

By Senator Bracy

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1 A bill to be entitled
2 An act relating to cannabis; creating s. 893.131,
3 F.S.; defining terms; providing that possession of a
4 personal use quantity of cannabis or a cannabis
5 accessory by an adult is a civil violation punishable
6 by a civil penalty or community service, or, if the
7 offender is under 18 years of age, community service
8 or completion of a drug awareness program; prohibiting
9 arrests for such violations in the absence of grounds
10 related to a separate offense; providing an exception;
11 limiting collateral use of such violations;
12 prohibiting state or local penalties or obligations
13 other than specified penalties or obligations
14 concerning possession of personal use quantities of
15 cannabis or cannabis accessories; prohibiting
16 additional state or local penalties or obligations for
17 having cannabinoids or cannabinoid metabolites in
18 tissue or fluid of the body; providing applicability;
19 specifying that political subdivisions may enact
20 ordinances concerning public consumption of cannabis;
21 specifying that certain violations may not be
22 considered probation or parole violations; providing
23 for recordkeeping; authorizing the court to require
24 completion of a drug awareness program under certain
25 circumstances; authorizing the drug awareness program
26 to charge a fee; requiring waiver of the fee for
27 financial hardship; providing civil penalties for
28 noncompliance; providing for the distribution of
29 revenue from the civil penalties; amending ss. 893.13,

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30 893.145, and 938.23, F.S.; conforming provisions to
31 changes made by the act; reenacting ss.
32 112.0455(8)(s), 397.4073(4)(b), 435.07(2), 772.12(2),
33 775.084(1)(a), 810.02(3)(f), 812.014(2)(c),
34 831.311(1), 893.1351(1) and (2), 893.138(3), 893.15,
35 903.133, and 921.187(1)(l), F.S., relating to the
36 Drug-Free Workplace Act, background checks of service
37 provider personnel, exemptions from disqualification,
38 the Drug Dealer Liability Act, violent career
39 criminals, habitual felony offenders, habitual violent
40 felony offenders, three-time violent felony offenders,
41 definitions, procedure, and enhanced penalties or
42 mandatory minimum prison terms, burglary, theft,
43 unlawful sale, manufacture, alteration, delivery,
44 uttering, or possession of counterfeit-resistant
45 prescription blanks for controlled substances,
46 ownership, lease, rental, or possession for
47 trafficking in or manufacturing a controlled
48 substance, local administrative action to abate drug-
49 related, prostitution-related, or stolen-property-
50 related public nuisances and criminal gang activity,
51 rehabilitation, bail on appeal prohibited for certain
52 felony convictions, and disposition, sentencing,
53 alternatives, and restitution, respectively, to
54 incorporate the amendment made by the act to s.
55 893.13, F.S., in references thereto; reenacting ss.
56 893.12(2)(a) and 893.147(6)(a), F.S., relating to
57 contraband seizure, forfeiture, and sale, and use,
58 possession, manufacture, delivery, transportation,

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59 advertisement, or retail sale of drug paraphernalia,
60 respectively, to incorporate the amendment made by the
61 act to s. 893.145, F.S., in references thereto;
62 providing an effective date.

63
64 Be It Enacted by the Legislature of the State of Florida:

65
66 Section 1. Section 893.131, Florida Statutes, is created to
67 read:

68 893.131 Personal use quantity of cannabis.-

69 (1) DEFINITIONS.-As used in this section, the term:

70 (a) "Cannabis accessory" means paraphernalia for the
71 ingestion, use, inhalation, preparation for personal use, or
72 storage of a personal use quantity of cannabis.

73 (b) "Personal use quantity of cannabis" means 20 grams or
74 less of cannabis, except that:

75 1. No more than 5 grams of the cannabis may be resin
76 extracted from or concentrates derived from cannabis.

77 2. The term does not include cannabis that is growing.

78 3. The term does not include the estimated weight of any
79 noncannabis ingredients combined with cannabis, such as
80 ingredients added to prepare food or drink.

81 (2) PERSONAL POSSESSION.-

82 (a)1. A person 18 years of age or older who knowingly and
83 unlawfully possesses a personal use quantity of cannabis or a
84 cannabis accessory commits a civil violation and, except as
85 provided in subparagraph 2., shall be assessed a civil penalty
86 of not more than \$100.

