

By the Committee on Banking and Insurance; and Senator Bradley

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1 A bill to be entitled
2 An act relating to insurance fraud; repealing s.
3 400.993, F.S., relating to criminal penalties
4 applicable to unlicensed health care clinics and the
5 reporting of unlicensed health care clinics; amending
6 s. 400.9935, F.S.; revising provisions related to
7 unlawful, noncompensable, and unenforceable health
8 care clinic charges or reimbursement claims; revising
9 and providing criminal penalties for making unlawful
10 charges, operating or failing to report an unlicensed
11 clinic, filing false or misleading information related
12 to a clinic license application, and other violations;
13 defining the term "convicted"; amending s. 626.9894,
14 F.S.; conforming provisions to changes made by the
15 act; repealing s. 626.9895, F.S., relating to the
16 establishment of a motor vehicle insurance fraud
17 direct-support organization; amending s. 921.0022,
18 F.S.; conforming provisions of the offense severity
19 ranking chart of the Criminal Punishment Code to
20 changes made by the act; providing an effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. Section 400.993, Florida Statutes, is repealed.

25 Section 2. Subsections (3) and (4) of section 400.9935,
26 Florida Statutes, are amended to read:

27 400.9935 Clinic responsibilities.—

28 (3) A charge ~~All charges~~ or reimbursement claim ~~claims~~ made
29 by or on behalf of a clinic that is required to be licensed

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30 under this part, but that is not so licensed, or that is
31 otherwise operating in violation of this part or rules of the
32 agency, regardless of whether a service is rendered or whether
33 the charge or reimbursement claim is paid, is an, are unlawful
34 charge charges, and is therefore are noncompensable and
35 unenforceable. A person who knowingly makes or causes to be made
36 an unlawful charge commits theft within the meaning of, and
37 punishable as provided in, s. 812.014.

38 (4) (a) Regardless of whether notification is provided by
39 the agency under In addition to the requirements of s. 408.812,
40 a any person commits a felony of the third degree, punishable as
41 provided in s. 775.082, s. 775.083, or s. 775.084, if the person
42 knowingly:

43 1. Establishes, owns, operates, manages, or maintains
44 establishing, operating, or managing an unlicensed clinic
45 ~~otherwise~~ required to be licensed under this part or part II of
46 chapter 408; or

47 2. Offers or advertises services that require licensure as
48 a clinic under this part or part II of chapter 408 without a
49 license.

50 (b) If the agency provides notification under s. 408.812
51 of, or if a person is arrested for, a violation of subparagraph
52 (a)1. or subparagraph (a)2., each day during which a violation
53 of subparagraph (a)1. or subparagraph (a)2. occurs constitutes a
54 separate offense.

55 (c) A person convicted of a second or subsequent violation
56 of subparagraph (a)1. or subparagraph (a)2. commits a felony of
57 the second degree, punishable as provided in s. 775.082, s.
58 775.083, or s. 775.084. If the agency provides notification of,

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59 or if a person is arrested for, a violation of this paragraph,
60 each day that this paragraph is violated thereafter constitutes
61 a separate offense. For purposes of this paragraph, the term
62 "convicted" means a determination of guilt which is the result
63 of a trial or the entry of a plea of guilty or nolo contendere,
64 regardless of whether adjudication is withheld.

65 (d) In addition to the requirements of part II of chapter
66 408, a health care provider who is aware of the operation of an
67 unlicensed clinic shall report the clinic to the agency. The
68 agency shall report to the provider's licensing board a failure
69 to report a clinic that the provider knows or has reasonable
70 cause to suspect is unlicensed.

71 (e) A person commits a felony of the third degree,
72 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,
73 if the any person who knowingly:

74 1. Files a false or misleading license application or
75 license renewal application, or files false or misleading
76 information related to such application or agency department
77 rule; or

78 2. Fails to report information to the agency as required by
79 s. 408.810(3), commits a felony of the third degree, punishable
80 as provided in s. 775.082, s. 775.083, or s. 775.084.

