

By the Committee on Criminal Justice; and Senator Diaz de la Portilla

591-03240-11

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1 A bill to be entitled
2 An act relating to controlled substances; amending s.
3 893.13, F.S.; prohibiting specified offenses within
4 1,000 feet of the real property comprising a homeless
5 shelter; defining the term "homeless shelter";
6 providing criminal penalties; amending s. 921.0022,
7 F.S.; ranking offenses on the offense severity ranking
8 chart of the Criminal Punishment Code; providing an
9 effective date.

10
11 Be It Enacted by the Legislature of the State of Florida:

12
13 Section 1. Paragraph (i) is added to subsection (1) of
14 section 893.13, Florida Statutes, to read:

15 893.13 Prohibited acts; penalties.—

16 (1)

17 (i) Except as authorized by this chapter, it is unlawful
18 for any person to sell, manufacture, or deliver, or possess with
19 intent to sell, manufacture, or deliver, a controlled substance
20 in, on, or within 1,000 feet of the real property comprising a
21 homeless shelter. As used in this paragraph, the term "homeless
22 shelter" means a supervised publicly or privately operated
23 shelter designed to provide temporary living accommodations for
24 persons who otherwise lack a fixed, regular, and adequate
25 nighttime residence. Any person who violates this paragraph with
26 respect to:

27 1. A controlled substance named or described in s.
28 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.
29 commits a felony of the first degree, punishable as provided in

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30 s. 775.082, s. 775.083, or s. 775.084.

31 2. A controlled substance named or described in s.
 32 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
 33 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of
 34 the second degree, punishable as provided in s. 775.082, s.
 35 775.083, or s. 775.084.

36 Section 2. Paragraphs (c) and (e) of subsection (3) of
 37 section 921.0022, Florida Statutes, are amended to read

38 921.0022 Criminal Punishment Code; offense severity ranking
 39 chart.—

40 (3) OFFENSE SEVERITY RANKING CHART

41 (c) LEVEL 3

42

| Florida Statute | Felony Degree | Description |
|-----------------------|---------------|---|
| 119.10(2)(b) | 3rd | Unlawful use of confidential information from police reports. |
| 316.066 (4)(b)-(d) | 3rd | Unlawfully obtaining or using confidential crash reports. |
| 316.193(2)(b) | 3rd | Felony DUI, 3rd conviction. |
| 316.1935(2) | 3rd | Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated. |
| 319.30(4) | 3rd | Possession by junkyard of motor vehicle |

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with identification number plate removed.

48

319.33(1)(a) 3rd Alter or forge any certificate of title to a motor vehicle or mobile home.

49

319.33(1)(c) 3rd Procure or pass title on stolen vehicle.

50

319.33(4) 3rd With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.

51

327.35(2)(b) 3rd Felony BUI.

52

328.05(2) 3rd Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.

53

328.07(4) 3rd Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.

54

376.302(5) 3rd Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.

55

379.2431 3rd Taking, disturbing, mutilating, (1)(e)5. destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles,

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marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.

56

379.2431
(1) (e) 6.

3rd

Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.

57

400.9935 (4)

3rd

Operating a clinic without a license or filing false license application or other required information.

58

440.1051 (3)

3rd

False report of workers' compensation fraud or retaliation for making such a report.

59

501.001 (2) (b)

2nd

Tampers with a consumer product or the container using materially false/misleading information.

60

624.401 (4) (a)

3rd

Transacting insurance without a certificate of authority.

61

624.401 (4) (b) 1.

3rd

Transacting insurance without a certificate of authority; premium collected less than \$20,000.

62

626.902 (1) (a) &
(b)

3rd

Representing an unauthorized insurer.

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63

697.08 3rd Equity skimming.

64

790.15(3) 3rd Person directs another to discharge
firearm from a vehicle.

65

796.05(1) 3rd Live on earnings of a prostitute.

66

806.10(1) 3rd Maliciously injure, destroy, or
interfere with vehicles or equipment
used in firefighting.

67

806.10(2) 3rd Interferes with or assaults firefighter
in performance of duty.

68

810.09(2)(c) 3rd Trespass on property other than
structure or conveyance armed with
firearm or dangerous weapon.