87 2. A person 18 years of age or older who commits a civil

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88 violation under subparagraph 1. may request a penalty of up to
89 15 hours of community service in lieu of the civil penalty in
90 subparagraph 1.

91 (b) A person under the age of 18 who knowingly and
92 unlawfully possesses a personal use quantity of cannabis or a
93 cannabis accessory commits a civil violation and shall be
94 ordered to complete up to 15 hours of community service or a
95 drug awareness program, or both. The offender's parent or legal
96 guardian shall be notified of the violation pursuant to
97 paragraph (5) (b) and provided information regarding available
98 drug awareness programs. Within 1 year after the court orders
99 such an offender to complete such service or program, or both,
100 the offender or his or her parent or legal guardian shall file
101 with the clerk of the court evidence of such completion.

102 (c) Except as provided in this section, a person is not
103 subject to arrest for a violation of this section. A person
104 cited for a violation of this section shall be released on
105 notice to appear if the law enforcement officer does not have
106 lawful grounds to arrest such person for a different offense.

107 (d) A determination of a civil violation under this section
108 is not considered a drug offense under state law or as defined
109 in 23 C.F.R. s. 192.3 and may not affect a person's driving
110 privileges.

111 (e) A person who fails or refuses to produce his or her
112 identification card or driver license issued by the state, or
113 another form of identification issued by any state, district,
114 county, municipality, school district, college, or university,
115 upon request by a law enforcement officer who informs the person
116 that he or she has been found to be in possession of what

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117 appears to the officer to be a personal use quantity of cannabis
118 or a cannabis accessory may be arrested for a violation of this
119 section if the person fails or refuses to truthfully provide his
120 or her name, address, and date of birth to the law enforcement
121 officer.

122 (f) Except as provided in this section, the state or any of
123 its political subdivisions may not impose any penalty or
124 obligation other than those specified in this section on a
125 person for possessing a personal use quantity of cannabis or a
126 cannabis accessory. The state or any of its political
127 subdivisions may not impose any penalty or obligation exceeding
128 those outlined in this section on a person solely for having
129 cannabinoids or cannabinoid metabolites in his or her urine,
130 blood, sweat, hair, fingernails, toenails, or other tissue or
131 fluid of the human body.

132 (g) Possession of a personal use quantity of cannabis or a
133 cannabis accessory, or the presence of cannabinoids or
134 cannabinoid metabolites in the urine, blood, sweat, hair,
135 fingernails, toenails, or other tissue or fluid of the human
136 body, or a conviction, citation, admission, or plea bargain
137 thereof, does not constitute grounds for denying a person
138 student financial aid, public housing, or any other form of
139 public financial assistance, including unemployment benefits;
140 denying a person the right to operate a motor vehicle; or
141 disqualifying a person from serving as a foster parent or an
142 adoptive parent.

143 (h) This section does not repeal or modify any law
144 concerning the medical use of cannabis or tetrahydrocannabinol
145 in any other form, such as dronabinol; the possession of more

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146 than a personal use quantity of cannabis; or the sale,
147 manufacture, or trafficking of cannabis.

148 (i) This section does not prohibit a political subdivision
149 of the state from enacting ordinances regulating or prohibiting
150 the public consumption of cannabis or tetrahydrocannabinol or
151 providing additional penalties for the public consumption of
152 cannabis or tetrahydrocannabinol if such penalties are not
153 greater than those relating to the public consumption of
154 alcohol.

155 (j) A violation of this section may not be considered a
156 violation of parole or probation.

157 (3) RECORDKEEPING.—

158 (a) Except as otherwise provided in this subsection, a
159 record of a violation of this section may not be recorded in any
160 criminal offender database.

161 (b) A state, county, or municipal law enforcement agency
162 that collects and reports data for the Federal Bureau of
163 Investigation's Uniform Crime Reporting Program shall collect
164 data on the number of violations of this section and report such
165 data to the Department of Law Enforcement. Such law enforcement
166 agency shall update the data annually and make the data
167 available on its public Internet website. The Department of Law
168 Enforcement shall compile the data collected pursuant to this
169 paragraph and make it available at no cost to the public.

170 (4) DRUG AWARENESS PROGRAMS.—

171 (a) The court may require an offender under the age of 18
172 years to complete a drug awareness program within 1 year after
173 his or her parent or legal guardian is notified of the violation
174 pursuant to paragraph (2) (b).

