony,<sup>6</sup> which is punishable by not more than 30 years of imprisonment<sup>7</sup> if the person does not carry a firearm, deadly weapon, or other weapon, in the course of committing the offense.

Current law provides for reclassification of the misdemeanor or felony degree, as applicable, of some offenses, or proscribes (sometimes with enhanced penalties) certain acts committed against a person 65 years of age or older, elderly person, or disabled adult. For example, s. 812.0145, F.S., reclassifies the degree of theft offenses when they are committed upon a person 65 years of age or older. Section 784.08, F.S., reclassifies the degree of aggravated assault or aggravated battery when either of those offenses is committed upon a person 65 years of age or older. Section 782.07(2), F.S., punishes as aggravated manslaughter the death of an elderly person or disabled adult by culpable negligence under s. 825.102(3), F.S. Section 825.102, F.S., punishes abuse, aggravated abuse, and neglect of an elderly person or disabled adult. Section 825.1025, F.S., punishes lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled person. Section 825.103, F.S., punishes exploitation of an elderly person or disabled adult.

*The terms “person 65 years of age or older” and “elderly person” are not synonymous.* The term “person 65 years of age or older” is self-defining. The term “elderly person” is defined in s. 825.101(5), F.S., as “a person 60 years of age or older who is suffering from the infirmities of aging as manifested by advanced age or organic brain damage, or other physical, mental, or emotional dysfunctioning, to the extent that the ability of the person to provide adequately for the person’s own care or protection is impaired.” Therefore, “a person 65 years of age or older” may or may not fall under the definition of “elderly person” in s. 825.101(5), F.S.

Section 825.101(4), F.S., defines a “disabled adult” as a “person 18 years of age or older who suffers from a condition of physical or mental incapacitation due to a developmental disability, organic brain damage, or mental illness, or who has one or more physical or mental limitations that restrict the person’s ability to perform the normal activities of daily living.”

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when, in the course of the taking, the victim was or became aware of the taking. In order to satisfy this definition, it is not necessary to show that: ... [t]he offender used any amount of force beyond that effort necessary to obtain possession of the money or other property; or ... [t]here was any resistance offered by the victim to the offender or that there was injury to the victim’s person.”

<sup>3</sup> Section 921.0022(3)(i), F.S., ranks this offense in Level 9 of the offense severity ranking chart of the Criminal Punishment Code.

<sup>4</sup> *Id.*

<sup>5</sup> Section 775.082, F.S., provides that the maximum penalty for a first degree felony is 30-years imprisonment (unless it is specified in a statute that the felony is punishable by a term of years not exceeding life imprisonment, which is sometimes referred to by the acronym ‘PBL’).

<sup>6</sup> Section 921.0022(3)(h), F.S., ranks this offense in Level 8 of the offense severity ranking chart.

<sup>7</sup> *Id.*

**III. Effect of Proposed Changes:**

The bill amends s. 812.135, F.S. (home-invasion robbery), to make it a first degree felony, ranked in Level 9 of the offense severity ranking chart of the Criminal Punishment Code, to commit home-invasion robbery upon a victim who is an elderly person or disabled adult (terms defined in s. 825.101, F.S.).

The effective date of the bill is July 1, 2009.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The Criminal Justice Impact Conference, which provides the official estimate of prison bed impact, if any, of legislation, estimates that the bill will have an insignificant prison bed impact.<sup>8</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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<sup>8</sup> See <http://edr.state.fl.us/conferences/criminaljustice/Impact/cjimpact.htm> (click on "2009 Conference Results" link).

**VIII. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

**Barcode 791708 by Criminal Justice on April 6, 2009:**

That the accused did not know the age of the victim is not a defense to a prosecution of the home invasion robbery offense created by the bill.