



CS/CS/HB 409, Engrossed 1

2014

1                   A bill to be entitled  
2           An act relating to offenses against vulnerable  
3           persons; amending s. 90.803, F.S.; revising when an  
4           out of court statement by an elderly person or  
5           disabled adult is admissible in certain proceedings;  
6           amending s. 817.568, F.S.; expanding applicability of  
7           prohibition on the fraudulent use of personal  
8           identification information of specified victims  
9           without consent to include persons 60 years of age or  
10          older; providing that it is unlawful for any person to  
11          willfully and without authorization fraudulently use  
12          personal identification information concerning  
13          specified individuals without their consent; providing  
14          criminal penalties; providing for a surcharge and  
15          allocation thereof; amending s. 825.101, F.S.;  
16          revising and deleting definitions; amending s.  
17          825.103, F.S.; deleting a requirement that property of  
18          an elderly person or disabled adult be obtained by  
19          deception or intimidation in order to constitute  
20          exploitation of such a person; specifying additional  
21          circumstances that constitute a breach of a fiduciary  
22          duty and specifying when an unauthorized appropriation  
23          occurs; creating a presumption that certain inter  
24          vivos transfers are a result of exploitation;  
25          providing exceptions; providing for jury instructions



26 |       concerning the presumption; revising the valuation of  
 27 |       funds, assets, or property involved for various  
 28 |       degrees of offenses of exploitation of an elderly  
 29 |       person or disabled adult; providing for return of  
 30 |       property seized from a defendant to the victim before  
 31 |       trial in certain circumstances; creating s. 943.0412,  
 32 |       F.S.; providing legislative findings; creating the  
 33 |       Identity Theft and Fraud Grant Program; amending ss.  
 34 |       775.0844 and 921.0022, F.S.; conforming provisions to  
 35 |       changes made by the act; reenacting s. 772.11(1),  
 36 |       F.S., relating to a civil remedy for theft or  
 37 |       exploitation, to incorporate the amendments made by  
 38 |       the act to s. 825.103, F.S., in a reference thereto;  
 39 |       providing an effective date.

41 | Be It Enacted by the Legislature of the State of Florida:

43 |       Section 1. Paragraph (a) of subsection (24) of section  
 44 |       90.803, Florida Statutes, is amended to read:

45 |       90.803 Hearsay exceptions; availability of declarant  
 46 |       immaterial.—The provision of s. 90.802 to the contrary  
 47 |       notwithstanding, the following are not inadmissible as evidence,  
 48 |       even though the declarant is available as a witness:

49 |       (24) HEARSAY EXCEPTION; STATEMENT OF ELDERLY PERSON OR  
 50 |       DISABLED ADULT.—



CS/CS/HB 409, Engrossed 1

2014

51 (a) Unless the source of information or the method or  
52 circumstances by which the statement is reported indicates a  
53 lack of trustworthiness, an out-of-court statement made by an  
54 elderly person or disabled adult, as defined in s. 825.101,  
55 describing any act of abuse or neglect, any act of exploitation,  
56 the offense of battery or aggravated battery or assault or  
57 aggravated assault or sexual battery, or any other violent act  
58 on the declarant elderly person or disabled adult, not otherwise  
59 admissible, is admissible in evidence in any civil or criminal  
60 proceeding if:

61 1. The court finds in a hearing conducted outside the  
62 presence of the jury that the time, content, and circumstances  
63 of the statement provide sufficient safeguards of reliability.  
64 In making its determination, the court may consider the mental  
65 and physical age and maturity of the elderly person or disabled  
66 adult, the nature and duration of the abuse or offense, the  
67 relationship of the victim to the offender, the reliability of  
68 the assertion, the reliability of the elderly person or disabled  
69 adult, and any other factor deemed appropriate; and

70 2. The elderly person or disabled adult ~~either:~~

71 ~~a. Testifies; or~~

72 ~~b.~~ is unavailable as a witness, provided that there is  
73 corroborative evidence of the abuse or offense. Unavailability  
74 shall include a finding by the court that the elderly person's  
75 or disabled adult's participation in the trial or proceeding



CS/CS/HB 409, Engrossed 1

2014

76 would result in a substantial likelihood of severe emotional,  
77 mental, or physical harm, in addition to findings pursuant to s.  
78 90.804(1).

79 Section 2. Subsections (6) and (7) of section 817.568,  
80 Florida Statutes, are amended, subsections (11) through (17) of  
81 that section are redesignated as subsections (13) through (19),  
82 respectively, and new subsections (11) and (12) are added to  
83 that section, to read:

84 817.568 Criminal use of personal identification  
85 information.—

86 (6) Any person who willfully and without authorization  
87 fraudulently uses personal identification information concerning  
88 an individual who is younger ~~less~~ than 18 years of age or 60  
89 years of age or older without first obtaining the consent of  
90 that individual or of his or her legal guardian commits a felony  
91 of the second degree, punishable as provided in s. 775.082, s.  
92 775.083, or s. 775.084.

93 (7) Any person who is in the relationship of parent or  
94 legal guardian, or who otherwise exercises custodial authority  
95 over an individual who is younger ~~less~~ than 18 years of age or  
96 60 years of age or older, who willfully and fraudulently uses  
97 personal identification information of that individual commits a  
98 felony of the second degree, punishable as provided in s.  
99 775.082, s. 775.083, or s. 775.084.

100 (11) A person who willfully and without authorization



CS/CS/HB 409, Engrossed 1

2014

101 fraudulently uses personal identification information concerning  
102 an individual who is 60 years of age or older; a disabled adult  
103 as defined in s. 825.101; a public servant as defined in s.  
104 838.014; a veteran as defined in s. 1.01; a first responder as  
105 defined in s. 125.01045; an individual who is employed by the  
106 State of Florida; or an individual who is employed by the  
107 Federal Government without first obtaining the consent of that  
108 individual commits a felony of the second degree, punishable as  
109 provided in s. 775.082, s. 775.083, or s. 775.084.