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175 (b) The drug awareness program may charge a fee of up to
176 \$75 to offset any program costs. The fee must be waived based
177 upon financial hardship to the offender. All fees are payable by
178 the offender upon entry into the program.

179 (5) NOTICE OF VIOLATIONS.—

180 (a) A state, county, or municipal law enforcement agency
181 shall issue noncriminal citation forms to its officers which
182 conform with this section.

183 (b) The notice required in paragraph (2) (b) shall be mailed
184 or hand delivered to at least one of the offender's parents or
185 legal guardians at his or her last known address. If the
186 offender or his or her parent or legal guardian fails to meet
187 the requirements of paragraph (2) (b), the clerk shall notify the
188 offender, the offender's parent or legal guardian, and the
189 person who issued the original citation notice of a hearing to
190 impose a civil penalty of up to \$150 or community service of up
191 to 40 hours on the offender for such noncompliance. During such
192 hearing, the court is limited to considering the offender's
193 financial capacity to pay the penalty, the offender's ability to
194 participate in a drug awareness program, the availability of a
195 suitable drug awareness program, and the offender's willingness
196 to complete such a program within a timeframe determined by the
197 court.

198 (6) DISTRIBUTION OF REVENUE.—Notwithstanding any other law,
199 civil penalties levied under this section shall be distributed
200 as follows:

201 (a) Fifty percent shall be distributed to or retained by
202 the municipality where the violation occurred or, if the
203 violation occurred in an unincorporated area, the county where

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204 it occurred.

205 (b) Fifty percent shall be distributed in the same manner
206 as provided in s. 938.23(2).

207 Section 2. Subsection (3) and paragraphs (b) and (e) of
208 subsection (6) of section 893.13, Florida Statutes, are amended
209 to read:

210 893.13 Prohibited acts; penalties.—

211 (3) A person who delivers, without consideration, a
212 personal use quantity of cannabis, as defined in s. 893.131, 20
213 ~~grams or less of cannabis, as defined in this chapter,~~ commits a
214 misdemeanor of the first degree, punishable as provided in s.
215 775.082 or s. 775.083. ~~As used in this subsection, the term~~
216 ~~"cannabis" does not include the resin extracted from the plants~~
217 ~~of the genus Cannabis or any compound manufacture, salt,~~
218 ~~derivative, mixture, or preparation of such resin.~~

219 (6)

220 (b) If the offense is the possession of 20 grams or less of
221 cannabis, as defined in this chapter, and the possession is not
222 a personal use quantity of cannabis, as defined in s. 893.131,
223 the person commits a misdemeanor of the first degree, punishable
224 as provided in s. 775.082 or s. 775.083. As used in this
225 subsection, the term "cannabis" does not include the resin
226 extracted from the plants of the genus *Cannabis*, or any compound
227 manufacture, salt, derivative, mixture, or preparation of such
228 resin.

229 (e) Notwithstanding any provision to the contrary of the
230 laws of this state relating to arrest, and except as provided in
231 s. 893.131, a law enforcement officer may arrest without warrant
232 any person who the officer has probable cause to believe is

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233 violating the provisions of this chapter relating to possession
234 of cannabis.

235 Section 3. Section 893.145, Florida Statutes, is amended to
236 read:

237 893.145 "Drug paraphernalia" defined.—The term "drug
238 paraphernalia" means all equipment, products, and materials of
239 any kind which are used, intended for use, or designed for use
240 in planting, propagating, cultivating, growing, harvesting,
241 manufacturing, compounding, converting, producing, processing,
242 preparing, testing, analyzing, packaging, repackaging, storing,
243 containing, concealing, transporting, injecting, ingesting,
244 inhaling, or otherwise introducing into the human body a
245 controlled substance in violation of this chapter or s. 877.111.
246 Drug paraphernalia is deemed to be contraband which shall be
247 subject to civil forfeiture. The term does not include a
248 cannabis accessory, as defined in s. 893.131. The term includes,
249 but is not limited to:

250 (1) Kits used, intended for use, or designed for use in the
251 planting, propagating, cultivating, growing, or harvesting of
252 any species of plant which is a controlled substance or from
253 which a controlled substance can be derived.

254 (2) Kits used, intended for use, or designed for use in
255 manufacturing, compounding, converting, producing, processing,
256 or preparing controlled substances.

