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CS/HB 921, Engrossed 1

2021 Legislature

1
2 An act relating to electronic crimes; amending s.
3 784.048; redefining the term "cyberstalk"; amending s.
4 836.10, F.S.; defining the term "electronic record";
5 prohibiting a person from sending, posting, or
6 transmitting, or from procuring the sending, posting,
7 or transmission of a written or electronic record when
8 in such record the person makes a threat to kill or to
9 do bodily harm to another person or to conduct a mass
10 shooting or an act of terrorism; providing criminal
11 penalties; amending s. 921.0022, F.S.; conforming
12 provisions to changes made by the act; providing an
13 effective date.

14
15 Be It Enacted by the Legislature of the State of Florida:

16
17 Section 1. Subsection (1) of section 784.048, Florida
18 Statutes, is amended to read:

19 784.048 Stalking; definitions; penalties.—

20 (1) As used in this section, the term:

21 (a) "Harass" means to engage in a course of conduct
22 directed at a specific person which causes substantial emotional
23 distress to that person and serves no legitimate purpose.

24 (b) "Course of conduct" means a pattern of conduct
25 composed of a series of acts over a period of time, however

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26 short, which evidences a continuity of purpose. The term does
27 not include constitutionally protected activity such as
28 picketing or other organized protests.

29 (c) "Credible threat" means a verbal or nonverbal threat,
30 or a combination of the two, including threats delivered by
31 electronic communication or implied by a pattern of conduct,
32 which places the person who is the target of the threat in
33 reasonable fear for his or her safety or the safety of his or
34 her family members or individuals closely associated with the
35 person, and which is made with the apparent ability to carry out
36 the threat to cause such harm. It is not necessary to prove that
37 the person making the threat had the intent to actually carry
38 out the threat. The present incarceration of the person making
39 the threat is not a bar to prosecution under this section.

40 (d) "Cyberstalk" means:

41 1. To engage in a course of conduct to communicate, or to
42 cause to be communicated, directly or indirectly, words, images,
43 or language by or through the use of electronic mail or
44 electronic communication, directed at or pertaining to a
45 specific person; or

46 2. To access, or attempt to access, the online accounts or
47 Internet-connected home electronic systems of another person
48 without that person's permission,

49
50 causing substantial emotional distress to that person and

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51 | serving no legitimate purpose.

52 |

53 | Section 2. Subsections (1) and (2) of section 836.10,
54 | Florida Statutes, are renumbered as subsections (2) and (3),
55 | respectively, present subsection (1) is amended, and a new
56 | subsection (1) is added to that section, to read:

57 | 836.10 Written or electronic threats to kill, do bodily
58 | injury, or conduct a mass shooting or an act of terrorism;
59 | punishment; exemption from liability.-

60 | (1) As used in this section, the term "electronic record"
61 | means any record created, modified, archived, received, or
62 | distributed electronically which contains any combination of
63 | text, graphics, video, audio, or pictorial represented in
64 | digital form, but does not include a telephone call.

65 | (2)(1) It is unlawful for any person to send, post, or
66 | transmit, or procure the sending, posting, or transmission of,
67 | ~~who writes or composes and also sends or procures the sending of~~
68 | ~~any letter, inscribed communication, or electronic~~
69 | ~~communication, whether such letter or communication be signed or~~
70 | ~~anonymous, to any person, containing a threat to kill or to do~~
71 | ~~bodily injury to the person to whom such letter or communication~~
72 | ~~is sent, or a threat to kill or do bodily injury to any member~~
73 | ~~of the family of the person to whom such letter or communication~~
74 | ~~is sent, or any person who makes, posts, or transmits a threat~~
75 | ~~in a writing or other record, including an electronic record, to~~

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76 | ~~conduct a mass shooting or an act of terrorism,~~ in any manner in
 77 | which it may be viewed by ~~that would allow~~ another person ~~to~~
 78 | ~~view the threat,~~ when in such writing or record the person makes
 79 | a threat to:

- 80 | (a) Kill or to do bodily harm to another person; or
- 81 | (b) Conduct a mass shooting or an act of terrorism.

82 |
 83 | A person who violates this subsection commits a felony of the
 84 | second degree, punishable as provided in s. 775.082, s. 775.083,
 85 | or s. 775.084.