110 (12) In addition to any sanction imposed when a person  
111 pleads guilty or nolo contendere to, or is found guilty of,  
112 regardless of adjudication, a violation of this section, the  
113 court shall impose a surcharge of \$1,001.

114 (a) The sum of \$500 of the surcharge shall be deposited  
115 into the Department of Law Enforcement Operating Trust Fund for  
116 the department to provide grants to local law enforcement  
117 agencies to investigate offenses related to the criminal use of  
118 personal identification information as provided in s. 943.0412.

119 (b) The sum of \$250 of the surcharge shall be deposited  
120 into the State Attorneys Revenue Trust Fund for the purpose of  
121 funding prosecutions of offenses relating to the criminal use of  
122 personal identification information. The sum of \$250 of the  
123 surcharge shall be deposited into the Public Defenders Revenue  
124 Trust Fund for the purposes of indigent criminal defense related  
125 to the criminal use of personal identification information.



CS/CS/HB 409, Engrossed 1

2014

126        (c) The clerk of the court shall retain \$1 of each \$1,001  
127 surcharge that he or she collects as a service charge of the  
128 clerk's office.

129        (d) The surcharge may not be waived by the court. In the  
130 event that the person has been ordered to pay restitution in  
131 accordance with s. 775.089, the surcharge shall be included in a  
132 judgment.

133        Section 3. Subsections (2), (3), and (8) of section  
134 825.101, Florida Statutes, are amended to read:

135        825.101 Definitions.—As used in this chapter:

136        (2) "Caregiver" means a person who has been entrusted with  
137 or has assumed responsibility for the care or the property of an  
138 elderly person or disabled adult. "Caregiver" includes, but is  
139 not limited to, relatives, court-appointed or voluntary  
140 guardians, adult household members, neighbors, health care  
141 providers, and employees and volunteers of facilities as defined  
142 in subsection (6)~~(7)~~.

143        ~~(3) "Deception" means:~~

144        ~~(a) Misrepresenting or concealing a material fact relating~~  
145 ~~to:~~

146        ~~1. Services rendered, disposition of property, or use of~~  
147 ~~property, when such services or property are intended to benefit~~  
148 ~~an elderly person or disabled adult;~~

149        ~~2. Terms of a contract or agreement entered into with an~~  
150 ~~elderly person or disabled adult; or~~



CS/CS/HB 409, Engrossed 1

2014

151 ~~3. An existing or preexisting condition of any property~~  
152 ~~involved in a contract or agreement entered into with an elderly~~  
153 ~~person or disabled adult; or~~

154 ~~(b) Using any misrepresentation, false pretense, or false~~  
155 ~~promise in order to induce, encourage, or solicit an elderly~~  
156 ~~person or disabled adult to enter into a contract or agreement.~~

157 ~~(8) "Intimidation" means the communication by word or act~~  
158 ~~to an elderly person or disabled adult that the elderly person~~  
159 ~~or disabled adult will be deprived of food, nutrition, clothing,~~  
160 ~~shelter, supervision, medicine, medical services, money, or~~  
161 ~~financial support or will suffer physical violence.~~

162 Section 4. Section 825.103, Florida Statutes, is amended  
163 to read:

164 825.103 Exploitation of an elderly person or disabled  
165 adult; penalties.—

166 (1) "Exploitation of an elderly person or disabled adult"  
167 means:

168 (a) ~~Knowingly, by deception or intimidation,~~ obtaining or  
169 using, or endeavoring to obtain or use, an elderly person's or  
170 disabled adult's funds, assets, or property with the intent to  
171 temporarily or permanently deprive the elderly person or  
172 disabled adult of the use, benefit, or possession of the funds,  
173 assets, or property, or to benefit someone other than the  
174 elderly person or disabled adult, by a person who:

175 1. Stands in a position of trust and confidence with the



CS/CS/HB 409, Engrossed 1

2014

176 elderly person or disabled adult; or

177 2. Has a business relationship with the elderly person or  
178 disabled adult;

179 (b) Obtaining or using, endeavoring to obtain or use, or  
180 conspiring with another to obtain or use an elderly person's or  
181 disabled adult's funds, assets, or property with the intent to  
182 temporarily or permanently deprive the elderly person or  
183 disabled adult of the use, benefit, or possession of the funds,  
184 assets, or property, or to benefit someone other than the  
185 elderly person or disabled adult, by a person who knows or  
186 reasonably should know that the elderly person or disabled adult  
187 lacks the capacity to consent; ~~or~~

188 (c) Breach of a fiduciary duty to an elderly person or  
189 disabled adult by the person's guardian, trustee who is an  
190 individual, or agent under a power of attorney which results in  
191 an unauthorized appropriation, sale, or transfer of property. An  
192 unauthorized appropriation under this paragraph occurs when the  
193 elderly person or disabled adult does not receive the reasonably  
194 equivalent financial value in goods or services, or when the  
195 fiduciary violates any of these duties:

196 1. For agents appointed under chapter 709:

197 a. Committing fraud in obtaining their appointments;

198 b. Abusing their powers;

199 c. Wasting, embezzling, or intentionally mismanaging the  
200 assets of the principal or beneficiary; or





201        d. Acting contrary to the principal's sole benefit or best  
202 interest; or

203        2. For guardians and trustees who are individuals and who  
204 are appointed under chapter 736 or chapter 744:

205            a. Committing fraud in obtaining their appointments;  
206            b. Abusing their powers; or

207            c. Wasting, embezzling, or intentionally mismanaging the  
208 assets of the ward or beneficiary of the trust;

209            (d) Misappropriating, misusing, or transferring without  
210 authorization money belonging to an elderly person or disabled  
211 adult from an account in which the elderly person or disabled  
212 adult placed the funds, owned the funds, and was the sole  
213 contributor or payee of the funds before the misappropriation,  
214 misuse, or unauthorized transfer. This paragraph only applies to  
215 the following types of accounts:

216            1. Personal accounts;

217            2. Joint accounts created with the intent that only the  
218 elderly person or disabled adult enjoys all rights, interests,  
219 and claims to moneys deposited into such account; or

220            3. Convenience accounts created in accordance with s.  
221 655.80; or

222            (e) Intentionally or negligently failing to effectively  
223 use an elderly person's or disabled adult's income and assets  
224 for the necessities required for that person's support and  
225 maintenance, by a caregiver or a person who stands in a position



226 of trust and confidence with the elderly person or disabled  
227 adult.