257 (3) Isomerization devices used, intended for use, or
258 designed for use in increasing the potency of any species of
259 plant which is a controlled substance.

260 (4) Testing equipment used, intended for use, or designed
261 for use in identifying, or in analyzing the strength,

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262 effectiveness, or purity of, controlled substances.

263 (5) Scales and balances used, intended for use, or designed
264 for use in weighing or measuring controlled substances.

265 (6) Diluents and adulterants, such as quinine
266 hydrochloride, caffeine, dimethyl sulfone, mannitol, mannite,
267 dextrose, and lactose, used, intended for use, or designed for
268 use in diluting controlled substances; or substances such as
269 damiana leaf, marshmallow leaf, and mullein leaf, used, intended
270 for use, or designed for use as carrier mediums of controlled
271 substances.

272 (7) Separation gins and sifters used, intended for use, or
273 designed for use in removing twigs and seeds from, or in
274 otherwise cleaning or refining, cannabis.

275 (8) Blenders, bowls, containers, spoons, and mixing devices
276 used, intended for use, or designed for use in compounding
277 controlled substances.

278 (9) Capsules, balloons, envelopes, and other containers
279 used, intended for use, or designed for use in packaging small
280 quantities of controlled substances.

281 (10) Containers and other objects used, intended for use,
282 or designed for use in storing, concealing, or transporting
283 controlled substances.

284 (11) Hypodermic syringes, needles, and other objects used,
285 intended for use, or designed for use in parenterally injecting
286 controlled substances into the human body.

287 (12) Objects used, intended for use, or designed for use in
288 ingesting, inhaling, or otherwise introducing controlled
289 substances, as described in s. 893.03, or substances described
290 in s. 877.111(1) into the human body, such as:

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- 291 (a) Metal, wooden, acrylic, glass, stone, plastic, or
292 ceramic pipes, with or without screens, permanent screens,
293 hashish heads, or punctured metal bowls.
- 294 (b) Water pipes.
- 295 (c) Carburetion tubes and devices.
- 296 (d) Smoking and carburetion masks.
- 297 (e) Roach clips: meaning objects used to hold burning
298 material, such as a cannabis cigarette, that has become too
299 small or too short to be held in the hand.
- 300 (f) Miniature cocaine spoons, and cocaine vials.
- 301 (g) Chamber pipes.
- 302 (h) Carburetor pipes.
- 303 (i) Electric pipes.
- 304 (j) Air-driven pipes.
- 305 (k) Chillums.
- 306 (l) Bongs.
- 307 (m) Ice pipes or chillers.
- 308 (n) A cartridge or canister, which means a small metal
309 device used to contain nitrous oxide.
- 310 (o) A charger, sometimes referred to as a "cracker," which
311 means a small metal or plastic device that contains an interior
312 pin that may be used to expel nitrous oxide from a cartridge or
313 container.
- 314 (p) A charging bottle, which means a device that may be
315 used to expel nitrous oxide from a cartridge or canister.
- 316 (q) A whip-it, which means a device that may be used to
317 expel nitrous oxide.
- 318 (r) A tank.
- 319 (s) A balloon.

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320 (t) A hose or tube.

321 (u) A 2-liter-type soda bottle.

322 (v) Duct tape.

323 Section 4. Subsection (2) of section 938.23, Florida
324 Statutes, is amended to read:

325 938.23 Assistance grants for alcohol and other drug abuse
326 programs.—

327 (2) All assessments authorized by this section and proceeds
328 of civil penalties levied under s. 893.131 shall be collected by
329 the clerk of court and remitted to the jurisdictional county as
330 described in s. 893.165(2) for deposit into the County Alcohol
331 and Other Drug Abuse Trust Fund or remitted to the Department of
332 Revenue for deposit into the Grants and Donations Trust Fund of
333 the Department of Children and Families pursuant to guidelines
334 and priorities developed by the department. If a County Alcohol
335 and Other Drug Abuse Trust Fund has not been established for any
336 jurisdictional county, assessments collected by the clerk of
337 court shall be remitted to the Department of Revenue for deposit
338 into the Grants and Donations Trust Fund of the Department of
339 Children and Families.

