

By Senator Simmons

22-00452A-12

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1 A bill to be entitled
2 An act relating to stalking and aggravated stalking;
3 amending s. 784.048, F.S.; redefining the terms
4 "course of conduct" and "credible threat" and defining
5 the term "immediate family"; providing that a person
6 who makes a threat with the intent to place another
7 person in reasonable fear for his or her safety or the
8 safety of his or her immediate family commits the
9 offense of aggravated stalking under certain
10 circumstances; increasing the criminal penalties for
11 certain offenses of aggravated stalking; requiring
12 that the sentencing court consider issuing an
13 injunction that restrains a defendant from any contact
14 with the victim for up to 10 years; providing
15 legislative intent regarding the length of any such
16 restraining order; requiring that the court order the
17 defendant to attend a batterers' intervention program
18 if the court finds the defendant guilty of stalking or
19 aggravated stalking; creating a cause of action for an
20 injunction for protection from stalking and aggravated
21 stalking; providing that a person who is the victim of
22 stalking or aggravated stalking, or who is the parent
23 or legal guardian of a child younger than 16 years of
24 age and who seeks an injunction for protection, has
25 standing to file a petition for an injunction for
26 protection from stalking or aggravated stalking;
27 providing that an injunction for protection from
28 stalking or aggravated stalking may be sought
29 regardless of whether another cause of action is

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30 available or pending between the parties; requiring
31 that the petition for an injunction for protection
32 allege the incidents of stalking or aggravated
33 stalking and include the specific facts and
34 circumstances that form the basis upon which relief is
35 sought; prohibiting the court from requiring the
36 petitioner to file a bond upon the issuance of an
37 injunction for protection from stalking or aggravated
38 stalking; requiring that the clerk of the court
39 provide the petitioner with a certified copy of any
40 injunction for protection from stalking or aggravated
41 stalking which is entered by the court; amending s.
42 921.0022, F.S., relating to the offense severity
43 ranking chart of the Criminal Punishment Code;
44 revising provisions to conform to changes made by the
45 act; providing an effective date.

46
47 Be It Enacted by the Legislature of the State of Florida:

48
49 Section 1. Section 784.048, Florida Statutes, is amended to
50 read:

51 784.048 Stalking; definitions; penalties.—

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

53 (a) "Harass" means to engage in a course of conduct
54 directed at a specific person which ~~that~~ causes substantial
55 emotional distress to that ~~in such~~ person and serves no
56 legitimate purpose.

57 (b) "Course of conduct" means a pattern of conduct,
58 including two or more ~~composed of a series of~~ acts over a period

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59 of time, however short, which indicate ~~evidencing~~ a continuity
60 of purpose. The term does not include constitutionally protected
61 activity such as ~~is not included within the meaning of "course~~
62 ~~of conduct."~~ ~~Such constitutionally protected activity includes~~
63 picketing or other organized protests.

64 (c) "Credible threat" means a verbal or nonverbal threat,
65 including a threat delivered by electronic communication, a
66 threat implied by a pattern of conduct, or a combination of the
67 two, made with the intent to place the person who is the target
68 of the threat in reasonable fear for his or her safety or the
69 safety of his or her immediate family, and made with the
70 apparent ability to carry out the threat to cause such harm. It
71 is not necessary to prove that the person making the threat had
72 the intent to actually carry out the threat. The present
73 incarceration of the person making the threat is not a bar to
74 prosecution under this section ~~made with the intent to cause the~~
75 ~~person who is the target of the threat to reasonably fear for~~
76 ~~his or her safety. The threat must be against the life of, or a~~
77 ~~threat to cause bodily injury to, a person.~~

78 (d) "Cyberstalk" means to engage in a course of conduct to
79 communicate, or to cause to be communicated, words, images, or
80 language by or through the use of electronic mail or electronic
81 communication, directed at a specific person, causing
82 substantial emotional distress to that person and serving no
83 legitimate purpose.

84 (e) "Immediate family" means a person's spouse, parent,
85 child, grandparent, or sibling.

86 (2) A ~~Any~~ person who willfully, maliciously, and repeatedly
87 follows, harasses, or cyberstalks another person commits the

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88 offense of stalking, a misdemeanor of the first degree,
89 punishable as provided in s. 775.082 or s. 775.083.