228 (2) Any inter vivos transfer of money or property valued  
229 in excess of \$10,000 at the time of the transfer, whether in a  
230 single transaction or multiple transactions, by a person age 65  
231 or older to a nonrelative whom the transferor knew for fewer  
232 than 2 years before the first transfer and for which the  
233 transferor did not receive the reasonably equivalent financial  
234 value in goods or services creates a permissive presumption that  
235 the transfer was the result of exploitation.

236 (a) This subsection applies regardless of whether the  
237 transfer or transfers are denoted by the parties as a gift or  
238 loan, except that it does not apply to a valid loan evidenced in  
239 writing that includes definite repayment dates. However, if  
240 repayment of any such loan is in default, in whole or in part,  
241 for more than 65 days, the presumption of this subsection  
242 applies.

243 (b) This subsection does not apply to:

- 244 1. Persons who are in the business of making loans.  
245 2. Bona fide charitable donations to nonprofit  
246 organizations that qualify for tax exempt status under the  
247 Internal Revenue Code.

248 (c) In a criminal case to which this subsection applies,  
249 if the trial is by jury, jurors shall be instructed that they  
250 may, but are not required to, draw an inference of exploitation



251 upon proof beyond a reasonable doubt of the facts listed in this  
252 subsection. The presumption of this subsection imposes no burden  
253 of proof on the defendant.

254 (3)~~(2)~~ (a) If the funds, assets, or property involved in  
255 the exploitation of the elderly person or disabled adult is  
256 valued at \$50,000 ~~\$100,000~~ or more, the offender commits a  
257 felony of the first degree, punishable as provided in s.  
258 775.082, s. 775.083, or s. 775.084.

259 (b) If the funds, assets, or property involved in the  
260 exploitation of the elderly person or disabled adult is valued  
261 at \$10,000 ~~\$20,000~~ or more, but less than \$50,000 ~~\$100,000~~, the  
262 offender commits a felony of the second degree, punishable as  
263 provided in s. 775.082, s. 775.083, or s. 775.084.

264 (c) If the funds, assets, or property involved in the  
265 exploitation of an elderly person or disabled adult is valued at  
266 less than \$10,000 ~~\$20,000~~, the offender commits a felony of the  
267 third degree, punishable as provided in s. 775.082, s. 775.083,  
268 or s. 775.084.

269 (4) If a person is charged with financial exploitation of  
270 an elderly person or disabled adult that involves the taking of  
271 or loss of property valued at more than \$5,000 and property  
272 belonging to a victim is seized from the defendant pursuant to a  
273 search warrant, the court shall hold an evidentiary hearing and  
274 determine, by a preponderance of the evidence, whether the  
275 defendant unlawfully obtained the victim's property. If the



CS/CS/HB 409, Engrossed 1

2014

276 court finds that the property was unlawfully obtained, the court  
277 may order it returned to the victim for restitution purposes  
278 before trial on the charge. This determination is inadmissible  
279 in evidence at trial on the charge and does not give rise to any  
280 inference that the defendant has committed an offense under this  
281 section.

282 Section 5. Section 943.0412, Florida Statutes, is created  
283 to read:

284 943.0412 Identity Theft and Fraud Grant Program.—

285 (1) There is created the Identity Theft and Fraud Grant  
286 Program within the department to award grants to support local  
287 law enforcement agencies in the investigation and enforcement of  
288 personal identification information theft and fraud. Grants  
289 shall be provided if funds are appropriated for that purpose by  
290 law.

291 (2) Funds collected pursuant to s. 817.568(12)(a) and any  
292 funds specifically appropriated for the grant program shall be  
293 awarded annually by the department to local law enforcement  
294 agencies. The total amount of grants awarded may not exceed  
295 funding appropriated for the grant program.

296 (3) The department may establish criteria and set specific  
297 time periods for the acceptance of applications and for the  
298 selection process for awards.

299 Section 6. Paragraph (a) of subsection (5) of section  
300 775.0844, Florida Statutes, is amended to read:



301           775.0844 White Collar Crime Victim Protection Act.—  
 302           (5) Any person who commits an aggravated white collar  
 303 crime as defined in this section and in so doing either:  
 304           (a) Victimized 10 or more elderly persons, as defined in  
 305 s. 825.101~~(5)~~;  
 306  
 307 and thereby obtains or attempts to obtain \$50,000 or more,  
 308 commits a felony of the first degree, punishable as provided in  
 309 s. 775.082, s. 775.083, or s. 775.084.