340 Section 5. For the purpose of incorporating the amendment
341 made by this act to section 893.13, Florida Statutes, in a
342 reference thereto, paragraph (s) of subsection (8) of section
343 112.0455, Florida Statutes, is reenacted to read:

344 112.0455 Drug-Free Workplace Act.—

345 (8) PROCEDURES AND EMPLOYEE PROTECTION.—All specimen
346 collection and testing for drugs under this section shall be
347 performed in accordance with the following procedures:

348 (s) An employer may not discharge, discipline, or

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349 discriminate against an employee solely upon voluntarily seeking
350 treatment, while under the employ of the employer, for a drug-
351 related problem if the employee has not previously tested
352 positive for drug use, entered an employee assistance program
353 for drug-related problems, or entered an alcohol and drug
354 rehabilitation program. However, special risk employees may be
355 subject to discharge or disciplinary action when the presence of
356 illicit drugs, pursuant to s. 893.13, is confirmed.

357 Section 6. For the purpose of incorporating the amendment
358 made by this act to section 893.13, Florida Statutes, in a
359 reference thereto, paragraph (b) of subsection (4) of section
360 397.4073, Florida Statutes, is reenacted to read:

361 397.4073 Background checks of service provider personnel.—

362 (4) EXEMPTIONS FROM DISQUALIFICATION.—

363 (b) Since rehabilitated substance abuse impaired persons
364 are effective in the successful treatment and rehabilitation of
365 individuals with substance use disorders, for service providers
366 which treat adolescents 13 years of age and older, service
367 provider personnel whose background checks indicate crimes under
368 s. 817.563, s. 893.13, or s. 893.147 may be exempted from
369 disqualification from employment pursuant to this paragraph.

370 Section 7. For the purpose of incorporating the amendment
371 made by this act to section 893.13, Florida Statutes, in a
372 reference thereto, subsection (2) of section 435.07, Florida
373 Statutes, is reenacted to read:

374 435.07 Exemptions from disqualification.—Unless otherwise
375 provided by law, the provisions of this section apply to
376 exemptions from disqualification for disqualifying offenses
377 revealed pursuant to background screenings required under this

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378 chapter, regardless of whether those disqualifying offenses are
379 listed in this chapter or other laws.

380 (2) Persons employed, or applicants for employment, by
381 treatment providers who treat adolescents 13 years of age and
382 older who are disqualified from employment solely because of
383 crimes under s. 817.563, s. 893.13, or s. 893.147 may be
384 exempted from disqualification from employment pursuant to this
385 chapter without application of the waiting period in
386 subparagraph (1)(a)1.

387 Section 8. For the purpose of incorporating the amendment
388 made by this act to section 893.13, Florida Statutes, in a
389 reference thereto, subsection (2) of section 772.12, Florida
390 Statutes, is reenacted to read:

391 772.12 Drug Dealer Liability Act.—

392 (2) A person, including any governmental entity, has a
393 cause of action for threefold the actual damages sustained and
394 is entitled to minimum damages in the amount of \$1,000 and
395 reasonable attorney's fees and court costs in the trial and
396 appellate courts, if the person proves by the greater weight of
397 the evidence that:

398 (a) The person was injured because of the defendant's
399 actions that resulted in the defendant's conviction for:

400 1. A violation of s. 893.13, except for a violation of s.
401 893.13(2)(a) or (b), (3), (5), (6)(a), (b), or (c), (7); or

402 2. A violation of s. 893.135; and

403 (b) The person was not injured by reason of his or her
404 participation in the same act or transaction that resulted in
405 the defendant's conviction for any offense described in
406 subparagraph (a)1.

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407 Section 9. For the purpose of incorporating the amendment
408 made by this act to section 893.13, Florida Statutes, in a
409 reference thereto, paragraph (a) of subsection (1) of section
410 775.084, Florida Statutes, is reenacted to read:

411 775.084 Violent career criminals; habitual felony offenders
412 and habitual violent felony offenders; three-time violent felony
413 offenders; definitions; procedure; enhanced penalties or
414 mandatory minimum prison terms.—

415 (1) As used in this act:

416 (a) "Habitual felony offender" means a defendant for whom
417 the court may impose an extended term of imprisonment, as
418 provided in paragraph (4) (a), if it finds that:

419 1. The defendant has previously been convicted of any
420 combination of two or more felonies in this state or other
421 qualified offenses.