90 (3) A ~~Any~~ person who willfully, maliciously, and repeatedly
91 follows, harasses, or cyberstalks another person, and makes a
92 credible threat to that person ~~with the intent to place that~~
93 ~~person in reasonable fear of death or bodily injury of the~~
94 ~~person, or the person's child, sibling, spouse, parent, or~~
95 ~~dependent,~~ commits the offense of aggravated stalking, a felony
96 of the third degree, punishable as provided in s. 775.082, s.
97 775.083, or s. 775.084.

98 (4) A ~~Any~~ person who, after an injunction for protection
99 against repeat violence, sexual violence, or dating violence
100 pursuant to s. 784.046, or an injunction for protection against
101 domestic violence pursuant to s. 741.30, or after any other
102 court-imposed prohibition of conduct toward the subject person
103 or that person's property, knowingly, willfully, maliciously,
104 and repeatedly follows, harasses, or cyberstalks another person
105 commits the offense of aggravated stalking, a felony of the
106 second ~~third~~ degree, punishable as provided in s. 775.082, s.
107 775.083, or s. 775.084.

108 (5) A ~~Any~~ person who willfully, maliciously, and repeatedly
109 follows, harasses, or cyberstalks a child ~~minor~~ under 16 years
110 of age commits the offense of aggravated stalking, a felony of
111 the first ~~third~~ degree, punishable as provided in s. 775.082, s.
112 775.083, or s. 775.084.

113 (6) A ~~Any~~ law enforcement officer may arrest, without a
114 warrant, any person that he or she has probable cause to believe
115 has violated ~~the provisions of~~ this section.

116 (7) A ~~Any~~ person who, after having been sentenced for a

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117 violation of s. 794.011, s. 800.04, or s. 847.0135(5) and
118 prohibited from contacting the victim of the offense under s.
119 921.244, willfully, maliciously, and repeatedly follows,
120 harasses, or cyberstalks the victim commits the offense of
121 aggravated stalking, a felony of the first ~~third~~ degree,
122 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

123 (8) The punishment imposed under this section shall run
124 consecutive to any former sentence imposed for a conviction for
125 any offense under s. 794.011, s. 800.04, or s. 847.0135(5).

126 (9) (a) The sentencing court shall consider, as a part of
127 any sentence, issuing an injunction restraining the defendant
128 from any contact with the victim, which may be valid for up to
129 10 years, as determined by the court. It is the intent of the
130 Legislature that the length of any such restraining order be
131 based upon the seriousness of the facts before the court, the
132 probability of future violations by the perpetrator, and the
133 safety of the victim and his or her immediate family.

134 (b) The injunction may be issued by the court even if the
135 defendant is sentenced to a state prison or a county jail or
136 even if the imposition of the sentence is suspended and the
137 defendant is placed on probation.

138 (10) If the court finds the defendant guilty of stalking or
139 aggravated stalking under this section, the court shall order
140 the defendant to attend a batterers' intervention program
141 pursuant to s. 741.281.

142 (11) There is created a cause of action for an injunction
143 for protection from stalking and aggravated stalking.

144 (a) A person who is the victim of stalking or aggravated
145 stalking, or who is the parent or legal guardian of a child

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146 younger than 16 years of age living at home and who seeks an
 147 injunction for protection from stalking or aggravated stalking
 148 on behalf of the child, has standing in the circuit court to
 149 file a sworn petition for an injunction for protection from
 150 stalking or aggravated stalking.

151 (b) A cause of action for an injunction for protection from
 152 stalking or aggravated stalking may be sought regardless of
 153 whether another cause of action is available or pending between
 154 the parties.

155 (c) The sworn petition must allege the incidents of
 156 stalking or aggravated stalking and include the specific facts
 157 and circumstances that form the basis upon which relief is
 158 sought.

159 (d) The court may not require the petitioner to file a bond
 160 upon the issuance of an injunction for protection from stalking
 161 or aggravated stalking.

162 (e) The clerk of the court shall provide the petitioner
 163 with a certified copy of any injunction for protection from
 164 stalking or aggravated stalking entered by the court.

165 Section 2. Paragraphs (f) and (g) of subsection (3) of
 166 section 921.0022, Florida Statutes, are amended to read:

167 921.0022 Criminal Punishment Code; offense severity ranking
 168 chart.—

169 (3) OFFENSE SEVERITY RANKING CHART

170 (f) LEVEL 6

171

Florida	Felony	
Statute	Degree	Description

172

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173	316.193 (2) (b)	3rd	Felony DUI, 4th or subsequent conviction.
174	499.0051 (3)	2nd	Knowing forgery of pedigree papers.
175	499.0051 (4)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.
176	499.0051 (5)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.
177	775.0875 (1)	3rd	Taking firearm from law enforcement officer.
178	784.021 (1) (a)	3rd	Aggravated assault; deadly weapon without intent to kill.
179	784.021 (1) (b)	3rd	Aggravated assault; intent to commit felony.
180	784.041	3rd	Felony battery; domestic battery by strangulation.
181	784.048 (3)	3rd	Aggravated stalking; credible threat.
182	784.048 (5)	<u>1st</u> 3rd	Aggravated stalking of person under 16.