310           Section 7. Paragraphs (f), (g), and (h) of subsection (3)  
 311 of section 921.0022, Florida Statutes, are amended to read:

312           921.0022 Criminal Punishment Code; offense severity  
 313 ranking chart.—

314           (3) OFFENSE SEVERITY RANKING CHART  
 315           (f) LEVEL 6  
 316

| Florida<br>Statute | Felony<br>Degree | Description                                  |
|--------------------|------------------|--|
| 316.193(2)(b)      | 3rd              | Felony DUI, 4th or subsequent<br>conviction. |
| 499.0051(3)        | 2nd              | Knowing forgery of pedigree<br>papers.       |



|     |                 |     |  |
|-----|-----------------|-----|--|
| 320 | 499.0051 (4)    | 2nd | Knowing purchase or receipt of prescription drug from unauthorized person. |
| 321 | 499.0051 (5)    | 2nd | Knowing sale or transfer of prescription drug to unauthorized person.      |
| 322 | 775.0875 (1)    | 3rd | Taking firearm from law enforcement officer.                               |
| 323 | 784.021 (1) (a) | 3rd | Aggravated assault; deadly weapon without intent to kill.                  |
| 324 | 784.021 (1) (b) | 3rd | Aggravated assault; intent to commit felony.                               |
| 325 | 784.041         | 3rd | Felony battery; domestic battery by strangulation.                         |
| 326 | 784.048 (3)     | 3rd | Aggravated stalking; credible threat.                                      |
|     | 784.048 (5)     | 3rd | Aggravated stalking of person under 16.                                    |



|     |                 |     |   |
|-----|-----------------|-----|---|
| 327 | 784.07 (2) (c)  | 2nd | Aggravated assault on law enforcement officer.                              |
| 328 | 784.074 (1) (b) | 2nd | Aggravated assault on sexually violent predators facility staff.            |
| 329 | 784.08 (2) (b)  | 2nd | Aggravated assault on a person 65 years of age or older.                    |
| 330 | 784.081 (2)     | 2nd | Aggravated assault on specified official or employee.                       |
| 331 | 784.082 (2)     | 2nd | Aggravated assault by detained person on visitor or other detainee.         |
| 332 | 784.083 (2)     | 2nd | Aggravated assault on code inspector.                                       |
| 333 | 787.02 (2)      | 3rd | False imprisonment; restraining with purpose other than those in s. 787.01. |
| 334 |                 |     |   |



|     |                 |     |  |
|-----|-----------------|-----|--|
| 335 | 790.115 (2) (d) | 2nd | Discharging firearm or weapon on school property.  |
| 336 | 790.161 (2)     | 2nd | Make, possess, or throw destructive device with intent to do bodily harm or damage property.                 |
| 337 | 790.164 (1)     | 2nd | False report of deadly explosive, weapon of mass destruction, or act of arson or violence to state property. |
| 338 | 790.19          | 2nd | Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.                                   |
| 339 | 794.011 (8) (a) | 3rd | Solicitation of minor to participate in sexual activity by custodial adult.                                  |
| 340 | 794.05 (1)      | 2nd | Unlawful sexual activity with specified minor.   |
|     | 800.04 (5) (d)  | 3rd | Lewd or lascivious molestation;  |





victim 12 years of age or older  
 but less than 16 years;  
 offender less than 18 years.

341

800.04 (6) (b)            2nd    Lewd or lascivious conduct;  
 offender 18 years of age or  
 older.

342

806.031 (2)            2nd    Arson resulting in great bodily  
 harm to firefighter or any  
 other person.

343

810.02 (3) (c)           2nd    Burglary of occupied structure;  
 unarmed; no assault or battery.

344

810.145 (8) (b)        2nd    Video voyeurism; certain minor  
 victims; 2nd or subsequent  
 offense.

345

812.014 (2) (b) 1.      2nd    Property stolen \$20,000 or  
 more, but less than \$100,000,  
 grand theft in 2nd degree.

346

812.014 (6)            2nd    Theft; property stolen \$3,000  
 or more; coordination of



others.

347

812.015 (9) (a) 2nd Retail theft; property stolen  
\$300 or more; second or  
subsequent conviction.

348

812.015 (9) (b) 2nd Retail theft; property stolen  
\$3,000 or more; coordination of  
others.

349

812.13 (2) (c) 2nd Robbery, no firearm or other  
weapon (strong-arm robbery).

350

817.4821 (5) 2nd Possess cloning paraphernalia  
with intent to create cloned  
cellular telephones.

351

825.102 (1) 3rd Abuse of an elderly person or  
disabled adult.

352

825.102 (3) (c) 3rd Neglect of an elderly person or  
disabled adult.

353

825.1025 (3) 3rd Lewd or lascivious molestation  
of an elderly person or



disabled adult.

354

825.103(3)(c)  
~~825.103(2)(c)~~

3rd

Exploiting an elderly person or disabled adult and property is valued at less than \$10,000 ~~\$20,000~~.

355

827.03(2)(c)

3rd

Abuse of a child.

356

827.03(2)(d)

3rd

Neglect of a child.

357

827.071(2) & (3)

2nd

Use or induce a child in a sexual performance, or promote or direct such performance.

358

836.05

2nd

Threats; extortion.

359

836.10

2nd

Written threats to kill or do bodily injury.

360

843.12

3rd

Aids or assists person to escape.

361

847.011

3rd

Distributing, offering to distribute, or possessing with



intent to distribute obscene materials depicting minors.

362

847.012 3rd Knowingly using a minor in the production of materials harmful to minors.

363

847.0135(2) 3rd Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.

364

914.23 2nd Retaliation against a witness, victim, or informant, with bodily injury.

365

944.35(3)(a)2. 3rd Committing malicious battery upon or inflicting cruel or inhuman treatment on an inmate or offender on community supervision, resulting in great bodily harm.

366

944.40 2nd Escapes.

367

944.46 3rd Harboring, concealing, aiding



368 escaped prisoners.

944.47(1)(a)5. 2nd Introduction of contraband  
(firearm, weapon, or explosive)  
into correctional facility.

951.22(1) 3rd Intoxicating drug, firearm, or  
weapon introduced into county  
facility.

(g) LEVEL 7

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

|               |     |  |
|---------------|-----|--|
| 316.027(1)(b) | 1st | Accident involving death,<br>failure to stop; leaving scene. |
|---------------|-----|--|

|                 |     |  |
|-----------------|-----|--|
| 316.193(3)(c)2. | 3rd | DUI resulting in serious bodily<br>injury. |
|-----------------|-----|--|

|                |     |  |
|----------------|-----|--|
| 316.1935(3)(b) | 1st | Causing serious bodily injury<br>or death to another person;<br>driving at high speed or with<br>wanton disregard for safety |
|----------------|-----|--|



while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.