422 2. The felony for which the defendant is to be sentenced
423 was committed:

424 a. While the defendant was serving a prison sentence or
425 other sentence, or court-ordered or lawfully imposed supervision
426 that is imposed as a result of a prior conviction for a felony
427 or other qualified offense; or

428 b. Within 5 years of the date of the conviction of the
429 defendant's last prior felony or other qualified offense, or
430 within 5 years of the defendant's release from a prison
431 sentence, probation, community control, control release,
432 conditional release, parole or court-ordered or lawfully imposed
433 supervision or other sentence that is imposed as a result of a
434 prior conviction for a felony or other qualified offense,
435 whichever is later.

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436 3. The felony for which the defendant is to be sentenced,
437 and one of the two prior felony convictions, is not a violation
438 of s. 893.13 relating to the purchase or the possession of a
439 controlled substance.

440 4. The defendant has not received a pardon for any felony
441 or other qualified offense that is necessary for the operation
442 of this paragraph.

443 5. A conviction of a felony or other qualified offense
444 necessary to the operation of this paragraph has not been set
445 aside in any postconviction proceeding.

446 Section 10. For the purpose of incorporating the amendment
447 made by this act to section 893.13, Florida Statutes, in a
448 reference thereto, paragraph (f) of subsection (3) of section
449 810.02, Florida Statutes, is reenacted to read:

450 810.02 Burglary.—

451 (3) Burglary is a felony of the second degree, punishable
452 as provided in s. 775.082, s. 775.083, or s. 775.084, if, in the
453 course of committing the offense, the offender does not make an
454 assault or battery and is not and does not become armed with a
455 dangerous weapon or explosive, and the offender enters or
456 remains in a:

457 (f) Structure or conveyance when the offense intended to be
458 committed therein is theft of a controlled substance as defined
459 in s. 893.02. Notwithstanding any other law, separate judgments
460 and sentences for burglary with the intent to commit theft of a
461 controlled substance under this paragraph and for any applicable
462 possession of controlled substance offense under s. 893.13 or
463 trafficking in controlled substance offense under s. 893.135 may
464 be imposed when all such offenses involve the same amount or

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465 amounts of a controlled substance.

466

467 However, if the burglary is committed within a county that is
468 subject to a state of emergency declared by the Governor under
469 chapter 252 after the declaration of emergency is made and the
470 perpetration of the burglary is facilitated by conditions
471 arising from the emergency, the burglary is a felony of the
472 first degree, punishable as provided in s. 775.082, s. 775.083,
473 or s. 775.084. As used in this subsection, the term "conditions
474 arising from the emergency" means civil unrest, power outages,
475 curfews, voluntary or mandatory evacuations, or a reduction in
476 the presence of or response time for first responders or
477 homeland security personnel. A person arrested for committing a
478 burglary within a county that is subject to such a state of
479 emergency may not be released until the person appears before a
480 committing magistrate at a first appearance hearing. For
481 purposes of sentencing under chapter 921, a felony offense that
482 is reclassified under this subsection is ranked one level above
483 the ranking under s. 921.0022 or s. 921.0023 of the offense
484 committed.

485 Section 11. For the purpose of incorporating the amendment
486 made by this act to section 893.13, Florida Statutes, in a
487 reference thereto, paragraph (c) of subsection (2) of section
488 812.014, Florida Statutes, is reenacted to read:

489 812.014 Theft.—

490 (2)

491 (c) It is grand theft of the third degree and a felony of
492 the third degree, punishable as provided in s. 775.082, s.
493 775.083, or s. 775.084, if the property stolen is:

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- 494 1. Valued at \$300 or more, but less than \$5,000.
- 495 2. Valued at \$5,000 or more, but less than \$10,000.
- 496 3. Valued at \$10,000 or more, but less than \$20,000.
- 497 4. A will, codicil, or other testamentary instrument.
- 498 5. A firearm.
- 499 6. A motor vehicle, except as provided in paragraph (a).
- 500 7. Any commercially farmed animal, including any animal of
- 501 the equine, bovine, or swine class or other grazing animal; a
- 502 bee colony of a registered beekeeper; and aquaculture species
- 503 raised at a certified aquaculture facility. If the property
- 504 stolen is aquaculture species raised at a certified aquaculture
- 505 facility, then a \$10,000 fine shall be imposed.
- 506 8. Any fire extinguisher.
- 507 9. Any amount of citrus fruit consisting of 2,000 or more
- 508 individual pieces of fruit.
- 509 10. Taken from a designated construction site identified by
- 510 the posting of a sign as provided for in s. 810.09(2)(d).
- 511 11. Any stop sign.
- 512 12. Anhydrous ammonia.
- 513 13. Any amount of a controlled substance as defined in s.
- 514 893.02. Notwithstanding any other law, separate judgments and
- 515 sentences for theft of a controlled substance under this
- 516 subparagraph and for any applicable possession of controlled
- 517 substance offense under s. 893.13 or trafficking in controlled
- 518 substance offense under s. 893.135 may be imposed when all such
- 519 offenses involve the same amount or amounts of a controlled
- 520 substance.
- 521
- 522 However, if the property is stolen within a county that is