86 | Section 3. Paragraph (f) of subsection (3) of section
 87 | 921.0022, Florida Statutes, is amended to read:

88 | 921.0022 Criminal Punishment Code; offense severity
 89 | ranking chart.—

- 90 | (3) OFFENSE SEVERITY RANKING CHART
- 91 | (f) LEVEL 6

Florida Statute	Felony Degree	Description
316.027 (2) (b)	2nd	Leaving the scene of a crash involving serious bodily injury.
316.193 (2) (b)	3rd	Felony DUI, 4th or subsequent

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conviction.

95

400.9935 (4) (c) 2nd Operating a clinic, or offering services requiring licensure, without a license.

96

499.0051 (2) 2nd Knowing forgery of transaction history, transaction information, or transaction statement.

97

499.0051 (3) 2nd Knowing purchase or receipt of prescription drug from unauthorized person.

98

499.0051 (4) 2nd Knowing sale or transfer of prescription drug to unauthorized person.

99

775.0875 (1) 3rd Taking firearm from law enforcement officer.

100

784.021 (1) (a) 3rd Aggravated assault; deadly weapon without intent to kill.

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102	784.021 (1) (b)	3rd	Aggravated assault; intent to commit felony.
103	784.041	3rd	Felony battery; domestic battery by strangulation.
104	784.048 (3)	3rd	Aggravated stalking; credible threat.
105	784.048 (5)	3rd	Aggravated stalking of person under 16.
106	784.07 (2) (c)	2nd	Aggravated assault on law enforcement officer.
107	784.074 (1) (b)	2nd	Aggravated assault on sexually violent predators facility staff.
108	784.08 (2) (b)	2nd	Aggravated assault on a person 65 years of age or older.
109	784.081 (2)	2nd	Aggravated assault on specified official or employee.

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110	784.082 (2)	2nd	Aggravated assault by detained person on visitor or other detainee.
111	784.083 (2)	2nd	Aggravated assault on code inspector.
112	787.02 (2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
113	790.115 (2) (d)	2nd	Discharging firearm or weapon on school property.
114	790.161 (2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property.
	790.164 (1)	2nd	False report concerning bomb, explosive, weapon of mass destruction, act of arson or violence to state property, or use of firearms in violent manner.

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115	790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.
116	794.011 (8) (a)	3rd	Solicitation of minor to participate in sexual activity by custodial adult.
117	794.05 (1)	2nd	Unlawful sexual activity with specified minor.
118	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.
119	800.04 (6) (b)	2nd	Lewd or lascivious conduct; offender 18 years of age or older.
120	806.031 (2)	2nd	Arson resulting in great bodily harm to firefighter or any other person.
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122	810.02 (3) (c)	2nd	Burglary of occupied structure; unarmed; no assault or battery.
123	810.145 (8) (b)	2nd	Video voyeurism; certain minor victims; 2nd or subsequent offense.
124	812.014 (2) (b) 1.	2nd	Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree.
125	812.014 (6)	2nd	Theft; property stolen \$3,000 or more; coordination of others.
126	812.015 (9) (a)	2nd	Retail theft; property stolen \$750 or more; second or subsequent conviction.
127	812.015 (9) (b)	2nd	Retail theft; aggregated property stolen within 30 days is \$3,000 or more; coordination of others.
	812.13 (2) (c)	2nd	Robbery, no firearm or other

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weapon (strong-arm robbery).

128

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

129

817.505 (4) (b) 2nd Patient brokering; 10 or more
patients.

130

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

131

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

132

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

133

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

134

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

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136	827.03 (2) (d)	3rd	Neglect of a child.
137	827.071 (2) & (3)	2nd	Use or induce a child in a sexual performance, or promote or direct such performance.
138	836.05	2nd	Threats; extortion.
139	836.10	2nd	Written <u>or electronic</u> threats to kill, do bodily injury, or conduct a mass shooting or an act of terrorism.
140	843.12	3rd	Aids or assists person to escape.
141	847.011	3rd	Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors.
142	847.012	3rd	Knowingly using a minor in the production of materials harmful to minors.

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143	847.0135(2)	3rd	Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.
144	914.23	2nd	Retaliation against a witness, victim, or informant, with bodily injury.
145	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.
146	944.40	2nd	Escapes.
147	944.46	3rd	Harboring, concealing, aiding escaped prisoners.
148	944.47(1)(a)5.	2nd	Introduction of contraband (firearm, weapon, or explosive) into correctional facility.
	951.22(1)(i)	3rd	Firearm or weapon introduced

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into county detention facility.

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Section 4. This act shall take effect October 1, 2021.