81 Section 3. Subsection (5) of section 626.9894, Florida
82 Statutes, is amended to read:

83 626.9894 Gifts and grants.—

84 (5) Notwithstanding s. 216.301 and pursuant to s. 216.351,
85 any balance of moneys deposited into the Insurance Regulatory
86 Trust Fund pursuant to this section ~~or s. 626.9895~~ remaining at
87 the end of any fiscal year is available for carrying out the

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88 duties and responsibilities of the division. The department may
 89 request annual appropriations from the grants and donations
 90 received pursuant to this section ~~or s. 626.9895~~ and cash
 91 balances in the Insurance Regulatory Trust Fund for the purpose
 92 of carrying out its duties and responsibilities related to the
 93 division's anti-fraud efforts, including the funding of
 94 dedicated prosecutors and related personnel.

95 Section 4. Section 626.9895, Florida Statutes, is repealed.

96 Section 5. Paragraphs (c) and (f) of subsection (3) of
 97 section 921.0022, Florida Statutes, are amended to read:

98 921.0022 Criminal Punishment Code; offense severity ranking
 99 chart.—

100 (3) OFFENSE SEVERITY RANKING CHART

101 (c) LEVEL 3

102

103

Florida Statute	Felony Degree	Description
119.10(2)(b)	3rd	Unlawful use of confidential information from police reports.
316.066 (3)(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

104

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106

107

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law enforcement officer in
patrol vehicle with siren and
lights activated.

108

319.30(4) 3rd Possession by junkyard of
motor vehicle with
identification number plate
removed.

109

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

110

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

111

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

112

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

113

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

114

328.07(4) 3rd Manufacture, exchange, or

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possess vessel with
counterfeit or wrong ID
number.

115

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

116

379.2431 3rd Taking, disturbing,
(1) (e) 5. mutilating, destroying,
causing to be destroyed,
transferring, selling,
offering to sell, molesting,
or harassing marine turtles,
marine turtle eggs, or marine
turtle nests in violation of
the Marine Turtle Protection
Act.

117

379.2431 3rd Soliciting to commit or
(1) (e) 6. conspiring to commit a
violation of the Marine Turtle
Protection Act.

118

400.9935 (4) (a) or 3rd Operating a clinic, or
(b) offering services requiring
licensure, without a license
~~or filing false license~~
~~application or other required~~

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~~information.~~

119

400.9935 (4) (e)

3rd

Filing a false license application or other required information or failing to report information.

120

440.1051 (3)

3rd

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

121

501.001 (2) (b)

2nd

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

122

624.401 (4) (a)

3rd

Transacting insurance without a certificate of authority.

123

624.401 (4) (b) 1.

3rd

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

124

626.902 (1) (a) & (b)

3rd

Representing an unauthorized insurer.

125

697.08

3rd

Equity skimming.

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133

790.15 (3)	3rd	Person directs another to discharge firearm from a vehicle.
806.10 (1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
806.10 (2)	3rd	Interferes with or assaults firefighter in performance of duty.
810.09 (2) (c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
812.014 (2) (c) 2.	3rd	Grand theft; \$5,000 or more but less than \$10,000.
812.0145 (2) (c)	3rd	Theft from person 65 years of age or older; \$300 or more but less than \$10,000.
815.04 (5) (b)	2nd	Computer offense devised to defraud or obtain property.

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or death.

142

831.28 (2) (a)

3rd

Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument.

143

831.29

2nd

Possession of instruments for counterfeiting driver licenses or identification cards.

144

838.021 (3) (b)

3rd

Threatens unlawful harm to public servant.

145

843.19

3rd

Injure, disable, or kill police dog or horse.

146

860.15 (3)

3rd

Overcharging for repairs and parts.

147

870.01 (2)

3rd

Riot; inciting or encouraging.

148

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).

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149

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.

150

893.13(1)(f)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 public
housing facility.

151

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

152

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

153

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

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forgery, misrepresentation,
etc.

154

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

155

893.13(7)(a)11. 3rd Furnish false or fraudulent
material information on any
document or record required by
chapter 893.

156

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.

157

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.

158

893.13(8)(a)3. 3rd Knowingly write a prescription

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for a controlled substance for
a fictitious person.

