

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: SB 1354

INTRODUCER: Senator Baxley

SUBJECT: Traveling Across County Lines with Intent to Commit a Felony

DATE: March 8, 2021

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|------------------|
| 1. | Stokes | Jones | CJ | Favorable |
| 2. | | | JU | |
| 3. | | | RC | |

I. Summary:

SB 1354 amends s. 843.22, F.S., to include grand theft as a crime that may be reclassified to the next higher degree if the person traveled any distance with the intent to commit the grand theft in a county in this state other than the person’s county of residence, if the purpose of the travel was to thwart law enforcement attempts to track the items stolen in the offense.

For purposes of sentencing, a grand theft that is reclassified under this section is ranked one level above the ranking specified in s. 921.0022 or s. 921.0023 for the offense committed.

This bill may have a positive indeterminate prison bed impact. See Section V. Fiscal Impact Statement.

This bill is effective October 1, 2021.

II. Present Situation:

Organized theft is a growing problem across the country. A crime and safety analyst for News4Jax has stated that it is difficult to track down retail theft suspects because “they’re always in motion. They’re always moving. . . You have to have a defined suspect, basically, have them on surveillance more than once.”¹ In 2019, the Florida Department of Law Enforcement (FDLE) agents arrested three individuals suspected of an elaborate scheme stealing thousands from

¹ News4Jax, *Theft ring stole at least \$83K in merchandise from home improvement stores*, Allyson Henning, June 20, 2019, available at [https://www.news4jax.com/news/2019/06/21/theft-ring-stole-at-least-83k-in-merchandise-from-home-improvement-stores/#:~:text=Theft%20ring%20stole%20at%20least%20\\$83K%20in%20merchandise,stores%20between%202017%20and%202019,%20police%20reports%20show](https://www.news4jax.com/news/2019/06/21/theft-ring-stole-at-least-83k-in-merchandise-from-home-improvement-stores/#:~:text=Theft%20ring%20stole%20at%20least%20$83K%20in%20merchandise,stores%20between%202017%20and%202019,%20police%20reports%20show) (last visited March 4, 2021).

retailers across the southeastern U.S., including more than 100 thefts in 23 Florida counties. Grand theft was among the charges filed against at least one of the suspects.²

Traveling Across County Lines

In 2014, as a response to a “wave” of burglaries in Florida, the Legislature enacted laws to reclassify the crime of burglary to a higher degree when the offender traveled to commit the crime. The Sheriff of Martin County in 2013 stated that traditional law enforcement methods, “such as using local pawn shop databases, confidential informants, proactive police patrols, and targeted patrols,” become less effective with these crimes. According to the Sheriff, it is difficult for law enforcement to establish a pattern and track criminals when they travel from their home county to neighboring counties to commit crimes.³

Section 843.22, F.S., provides that if a person who commits a burglary travels any distance with the intent to commit the burglary in a county in this state other than the person’s county of residence, the degree of the burglary is reclassified to the next higher degree if the purpose of the person’s travel is to thwart law enforcement attempts to track the items stolen in the burglary.⁴

County of residence is the county within this state that a person resides. Evidence of a person’s county of residence includes, but is not limited to:

- The address on a person’s driver license or state identification card;
- Records of real property or mobile home ownership;
- Records of a lease agreement for residential property;
- The county in which a person’s motor vehicle is registered;
- The county in which a person is enrolled in an educational institution; and
- The county in which a person is employed.

For purposes of sentencing, a burglary that is reclassified under this section is ranked one level above the ranking specified in s. 921.0022 or s. 921.0023 for the offense committed.⁵

Severity Ranking Chart

Section 921.0022(1) and (2), F.S., provides the offense severity ranking chart that must be used with the Criminal Punishment Code worksheet to compute a sentence score for each felony offender whose offense was committed on or after October 1, 1998. The chart has 10 offense levels, ranked from least severe to most severe.

² News4Jax, *FDLE busts multi-state organized retail theft ring*, Steve Patrick, November 25, 2019, available at <https://www.news4jax.com/news/2019/11/25/fdle-arrests-3-for-multi-state-organized-theft-ring/> (last visited March 4, 2021).

³ WFSU News, *Sheriff Enlists Legislative Help to Crack Down on Growing Problem: ‘Pillowcase Burglars,’* Sascha Cordner, December 18, 2013, available at <https://news.wfsu.org/state-news/2013-12-18/sheriff-enlists-legislative-help-to-crack-down-on-growing-problem-pillowcase-burglars> (last visited March 4, 2021).

⁴ Section 843.22(2), F.S.

⁵ Section 843.22(2), F.S.

Section 921.0023, F.S., provides that until the Legislature specifically assigns an offense to a severity level in the offense severity ranking chart, the severity level is within the following parameters:

- A third degree felony is within offense level 1;
- A second degree felony is within offense level 4;
- A first degree felony is within offense level 7;
- A first degree punishable by life felony is within offense level 9; and
- A life felony is within offense level 10.