376

327.35 (3) (c) 2. 3rd Vessel BUI resulting in serious bodily injury.

377

402.319 (2) 2nd Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.

378

409.920 3rd Medicaid provider fraud;  
(2) (b) 1.a. \$10,000 or less.

379

409.920 2nd Medicaid provider fraud; more  
(2) (b) 1.b. than \$10,000, but less than \$50,000.

380

456.065 (2) 3rd Practicing a health care profession without a license.

381

456.065 (2) 2nd Practicing a health care



profession without a license  
which results in serious bodily  
injury.

382

458.327(1) 3rd Practicing medicine without a  
license.

383

459.013(1) 3rd Practicing osteopathic medicine  
without a license.

384

460.411(1) 3rd Practicing chiropractic  
medicine without a license.

385

461.012(1) 3rd Practicing podiatric medicine  
without a license.

386

462.17 3rd Practicing naturopathy without  
a license.

387

463.015(1) 3rd Practicing optometry without a  
license.

388

464.016(1) 3rd Practicing nursing without a  
license.

389



|     |                 |     |   |
|-----|-----------------|-----|---|
| 390 | 465.015 (2)     | 3rd | Practicing pharmacy without a license.                          |
| 391 | 466.026 (1)     | 3rd | Practicing dentistry or dental hygiene without a license.       |
| 392 | 467.201         | 3rd | Practicing midwifery without a license.                         |
| 393 | 468.366         | 3rd | Delivering respiratory care services without a license.         |
| 394 | 483.828 (1)     | 3rd | Practicing as clinical laboratory personnel without a license.  |
| 395 | 483.901 (9)     | 3rd | Practicing medical physics without a license.                   |
| 396 | 484.013 (1) (c) | 3rd | Preparing or dispensing optical devices without a prescription. |
| 397 | 484.053         | 3rd | Dispensing hearing aids without a license.                      |





|     |                    |     |  |
|-----|--------------------|-----|--|
|     | 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. |
| 398 | 560.123 (8) (b) 1. | 3rd | Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by a money services business.   |
| 399 | 560.125 (5) (a)    | 3rd | Money services business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.  |
| 400 | 655.50 (10) (b) 1. | 3rd | Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.  |
| 401 | 775.21 (10) (a)    | 3rd | Sexual predator; failure to register; failure to renew   |



driver's license or  
 identification card; other  
 registration violations.

402

775.21(10)(b) 3rd Sexual predator working where  
 children regularly congregate.

403

775.21(10)(g) 3rd Failure to report or providing  
 false information about a  
 sexual predator; harbor or  
 conceal a sexual predator.

404

782.051(3) 2nd Attempted felony murder of a  
 person by a person other than  
 the perpetrator or the  
 perpetrator of an attempted  
 felony.

405

782.07(1) 2nd Killing of a human being by the  
 act, procurement, or culpable  
 negligence of another  
 (manslaughter).

406

782.071 2nd Killing of a human being or  
 viable fetus by the operation



of a motor vehicle in a reckless manner (vehicular homicide).

407

782.072                      2nd      Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).

408

784.045 (1) (a) 1.            2nd      Aggravated battery; intentionally causing great bodily harm or disfigurement.

409

784.045 (1) (a) 2.            2nd      Aggravated battery; using deadly weapon.

410

784.045 (1) (b)                2nd      Aggravated battery; perpetrator aware victim pregnant.

411

784.048 (4)                      3rd      Aggravated stalking; violation of injunction or court order.

412

784.048 (7)                      3rd      Aggravated stalking; violation of court order.

413



|     |               |     |   |
|-----|---------------|-----|---|
| 414 | 784.07(2)(d)  | 1st | Aggravated battery on law enforcement officer.                      |
| 415 | 784.074(1)(a) | 1st | Aggravated battery on sexually violent predators facility staff.    |
| 416 | 784.08(2)(a)  | 1st | Aggravated battery on a person 65 years of age or older.            |
| 417 | 784.081(1)    | 1st | Aggravated battery on specified official or employee.               |
| 418 | 784.082(1)    | 1st | Aggravated battery by detained person on visitor or other detainee. |
| 419 | 784.083(1)    | 1st | Aggravated battery on code inspector.                               |
| 420 | 787.06(3)(a)  | 1st | Human trafficking using coercion for labor and services.            |
|     | 787.06(3)(e)  | 1st | Human trafficking using   |



coercion for labor and services  
by the transfer or transport of  
any individual from outside  
Florida to within the state.

421

790.07(4)                      1st      Specified weapons violation  
subsequent to previous  
conviction of s. 790.07(1) or  
(2).

422

790.16(1)                      1st      Discharge of a machine gun  
under specified circumstances.

423

790.165(2)                      2nd      Manufacture, sell, possess, or  
deliver hoax bomb.

424

790.165(3)                      2nd      Possessing, displaying, or  
threatening to use any hoax  
bomb while committing or  
attempting to commit a felony.

425

790.166(3)                      2nd      Possessing, selling, using, or  
attempting to use a hoax weapon  
of mass destruction.