159

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.

160

918.13(1)(a)

3rd

Alter, destroy, or conceal
investigation evidence.

161

944.47
(1)(a)1. & 2.

3rd

Introduce contraband to
correctional facility.

162

944.47(1)(c)

2nd

Possess contraband while upon
the grounds of a correctional
institution.

163

985.721

3rd

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

164

(f) LEVEL 6

165

166

Florida

Felony

Description

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Statute

Degree

167

316.027(2)(b)

2nd

Leaving the scene of a crash involving serious bodily injury.

168

316.193(2)(b)

3rd

Felony DUI, 4th or subsequent conviction.

169

400.9935(4)(c)

2nd

Operating a clinic, or offering services requiring licensure, without a license.

170

499.0051(3)

2nd

Knowing forgery of pedigree papers.

171

499.0051(4)

2nd

Knowing purchase or receipt of prescription drug from unauthorized person.

172

499.0051(5)

2nd

Knowing sale or transfer of prescription drug to unauthorized person.

173

775.0875(1)

3rd

Taking firearm from law enforcement officer.

174

784.021(1)(a)

3rd

Aggravated assault; deadly weapon without intent to kill.

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183

784.021 (1) (b)	3rd	Aggravated assault; intent to commit felony.
784.041	3rd	Felony battery; domestic battery by strangulation.
784.048 (3)	3rd	Aggravated stalking; credible threat.
784.048 (5)	3rd	Aggravated stalking of person under 16.
784.07 (2) (c)	2nd	Aggravated assault on law enforcement officer.
784.074 (1) (b)	2nd	Aggravated assault on sexually violent predators facility staff.
784.08 (2) (b)	2nd	Aggravated assault on a person 65 years of age or older.
784.081 (2)	2nd	Aggravated assault on specified official or employee.
784.082 (2)	2nd	Aggravated assault by detained person on visitor or other

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detainee.

184

784.083 (2) 2nd Aggravated assault on code
inspector.

185

787.02 (2) 3rd False imprisonment;
restraining with purpose other
than those in s. 787.01.

186

790.115 (2) (d) 2nd Discharging firearm or weapon
on school property.

187

790.161 (2) 2nd Make, possess, or throw
destructive device with intent
to do bodily harm or damage
property.

188

790.164 (1) 2nd False report of deadly
explosive, weapon of mass
destruction, or act of arson
or violence to state property.

189

790.19 2nd Shooting or throwing deadly
missiles into dwellings,
vessels, or vehicles.

190

794.011 (8) (a) 3rd Solicitation of minor to
participate in sexual activity
by custodial adult.

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191

794.05 (1) 2nd Unlawful sexual activity with specified minor.

192

800.04 (5) (d) 3rd Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years of age; offender less than 18 years.

193

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

194

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

195

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

196

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

197

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

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198

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

199

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

200

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

201

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

202

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

203

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

204

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

205

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

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206

825.103(3)(c) 3rd Exploiting an elderly person or disabled adult and property is valued at less than \$10,000.

207

827.03(2)(c) 3rd Abuse of a child.

208

827.03(2)(d) 3rd Neglect of a child.

209

827.071(2) & (3) 2nd Use or induce a child in a sexual performance, or promote or direct such performance.

210

836.05 2nd Threats; extortion.

211

836.10 2nd Written threats to kill or do bodily injury.

212

843.12 3rd Aids or assists person to escape.

213

847.011 3rd Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors.

214

847.012 3rd Knowingly using a minor in the production of materials

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harmful to minors.

215

847.0135(2)

3rd

Facilitates sexual conduct of
or with a minor or the visual
depiction of such conduct.

216

914.23

2nd

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

217

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.

218

944.40

2nd

Escapes.

219

944.46

3rd

Harboring, concealing, aiding
escaped prisoners.

220

944.47(1)(a)5.

2nd

Introduction of contraband
(firearm, weapon, or
explosive) into correctional
facility.

221

951.22(1)

3rd

Intoxicating drug, firearm, or
weapon introduced into county

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facility.

222

223

Section 6. This act shall take effect July 1, 2015.