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183	784.07(2)(c)	2nd	Aggravated assault on law enforcement officer.
184	784.074(1)(b)	2nd	Aggravated assault on sexually violent predators facility staff.
185	784.08(2)(b)	2nd	Aggravated assault on a person 65 years of age or older.
186	784.081(2)	2nd	Aggravated assault on specified official or employee.
187	784.082(2)	2nd	Aggravated assault by detained person on visitor or other detainee.
188	784.083(2)	2nd	Aggravated assault on code inspector.
189	787.02(2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
190	790.115(2)(d)	2nd	Discharging firearm or weapon on school property.
191	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 of deadly explosive, weapon of mass destruction, or act of arson or

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201

coordination of others.

812.015 (9) (a)

2nd

Retail theft; property stolen \$300 or more; second or subsequent conviction.

202

812.015 (9) (b)

2nd

Retail theft; property stolen \$3,000 or more; coordination of others.

203

812.13 (2) (c)

2nd

Robbery, no firearm or other weapon (strong-arm robbery).

204

817.034 (4) (a) 1.

1st

Communications fraud, value greater than \$50,000.

205

817.4821 (5)

2nd

Possess cloning paraphernalia with intent to create cloned cellular telephones.

206

825.102 (1)

3rd

Abuse of an elderly person or disabled adult.

207

825.102 (3) (c)

3rd

Neglect of an elderly person or disabled adult.

208

825.1025 (3)

3rd

Lewd or lascivious molestation of an elderly person or disabled adult.

209

825.103 (2) (c)

3rd

Exploiting an elderly person or disabled adult and property is valued at less

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than \$20,000.

210

827.03(1) 3rd Abuse of a child.

211

827.03(3)(c) 3rd Neglect of a child.

212

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

213

836.05 2nd Threats; extortion.

214

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

215

843.12 3rd Aids or assists person to escape.

216

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

217

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

218

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

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220 914.23 2nd Retaliation against a witness, victim,
or informant, with bodily injury.

221 944.35(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.

222 944.40 2nd Escapes.

223 944.46 3rd Harboring, concealing, aiding escaped
prisoners.

224 944.47(1)(a)5. 2nd Introduction of contraband (firearm,
weapon, or explosive) into correctional
facility.

225 951.22(1) 3rd Intoxicating drug, firearm, or weapon
introduced into county facility.

226 (g) LEVEL 7

227 Florida Felony
Statute Degree Description

228 316.027(1)(b) 1st Accident involving death, failure to
stop; leaving scene.

229

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230

316.193 (3) (c) 2. 3rd DUI resulting in serious bodily injury.

231

316.1935 (3) (b) 1st Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.

232

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

233

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

234

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

235

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

236

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

456.065 (2) 2nd Practicing a health care profession without a license which results in

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serious bodily injury.

237

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

238

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

239

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

240

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

241

462.17 3rd Practicing naturopathy without a license.

242

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

243

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

244

465.015 (2) 3rd Practicing pharmacy without a license.

245

466.026 (1) 3rd Practicing dentistry or dental hygiene without a license.

246

467.201 3rd Practicing midwifery without a license.

247

468.366 3rd Delivering respiratory care services without a license.

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248

483.828 (1) 3rd Practicing as clinical laboratory personnel without a license.

249

483.901 (9) 3rd Practicing medical physics without a license.

250

484.013 (1) (c) 3rd Preparing or dispensing optical devices without a prescription.

251

484.053 3rd Dispensing hearing aids without a license.

252

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.

253

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.

254

560.125 (5) (a) 3rd Money services business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.

255

655.50 (10) (b) 1. 3rd Failure to report financial

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transactions exceeding \$300 but less than \$20,000 by financial institution.

256

775.21(10) (a) 3rd Sexual predator; failure to register; failure to renew driver's license or identification card; other registration violations.

257

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

258

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

259

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

260

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

261

782.071 2nd Killing of a human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide).

262

782.072 2nd Killing of a human being by the

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operation of a vessel in a reckless manner (vessel homicide).