Reclassification

Florida currently has various statutes that reclassify criminal offenses under specified circumstances. Generally, criminal laws provide for reclassification to the next highest degree. Examples of criminal offenses that provide for such reclassification include, in part:

- A violation of driving while license suspended is a second degree misdemeanor⁶ for a first offense.⁷ A second or subsequent conviction is reclassified from a second degree misdemeanor to a first degree misdemeanor.⁸ Further, a third or subsequent conviction is reclassified to a third degree felony if the violation or the most recent prior conviction is related to a violation of specified driving offenses.⁹
- A violation of the theft statute under s. 812.014, F.S., for petit theft offenses are reclassified when a person has prior theft convictions.¹⁰ For example, a petit theft where the property is valued at more than \$100, but less than \$750, is a first degree misdemeanor¹¹ but a person who commits petit theft and who previously was convicted two or more times for a theft commits a third degree felony.¹²

Reclassifying an offense has the effect of increasing the maximum sentence that can be imposed for an offense. The maximum sentence that can be imposed for a criminal offense is generally based on the degree of the misdemeanor or felony:

- Sixty days in a county jail for a second degree misdemeanor;
- One year in a county jail for a first degree misdemeanor;
- Five years in state prison for a third degree felony;
- Fifteen years in state prison for a second degree felony; and
- Generally, 30 years in state prison for a first degree felony.¹³

⁶ A second degree misdemeanor is punishable by up to 60 days in county jail and up to a \$500 fine. Sections 775.082 and 775.083, F.S.

⁷ Section 322.34(2)(a), F.S.

⁸ Section 322.34(2)(b), F.S.

⁹ Section 322.34(2)(c), F.S. The enumerated specified offenses include driving under the influence; refusal to submit to a urine, breath-alcohol, or blood alcohol test; a traffic offense causing death or serious bodily injury; or fleeing and eluding.

¹⁰ Sections 812.014(3)(b), and (c), F.S.

¹¹ Section 812.014(2)(e), F.S.

¹² Section 812.04(3)(c), F.S.

¹³ Section 775.082, F.S. (maximum penalties). Fines may also be imposed, and those fines escalate based on the degree of the offense. Section 775.082, F.S., provides the following maximum fines: \$500 for a second degree misdemeanor; \$1,000 for a first degree misdemeanor; \$5,000 for a third degree felony; and \$10,000 for a second degree felony and a first degree felony.

Grand Theft

Section 812.014, F.S., provides that a person commits theft if he or she knowingly obtains or uses, or endeavors to obtain or use, the property of another with intent to, either temporarily or permanently:

- Deprive the other person of a right to the property or a benefit from the property; or
- Appropriate the property to his or her own use or to the use of any person not entitled to the use of the property.¹⁴

First degree grand theft, a first degree felony, is:¹⁵

- Theft of property valued at \$100,000 or more or is a semitrailer that was deployed by a law enforcement officer;
- Theft of cargo valued at \$50,000 or more that has entered the stream of interstate or intrastate commerce from the shipper's loading platform to the consignee's receiving dock; or
- Any grand theft where in the course of committing the offense, the offender:
 - Uses a motor vehicle as an instrumentality, other than merely as a getaway vehicle, to assist in committing the offense and thereby damages the real property of another; or
 - Causes damage to the real or personal property of another in excess of \$1,000.

Second degree grand theft, a second degree felony, is:¹⁶

- Theft of property valued at \$20,000 or more, but less than \$100,000;
- Theft of cargo valued at less than \$50,000 that has entered the stream of interstate or intrastate commerce from the shipper's loading platform to the consignee's receiving dock;
- Theft of emergency medical equipment, valued at \$300 or more, that is taken from a facility licensed under ch. 395, F.S., or from an aircraft or vehicle permitted under ch. 401, F.S.; or
- Theft of law enforcement equipment, valued at \$300 or more, that is taken from an authorized emergency vehicle.

Third degree grand theft, a third degree felony,¹⁷ is theft of:

- Property valued at \$750 or more, but less than \$20,000.
- Specified property including, but not limited to:
 - A will, codicil, or testamentary instrument;
 - A firearm;
 - A motor vehicle;
 - Any commercially farmed animal,¹⁸ a bee colony of a registered beekeeper, or aquaculture species raised at a certified aquaculture facility;
 - Any fire extinguisher;
 - Citrus fruit of 2,000 or more individual pieces;
 - Any stop sign;
 - Anhydrous ammonia;

¹⁴ Section 812.014(1), F.S.

¹⁵ Section 812.014(2)(a), F.S.

¹⁶ Section 812.014(2)(b), F.S.

¹⁷ A third degree felony is punishable by up to 5 years' incarceration and a fine of up to \$5,000. Sections 775.082 and 775.083, F.S.

¹⁸ This includes any animal of the equine, avian, bovine, or swine class or other grazing animal.

- Property taken from a designated, posted construction site;¹⁹ and
- Any amount of controlled substance as defined in s. 893.02, F.S.
- Property from a dwelling or its unenclosed curtilage if the property is valued at \$100 or more, but less than \$750.²⁰

III. Effect of Proposed Changes:

The bill amends s. 843.22, F.S., to include grand theft as a crime that may be reclassified to the next higher degree if the person traveled any distance with the intent to commit the grand theft in a county in this state other than the person's county of residence, if the purpose of the travel was to thwart law enforcement attempts to track the items stolen in the offense.

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This bill is effective October 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

¹⁹ Section 812.014(2)(c), F.S.

²⁰ Section 812.014(2)(d), F.S.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill may have a positive indeterminate prison bed impact due to the increased number of offenders who may be sentenced to prison due to an increased sentencing score.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 843.22 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.