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523 subject to a state of emergency declared by the Governor under
524 chapter 252, the property is stolen after the declaration of
525 emergency is made, and the perpetration of the theft is
526 facilitated by conditions arising from the emergency, the
527 offender commits a felony of the second degree, punishable as
528 provided in s. 775.082, s. 775.083, or s. 775.084, if the
529 property is valued at \$5,000 or more, but less than \$10,000, as
530 provided under subparagraph 2., or if the property is valued at
531 \$10,000 or more, but less than \$20,000, as provided under
532 subparagraph 3. As used in this paragraph, the term "conditions
533 arising from the emergency" means civil unrest, power outages,
534 curfews, voluntary or mandatory evacuations, or a reduction in
535 the presence of or the response time for first responders or
536 homeland security personnel. For purposes of sentencing under
537 chapter 921, a felony offense that is reclassified under this
538 paragraph is ranked one level above the ranking under s.
539 921.0022 or s. 921.0023 of the offense committed.

540 Section 12. For the purpose of incorporating the amendment
541 made by this act to section 893.13, Florida Statutes, in
542 references thereto, subsection (1) of section 831.311, Florida
543 Statutes, is reenacted to read:

544 831.311 Unlawful sale, manufacture, alteration, delivery,
545 uttering, or possession of counterfeit-resistant prescription
546 blanks for controlled substances.—

547 (1) It is unlawful for any person having the intent to
548 injure or defraud any person or to facilitate any violation of
549 s. 893.13 to sell, manufacture, alter, deliver, utter, or
550 possess with intent to injure or defraud any person, or to
551 facilitate any violation of s. 893.13, any counterfeit-resistant

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552 prescription blanks for controlled substances, the form and
553 content of which are adopted by rule of the Department of Health
554 pursuant to s. 893.065.

555 Section 13. For the purpose of incorporating the amendment
556 made by this act to section 893.13, Florida Statutes, in
557 references thereto, subsections (1) and (2) of section 893.1351,
558 Florida Statutes, are reenacted to read:

559 893.1351 Ownership, lease, rental, or possession for
560 trafficking in or manufacturing a controlled substance.—

561 (1) A person may not own, lease, or rent any place,
562 structure, or part thereof, trailer, or other conveyance with
563 the knowledge that the place, structure, trailer, or conveyance
564 will be used for the purpose of trafficking in a controlled
565 substance, as provided in s. 893.135; for the sale of a
566 controlled substance, as provided in s. 893.13; or for the
567 manufacture of a controlled substance intended for sale or
568 distribution to another. A person who violates this subsection
569 commits a felony of the third degree, punishable as provided in
570 s. 775.082, s. 775.083, or s. 775.084.

571 (2) A person may not knowingly be in actual or constructive
572 possession of any place, structure, or part thereof, trailer, or
573 other conveyance with the knowledge that the place, structure,
574 or part thereof, trailer, or conveyance will be used for the
575 purpose of trafficking in a controlled substance, as provided in
576 s. 893.135; for the sale of a controlled substance, as provided
577 in s. 893.13; or for the manufacture of a controlled substance
578 intended for sale or distribution to another. A person who
579 violates this subsection commits a felony of the second degree,
580 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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581 Section 14. For the purpose of incorporating the amendment
582 made by this act to section 893.13, Florida Statutes, in a
583 reference thereto, subsection (3) of section 893.138, Florida
584 Statutes, is reenacted to read:

585 893.138 Local administrative action to abate drug-related,
586 prostitution-related, or stolen-property-related public
587 nuisances and criminal gang activity.—

588 (3) Any pain-management clinic, as described in s. 458.3265
589 or s. 459.0137, which has been used on more than two occasions
590 within a 6-month period as the site of a violation of:

591 (a) Section 784.011, s. 784.021, s. 784.03, or s. 784.045,
592 relating to assault and battery;

593 (b) Section 810.02, relating to burglary;

594 (c) Section 812.014, relating to theft;

595 (d) Section 812.131, relating to robbery by sudden
596 snatching; or

597 (e) Section 893.13, relating to the unlawful distribution
598 of controlled substances,

599
600 may be declared to be a public nuisance, and such nuisance may
601 be abated pursuant to the procedures provided in this section.