426



|     |                |         |  |
|-----|----------------|---------|--|
| 427 | 790.166(4)     | 2nd     | Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.     |
| 428 | 790.23         | 1st,PBL | Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.                              |
| 429 | 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. |
| 430 | 796.03         | 2nd     | Procuring any person under 16 years for prostitution.  |
| 431 | 800.04(5)(c)1. | 2nd     | Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years.   |



|     |                    |     |  |
|-----|--------------------|-----|--|
| 432 | 800.04 (5) (c) 2.  | 2nd | Lewd or lascivious molestation;<br>victim 12 years of age or older<br>but less than 16 years;<br>offender 18 years or older. |
| 433 | 806.01 (2)         | 2nd | Maliciously damage structure by<br>fire or explosive.  |
| 434 | 810.02 (3) (a)     | 2nd | Burglary of occupied dwelling;<br>unarmed; no assault or battery.  |
| 435 | 810.02 (3) (b)     | 2nd | Burglary of unoccupied<br>dwelling; unarmed; no assault<br>or battery.   |
| 436 | 810.02 (3) (d)     | 2nd | Burglary of occupied<br>conveyance; unarmed; no assault<br>or battery.   |
| 437 | 810.02 (3) (e)     | 2nd | Burglary of authorized<br>emergency vehicle.   |
|     | 812.014 (2) (a) 1. | 1st | Property stolen, valued at<br>\$100,000 or more or a<br>semitrailer deployed by a law  |



enforcement officer; property  
 stolen while causing other  
 property damage; 1st degree  
 grand theft.

438

812.014 (2) (b) 2.            2nd    Property stolen, cargo valued  
 at less than \$50,000, grand  
 theft in 2nd degree.

439

812.014 (2) (b) 3.            2nd    Property stolen, emergency  
 medical equipment; 2nd degree  
 grand theft.

440

812.014 (2) (b) 4.            2nd    Property stolen, law  
 enforcement equipment from  
 authorized emergency vehicle.

441

812.0145 (2) (a)            1st    Theft from person 65 years of  
 age or older; \$50,000 or more.

442

812.019 (2)                    1st    Stolen property; initiates,  
 organizes, plans, etc., the  
 theft of property and traffics  
 in stolen property.

443





|     |                                  |     |  |
|-----|----------------------------------|-----|--|
| 444 | 812.131 (2) (a)                  | 2nd | Robbery by sudden snatching.   |
| 445 | 812.133 (2) (b)                  | 1st | Carjacking; no firearm, deadly<br>weapon, or other weapon.   |
| 446 | 817.034 (4) (a) 1.               | 1st | Communications fraud, value<br>greater than \$50,000.  |
| 447 | 817.234 (8) (a)                  | 2nd | Solicitation of motor vehicle<br>accident victims with intent to<br>defraud.   |
| 448 | 817.234 (9)                      | 2nd | Organizing, planning, or<br>participating in an intentional<br>motor vehicle collision.  |
| 449 | 817.234 (11) (c)                 | 1st | Insurance fraud; property value<br>\$100,000 or more.  |
|     | 817.2341<br>(2) (b) &<br>(3) (b) | 1st | Making false entries of<br>material fact or false<br>statements regarding property<br>values relating to the solvency<br>of an insuring entity which are<br>a significant cause of the |



insolvency of that entity.

450

817.535 (2) (a) 3rd Filing false lien or other unauthorized document.

451

825.102 (3) (b) 2nd Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.

452

825.103 (3) (b) 2nd Exploiting an elderly person or disabled adult and property is valued at \$10,000 ~~\$20,000~~ or more, but less than \$50,000 ~~\$100,000~~.

453

827.03 (2) (b) 2nd Neglect of a child causing great bodily harm, disability, or disfigurement.

454

827.04 (3) 3rd Impregnation of a child under 16 years of age by person 21 years of age or older.

455

837.05 (2) 3rd Giving false information about



alleged capital felony to a law enforcement officer.

456

838.015 2nd Bribery.

457

838.016 2nd Unlawful compensation or reward for official behavior.

458

838.021 (3) (a) 2nd Unlawful harm to a public servant.

459

838.22 2nd Bid tampering.

460

843.0855 (2) 3rd Impersonation of a public officer or employee.

461

843.0855 (3) 3rd Unlawful simulation of legal process.

462

843.0855 (4) 3rd Intimidation of a public officer or employee.

463

847.0135 (3) 3rd Solicitation of a child, via a computer service, to commit an unlawful sex act.



|     |                |          |   |
|-----|----------------|----------|---|
| 464 | 847.0135(4)    | 2nd      | Traveling to meet a minor to commit an unlawful sex act.  |
| 465 | 872.06         | 2nd      | Abuse of a dead human body.   |
| 466 | 874.05(2)(b)   | 1st      | Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.  |
| 467 | 874.10         | 1st, PBL | Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.  |
| 468 | 893.13(1)(c)1. | 1st      | Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned |



recreational facility or  
community center.

469

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.

470

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).

471

893.135(1)(a)1.        1st    Trafficking in cannabis, more  
than 25 lbs., less than 2,000  
lbs.

472

893.135                    1st    Trafficking in cocaine, more  
(1)(b)1.a.                than 28 grams, less than 200  
grams.

473



|     |                         |     |  |
|-----|-------------------------|-----|--|
| 474 | 893.135<br>(1) (c) 1.a. | 1st | Trafficking in illegal drugs,<br>more than 4 grams, less than 14<br>grams.                           |
| 475 | 893.135 (1) (d) 1.      | 1st | Trafficking in phencyclidine,<br>more than 28 grams, less than<br>200 grams.                         |
| 476 | 893.135 (1) (e) 1.      | 1st | Trafficking in methaqualone,<br>more than 200 grams, less than<br>5 kilograms.                       |
| 477 | 893.135 (1) (f) 1.      | 1st | Trafficking in amphetamine,<br>more than 14 grams, less than<br>28 grams.                            |
| 478 | 893.135<br>(1) (g) 1.a. | 1st | Trafficking in flunitrazepam, 4<br>grams or more, less than 14<br>grams.                             |
| 479 | 893.135<br>(1) (h) 1.a. | 1st | Trafficking in gamma-<br>hydroxybutyric acid (GHB), 1<br>kilogram or more, less than 5<br>kilograms. |