69

812.014(2)(c)2. 3rd Grand theft; \$5,000 or more but less
than \$10,000.

70

812.0145(2)(c) 3rd Theft from person 65 years of age or
older; \$300 or more but less than
\$10,000.

71

815.04(4)(b) 2nd Computer offense devised to defraud or
obtain property.

72

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| | | | |
|----|-----------------------|-----|---|
| 73 | 817.034(4)(a)3. | 3rd | Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000. |
| 74 | 817.233 | 3rd | Burning to defraud insurer. |
| 75 | 817.234 (8)(b)-(c) | 3rd | Unlawful solicitation of persons involved in motor vehicle accidents. |
| 76 | 817.234(11)(a) | 3rd | Insurance fraud; property value less than \$20,000. |
| 77 | 817.236 | 3rd | Filing a false motor vehicle insurance application. |
| 78 | 817.2361 | 3rd | Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card. |
| 79 | 817.413(2) | 3rd | Sale of used goods as new. |
| 80 | 817.505(4) | 3rd | Patient brokering. |
| 81 | 828.12(2) | 3rd | Tortures any animal with intent to inflict intense pain, serious physical injury, or death. |
| | 831.28(2)(a) | 3rd | Counterfeiting a payment instrument with intent to defraud or possessing a |

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counterfeit payment instrument.

82

831.29 2nd Possession of instruments for
counterfeiting drivers' licenses or
identification cards.

83

838.021(3)(b) 3rd Threatens unlawful harm to public
servant.

84

843.19 3rd Injure, disable, or kill police dog or
horse.

85

860.15(3) 3rd Overcharging for repairs and parts.

86

870.01(2) 3rd Riot; inciting or encouraging.

87

893.13(1)(a)2. 3rd 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).

88

893.13(1)(d)2. 2nd Sell, manufacture, or deliver 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 university.

89

893.13(1)(f)2. 2nd Sell, manufacture, or deliver s.

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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 public housing
 facility.

90

893.13(1)(i)2. 2nd Sell, manufacture, or deliver 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 homeless shelter.

91

893.13(6)(a) 3rd Possession of any controlled substance
 other than felony possession of
 cannabis.

92

893.13(7)(a)8. 3rd Withhold information from practitioner
 regarding previous receipt of or
 prescription for a controlled substance.

93

893.13(7)(a)9. 3rd Obtain or attempt to obtain controlled
 substance by fraud, forgery,
 misrepresentation, etc.

94

893.13(7)(a)10. 3rd Affix false or forged label to package
 of controlled substance.

95

893.13(7)(a)11. 3rd Furnish false or fraudulent material
 information on any document or record

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required by chapter 893.

96

893.13(8)(a)1. 3rd Knowingly assist a patient, other person, or owner of an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or related to the practitioner's practice.

97

893.13(8)(a)2. 3rd Employ a trick or scheme in the practitioner's practice to assist a patient, other person, or owner of an animal in obtaining a controlled substance.

98

893.13(8)(a)3. 3rd Knowingly write a prescription for a controlled substance for a fictitious person.

99

893.13(8)(a)4. 3rd Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.

100

918.13(1)(a) 3rd Alter, destroy, or conceal investigation evidence.

101

944.47 3rd Introduce contraband to correctional

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(1) (a) 1.-2. facility.

102

944.47 (1) (c) 2nd Possess contraband while upon the grounds of a correctional institution.

103

985.721 3rd Escapes from a juvenile facility (secure detention or residential commitment facility).

104

(e) LEVEL 5

105

106

| | | |
|---------|--------|-------------|
| Florida | Felony | |
| Statute | Degree | Description |

107

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|-----------------|-----|--|
| 316.027 (1) (a) | 3rd | Accidents involving personal injuries, failure to stop; leaving scene. |
|-----------------|-----|--|

108

| | | |
|------------------|-----|--------------------------------|
| 316.1935 (4) (a) | 2nd | Aggravated fleeing or eluding. |
|------------------|-----|--------------------------------|

109

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|------------|-----|--|
| 322.34 (6) | 3rd | Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury. |
|------------|-----|--|

110

| | | |
|------------|-----|--|
| 327.30 (5) | 3rd | Vessel accidents involving personal injury; leaving scene. |
|------------|-----|--|

111

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|-------------------|-----|---|
| 381.0041 (11) (b) | 3rd | Donate blood, plasma, or organs knowing HIV positive. |
|-------------------|-----|---|

112

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113 440.10(1)(g) 2nd Failure to obtain workers' compensation coverage.