602 Section 15. For the purpose of incorporating the amendment
603 made by this act to section 893.13, Florida Statutes, in a
604 reference thereto, section 893.15, Florida Statutes, is
605 reenacted to read:

606 893.15 Rehabilitation.—Any person who violates s.
607 893.13(6) (a) or (b) relating to possession may, in the
608 discretion of the trial judge, be required to participate in a
609 substance abuse services program approved or regulated by the

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610 Department of Children and Families pursuant to the provisions
611 of chapter 397, provided the director of such program approves
612 the placement of the defendant in such program. Such required
613 participation shall be imposed in addition to any penalty or
614 probation otherwise prescribed by law. However, the total time
615 of such penalty, probation, and program participation shall not
616 exceed the maximum length of sentence possible for the offense.

617 Section 16. For the purpose of incorporating the amendment
618 made by this act to section 893.13, Florida Statutes, in a
619 reference thereto, section 903.133, Florida Statutes, is
620 reenacted to read:

621 903.133 Bail on appeal; prohibited for certain felony
622 convictions.—Notwithstanding the provisions of s. 903.132, no
623 person adjudged guilty of a felony of the first degree for a
624 violation of s. 782.04(2) or (3), s. 787.01, s. 794.011(4), s.
625 806.01, s. 893.13, or s. 893.135, or adjudged guilty of a
626 violation of s. 794.011(2) or (3), shall be admitted to bail
627 pending review either by posttrial motion or appeal.

628 Section 17. For the purpose of incorporating the amendment
629 made by this act to section 893.13, Florida Statutes, in a
630 reference thereto, paragraph (1) of subsection (1) of section
631 921.187, Florida Statutes, is reenacted to read:

632 921.187 Disposition and sentencing; alternatives;
633 restitution.—

634 (1) The alternatives provided in this section for the
635 disposition of criminal cases shall be used in a manner that
636 will best serve the needs of society, punish criminal offenders,
637 and provide the opportunity for rehabilitation. If the offender
638 does not receive a state prison sentence, the court may:

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639 (1)1. Require the offender who violates any criminal
640 provision of chapter 893 to pay an additional assessment in an
641 amount up to the amount of any fine imposed, pursuant to ss.
642 938.21 and 938.23.

643 2. Require the offender who violates any provision of s.
644 893.13 to pay an additional assessment in an amount of \$100,
645 pursuant to ss. 938.055 and 943.361.

646 Section 18. For the purpose of incorporating the amendment
647 made by this act to section 893.145, Florida Statutes, in a
648 reference thereto, paragraph (a) of subsection (2) of section
649 893.12, Florida Statutes, is reenacted to read:

650 893.12 Contraband; seizure, forfeiture, sale.—

651 (2) (a) Any vessel, vehicle, aircraft, or drug paraphernalia
652 as defined in s. 893.145 which has been or is being used in
653 violation of any provision of this chapter or in, upon, or by
654 means of which any violation of this chapter has taken or is
655 taking place may be seized and forfeited as provided by the
656 Florida Contraband Forfeiture Act.

657 Section 19. For the purpose of incorporating the amendment
658 made by this act to section 893.145, Florida Statutes, in a
659 reference thereto, paragraph (a) of subsection (6) of section
660 893.147, Florida Statutes, is reenacted to read:

661 893.147 Use, possession, manufacture, delivery,
662 transportation, advertisement, or retail sale of drug
663 paraphernalia.—

664 (6) RETAIL SALE OF DRUG PARAPHERNALIA.—

665 (a) It is unlawful for a person to knowingly and willfully
666 sell or offer for sale at retail any drug paraphernalia
667 described in s. 893.145(12) (a)-(c) or (g)-(m), other than a pipe

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668 that is primarily made of briar, meerschaum, clay, or corn cob.

669 Section 20. This act shall take effect July 1, 2018.