|     |                         |     |  |
|-----|-------------------------|-----|--|
| 480 | 893.135<br>(1) (j) 1.a. | 1st | Trafficking in 1,4-Butanediol,<br>1 kilogram or more, less than 5<br>kilograms.  |
| 481 | 893.135<br>(1) (k) 2.a. | 1st | Trafficking in Phenethylamines,<br>10 grams or more, less than 200<br>grams.   |
| 482 | 893.1351 (2)            | 2nd | Possession of place for<br>trafficking in or manufacturing<br>of controlled substance.   |
| 483 | 896.101 (5) (a)         | 3rd | Money laundering, financial<br>transactions exceeding \$300 but<br>less than \$20,000.   |
| 484 | 896.104 (4) (a) 1.      | 3rd | Structuring transactions to<br>evade reporting or registration<br>requirements, financial<br>transactions exceeding \$300 but<br>less than \$20,000. |
|     | 943.0435 (4) (c)        | 2nd | Sexual offender vacating<br>permanent residence; failure to<br>comply with reporting   |



requirements.

485

943.0435 (8) 2nd Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.

486

943.0435 (9) (a) 3rd Sexual offender; failure to comply with reporting requirements.

487

943.0435 (13) 3rd Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.

488

943.0435 (14) 3rd Sexual offender; failure to report and reregister; failure to respond to address verification.

489

944.607 (9) 3rd Sexual offender; failure to comply with reporting requirements.

490





|     |                |     |  |
|-----|----------------|-----|--|
| 491 | 944.607(10)(a) | 3rd | Sexual offender; failure to submit to the taking of a digitized photograph.                                    |
| 492 | 944.607(12)    | 3rd | Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender. |
| 493 | 944.607(13)    | 3rd | Sexual offender; failure to report and reregister; failure to respond to address verification.                 |
| 494 | 985.4815(10)   | 3rd | Sexual offender; failure to submit to the taking of a digitized photograph.                                    |
| 495 | 985.4815(12)   | 3rd | Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender. |
|     | 985.4815(13)   | 3rd | Sexual offender; failure to report and reregister; failure   |



to respond to address  
verification.

496

497 (h) LEVEL 8

498

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

499

|              |     |                   |
|--------------|-----|-------------------|
| 316.193      | 2nd | DUI manslaughter. |
| (3) (c) 3.a. |     |                   |

500

|                  |     |  |
|------------------|-----|--|
| 316.1935 (4) (b) | 1st | Aggravated fleeing or attempted<br>eluding with serious bodily<br>injury or death. |
|------------------|-----|--|

501

|                   |     |                          |
|-------------------|-----|--------------------------|
| 327.35 (3) (c) 3. | 2nd | Vessel BUI manslaughter. |
|-------------------|-----|--------------------------|

502

|              |     |  |
|--------------|-----|--|
| 499.0051 (7) | 1st | Knowing trafficking in<br>contraband prescription drugs. |
|--------------|-----|--|

503

|              |     |   |
|--------------|-----|---|
| 499.0051 (8) | 1st | Knowing forgery of prescription<br>labels or prescription drug<br>labels. |
|--------------|-----|---|

504

|                    |     |                               |
|--------------------|-----|-------------------------------|
| 560.123 (8) (b) 2. | 2nd | Failure to report currency or |
|--------------------|-----|-------------------------------|



payment instruments totaling or exceeding \$20,000, but less than \$100,000 by money transmitter.

505

560.125 (5) (b)            2nd    Money transmitter business by unauthorized person, currency or payment instruments totaling or exceeding \$20,000, but less than \$100,000.

506

655.50 (10) (b) 2.        2nd    Failure to report financial transactions totaling or exceeding \$20,000, but less than \$100,000 by financial institutions.

507

777.03 (2) (a)            1st    Accessory after the fact, capital felony.

508

782.04 (4)                2nd    Killing of human without design when engaged in act or attempt of any felony other than arson, sexual battery, robbery, burglary, kidnapping,



aggravated fleeing or eluding  
with serious bodily injury or  
death, aircraft piracy, or  
unlawfully discharging bomb.

509

782.051 (2) 1st Attempted felony murder while  
perpetrating or attempting to  
perpetrate a felony not  
enumerated in s. 782.04(3).

510

782.071 (1) (b) 1st Committing vehicular homicide  
and failing to render aid or  
give information.

511

782.072 (2) 1st Committing vessel homicide and  
failing to render aid or give  
information.

512

787.06 (3) (b) 1st Human trafficking using  
coercion for commercial sexual  
activity.

513

787.06 (3) (c) 1st Human trafficking using  
coercion for labor and services  
of an unauthorized alien.



|     |                |     |  |
|-----|----------------|-----|--|
| 514 | 787.06 (3) (f) | 1st | Human trafficking using coercion for commercial sexual activity by the transfer or transport of any individual from outside Florida to within the state. |
| 515 | 790.161 (3)    | 1st | Discharging a destructive device which results in bodily harm or property damage.  |
| 516 | 794.011 (5)    | 2nd | Sexual battery, victim 12 years or over, offender does not use physical force likely to cause serious injury.  |
| 517 | 794.08 (3)     | 2nd | Female genital mutilation, removal of a victim younger than 18 years of age from this state.   |
| 518 | 800.04 (4)     | 2nd | Lewd or lascivious battery.  |
| 519 | 806.01 (1)     | 1st | Maliciously damage dwelling or   |



structure by fire or explosive,  
believing person in structure.

520

810.02 (2) (a) 1st, PBL Burglary with assault or  
battery.

521

810.02 (2) (b) 1st, PBL Burglary; armed with explosives  
or dangerous weapon.

522

810.02 (2) (c) 1st Burglary of a dwelling or  
structure causing structural  
damage or \$1,000 or more  
property damage.

523

812.014 (2) (a) 2. 1st Property stolen; cargo valued  
at \$50,000 or more, grand theft  
in 1st degree.