263

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

264

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

265

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

266

784.048 (4) 2nd Aggravated stalking; violation of
~~3rd~~ injunction or court order.

267

784.048 (7) 1st Aggravated stalking; violation of court
~~3rd~~ order.

268

784.07 (2) (d) 1st Aggravated battery on law enforcement officer.

269

784.074 (1) (a) 1st Aggravated battery on sexually violent predators facility staff.

270

784.08 (2) (a) 1st Aggravated battery on a person 65 years of age or older.

271

784.081 (1) 1st Aggravated battery on specified

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official or employee.

272

784.082 (1) 1st Aggravated battery by detained person on visitor or other detainee.

273

784.083 (1) 1st Aggravated battery on code inspector.

274

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

275

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

276

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

277

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

278

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

279

790.166 (4) 2nd Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.

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790.23	1st,PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
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.
796.03	2nd	Procuring any person under 16 years for prostitution.
800.04 (5) (c) 1.	2nd	Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years.
800.04 (5) (c) 2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender 18 years or older.
806.01 (2)	2nd	Maliciously damage structure by fire or explosive.
810.02 (3) (a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
810.02 (3) (b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.

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288

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

289

810.02 (3) (e) 2nd Burglary of authorized emergency
vehicle.

290

812.014 (2) (a) 1. 1st Property stolen, valued at \$100,000 or
more or a semitrailer deployed by a law
enforcement officer; property stolen
while causing other property damage;
1st degree grand theft.

291

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

292

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

293

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

294

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

295

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

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traffics in stolen property.

296

812.131 (2) (a) 2nd Robbery by sudden snatching.

297

812.133 (2) (b) 1st Carjacking; no firearm, deadly weapon,
or other weapon.

298

817.234 (8) (a) 2nd Solicitation of motor vehicle accident
victims with intent to defraud.

299

817.234 (9) 2nd Organizing, planning, or participating
in an intentional motor vehicle
collision.

300

817.234 (11) (c) 1st Insurance fraud; property value
\$100,000 or more.

301

817.2341 1st Making false entries of material fact
(2) (b) & or false statements regarding property
(3) (b) values relating to the solvency of an
insuring entity which are a significant
cause of the insolvency of that entity.

302

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

303

825.103 (2) (b) 2nd Exploiting an elderly person or
disabled adult and property is valued

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at \$20,000 or more, but less than
\$100,000.

304

827.03(3)(b) 2nd Neglect of a child causing great bodily
harm, disability, or disfigurement.

305

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

306

837.05(2) 3rd Giving false information about alleged
capital felony to a law enforcement
officer.

307

838.015 2nd Bribery.

308

838.016 2nd Unlawful compensation or reward for
official behavior.

309

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

310

838.22 2nd Bid tampering.

311

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

312

847.0135(4) 2nd Traveling to meet a minor to commit an
unlawful sex act.

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314

872.06 2nd Abuse of a dead human body.

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874.10 1st,PBL Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.

316

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.

317

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.

318

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).

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

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- 893.135 (1) (b) 1.a. 1st Trafficking in cocaine, more than 28 grams, less than 200 grams.
- 893.135 (1) (c) 1.a. 1st Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
- 893.135 (1) (d) 1. 1st Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
- 893.135 (1) (e) 1. 1st Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
- 893.135 (1) (f) 1. 1st Trafficking in amphetamine, more than 14 grams, less than 28 grams.
- 893.135 (1) (g) 1.a. 1st Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
- 893.135 (1) (h) 1.a. 1st Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
- 893.135 (1) (j) 1.a. 1st Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
- 893.135 (1) (k) 2.a. 1st Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.

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336 943.0435(14) 3rd Sexual offender; failure to report and
reregister; failure to respond to
address verification.

337 944.607(9) 3rd Sexual offender; failure to comply with
reporting requirements.

338 944.607(10)(a) 3rd Sexual offender; failure to submit to
the taking of a digitized photograph.

339 944.607(12) 3rd Failure to report or providing false
information about a sexual offender;
harbor or conceal a sexual offender.

340 944.607(13) 3rd Sexual offender; failure to report and
reregister; failure to respond to
address verification.

341 985.4815(10) 3rd Sexual offender; failure to submit to
the taking of a digitized photograph.

342 985.4815(12) 3rd Failure to report or providing false
information about a sexual offender;
harbor or conceal a sexual offender.

343 985.4815(13) 3rd Sexual offender; failure to report and
reregister; failure to respond to
address verification.

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Section 3. This act shall take effect July 1, 2012.