114 440.105(5) 2nd Unlawful solicitation for the purpose of making workers' compensation claims.

115 440.381(2) 2nd Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.

116 624.401(4)(b)2. 2nd Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.

117 626.902(1)(c) 2nd Representing an unauthorized insurer; repeat offender.

118 790.01(2) 3rd Carrying a concealed firearm.

119 790.162 2nd Threat to throw or discharge destructive device.

120 790.163(1) 2nd False report of deadly explosive or weapon of mass destruction.

790.221(1) 2nd Possession of short-barreled shotgun or machine gun.

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| | | | |
|-----|------------------|-----|--|
| 121 | 790.23 | 2nd | Felons in possession of firearms, ammunition, or electronic weapons or devices. |
| 122 | 800.04 (6) (c) | 3rd | Lewd or lascivious conduct; offender less than 18 years. |
| 123 | 800.04 (7) (b) | 2nd | Lewd or lascivious exhibition; offender 18 years or older. |
| 124 | 806.111 (1) | 3rd | Possess, manufacture, or dispense fire bomb with intent to damage any structure or property. |
| 125 | 812.0145 (2) (b) | 2nd | Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000. |
| 126 | 812.015 (8) | 3rd | Retail theft; property stolen is valued at \$300 or more and one or more specified acts. |
| 127 | 812.019 (1) | 2nd | Stolen property; dealing in or trafficking in. |
| 128 | 812.131 (2) (b) | 3rd | Robbery by sudden snatching. |
| 129 | 812.16 (2) | 3rd | Owning, operating, or conducting a chop |

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shop.

130

817.034 (4) (a) 2. 2nd Communications fraud, value \$20,000 to \$50,000.

131

817.234 (11) (b) 2nd Insurance fraud; property value \$20,000 or more but less than \$100,000.

132

817.2341 (1), 3rd Filing false financial statements, (2) (a) & making false entries of material fact or (3) (a) false statements regarding property values relating to the solvency of an insuring entity.

133

817.568 (2) (b) 2nd Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, \$5,000 or more or use of personal identification information of 10 or more individuals.

134

817.625 (2) (b) 2nd Second or subsequent fraudulent use of scanning device or reencoder.

135

825.1025 (4) 3rd Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.

136

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137 827.071(4) 2nd Possess with intent to promote any
 photographic material, motion picture,
 etc., which includes sexual conduct by a
 child.

138 827.071(5) 3rd Possess any photographic material,
 motion picture, etc., which includes
 sexual conduct by a child.

139 839.13(2)(b) 2nd Falsifying records of an individual in
 the care and custody of a state agency
 involving great bodily harm or death.

140 843.01 3rd Resist officer with violence to person;
 resist arrest with violence.

141 847.0135(5)(b) 2nd Lewd or lascivious exhibition using
 computer; offender 18 years or older.

142 847.0137 3rd Transmission of pornography by
 (2) & (3) electronic device or equipment.

143 847.0138 3rd Transmission of material harmful to
 (2) & (3) minors to a minor by electronic device
 or equipment.

874.05(2) 2nd Encouraging or recruiting another to
 join a criminal gang; second or
 subsequent offense.

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144

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).

145

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.

146

893.13(1)(d)1. 1st 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) within 1,000 feet of university.

147

893.13(1)(e)2. 2nd 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.

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148

893.13(1)(f)1. 1st 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.

149

150

893.13(1)(i)1. 1st Sell, manufacture, or deliver s.
893.03(1)(a), (1)(b), (1)(d), (2)(a),
(2)(b), or (2)(c)4. drugs within 1,000
feet of homeless shelter.

151

893.13(4)(b) 2nd 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).

152

893.1351(1) 3rd Ownership, lease, or rental for
trafficking in or manufacturing of
controlled substance.

153

154

Section 3. This act shall take effect July 1, 2011.