524

812.13 (2) (b) 1st Robbery with a weapon.

525

812.135 (2) (c) 1st Home-invasion robbery, no  
firearm, deadly weapon, or  
other weapon.

526

817.535 (2) (b) 2nd Filing false lien or other



unauthorized document; second  
or subsequent offense.

527

817.535 (3) (a) 2nd Filing false lien or other  
unauthorized document; property  
owner is a public officer or  
employee.

528

817.535 (4) (a) 1. 2nd Filing false lien or other  
unauthorized document;  
defendant is incarcerated or  
under supervision.

529

817.535 (5) (a) 2nd Filing false lien or other  
unauthorized document; owner of  
the property incurs financial  
loss as a result of the false  
instrument.

530

817.568 (6) 2nd Fraudulent use of personal  
identification information of  
an individual under the age of  
18.

531

825.102 (2) 1st Aggravated abuse of an elderly



person or disabled adult.

532

825.1025 (2) 2nd Lewd or lascivious battery upon an elderly person or disabled adult.

533

825.103 (3) (a) 1st Exploiting an elderly person or disabled adult and property is valued at \$50,000 ~~\$100,000~~ or more.  
~~825.103 (2) (a)~~

534

837.02 (2) 2nd Perjury in official proceedings relating to prosecution of a capital felony.

535

837.021 (2) 2nd Making contradictory statements in official proceedings relating to prosecution of a capital felony.

536

860.121 (2) (c) 1st Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.

537





|     |                       |     |   |
|-----|-----------------------|-----|---|
| 538 | 860.16                | 1st | Aircraft piracy.  |
| 539 | 893.13(1)(b)          | 1st | Sell or deliver in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b). |
| 540 | 893.13(2)(b)          | 1st | Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).        |
| 541 | 893.13(6)(c)          | 1st | Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).         |
| 542 | 893.135(1)(a)2.       | 1st | Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.                        |
| 543 | 893.135<br>(1)(b)1.b. | 1st | Trafficking in cocaine, more than 200 grams, less than 400 grams.                           |
|     | 893.135<br>(1)(c)1.b. | 1st | Trafficking in illegal drugs, more than 14 grams, less than                                 |



28 grams.

544

893.135 1st Trafficking in phencyclidine,  
 (1) (d) 1.b. more than 200 grams, less than  
 400 grams.

545

893.135 1st Trafficking in methaqualone,  
 (1) (e) 1.b. more than 5 kilograms, less  
 than 25 kilograms.

546

893.135 1st Trafficking in amphetamine,  
 (1) (f) 1.b. more than 28 grams, less than  
 200 grams.

547

893.135 1st Trafficking in flunitrazepam,  
 (1) (g) 1.b. 14 grams or more, less than 28  
 grams.

548

893.135 1st Trafficking in gamma-  
 (1) (h) 1.b. hydroxybutyric acid (GHB), 5  
 kilograms or more, less than 10  
 kilograms.

549

893.135 1st Trafficking in 1,4-Butanediol,  
 (1) (j) 1.b. 5 kilograms or more, less than



10 kilograms.

550

893.135 (1) (k) 2.b. 1st Trafficking in Phenethylamines,  
200 grams or more, less than  
400 grams.

551

893.1351 (3) 1st Possession of a place used to  
manufacture controlled  
substance when minor is present  
or resides there.

552

895.03 (1) 1st Use or invest proceeds derived  
from pattern of racketeering  
activity.

553

895.03 (2) 1st Acquire or maintain through  
racketeering activity any  
interest in or control of any  
enterprise or real property.

554

895.03 (3) 1st Conduct or participate in any  
enterprise through pattern of  
racketeering activity.

555

896.101 (5) (b) 2nd Money laundering, financial



transactions totaling or  
 exceeding \$20,000, but less  
 than \$100,000.

556

896.104(4)(a)2.            2nd     Structuring transactions to  
 evade reporting or registration  
 requirements, financial  
 transactions totaling or  
 exceeding \$20,000 but less than  
 \$100,000.

557

558            Section 8. For the purpose of incorporating the amendment  
 559 made by this act to section 825.103, Florida Statutes, in a  
 560 reference thereto, subsection (1) of section 772.11, Florida  
 561 Statutes, is reenacted to read:

562            772.11 Civil remedy for theft or exploitation.—

563            (1) Any person who proves by clear and convincing evidence  
 564 that he or she has been injured in any fashion by reason of any  
 565 violation of ss. 812.012-812.037 or s. 825.103(1) has a cause of  
 566 action for threefold the actual damages sustained and, in any  
 567 such action, is entitled to minimum damages in the amount of  
 568 \$200, and reasonable attorney's fees and court costs in the  
 569 trial and appellate courts. Before filing an action for damages  
 570 under this section, the person claiming injury must make a  
 571 written demand for \$200 or the treble damage amount of the



CS/CS/HB 409, Engrossed 1

2014

572 person liable for damages under this section. If the person to  
573 whom a written demand is made complies with such demand within  
574 30 days after receipt of the demand, that person shall be given  
575 a written release from further civil liability for the specific  
576 act of theft or exploitation by the person making the written  
577 demand. Any person who has a cause of action under this section  
578 may recover the damages allowed under this section from the  
579 parents or legal guardian of any unemancipated minor who lives  
580 with his or her parents or legal guardian and who is liable for  
581 damages under this section. Punitive damages may not be awarded  
582 under this section. The defendant is entitled to recover  
583 reasonable attorney's fees and court costs in the trial and  
584 appellate courts upon a finding that the claimant raised a claim  
585 that was without substantial fact or legal support. In awarding  
586 attorney's fees and costs under this section, the court may not  
587 consider the ability of the opposing party to pay such fees and  
588 costs. This section does not limit any right to recover  
589 attorney's fees or costs provided under any other law.

590 Section 9. This act shall take effect October 1, 2014.