

By Senator Clemens

31-01630-17

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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; providing
6 for fines or community service; providing that such
7 possession by a minor is a civil violation; requiring
8 such minor to perform community service, attend a drug
9 awareness program, or both; prohibiting arrests for
10 such violation; providing an exception; limiting
11 collateral use of such violation; prohibiting state or
12 local penalties or obligations other than specified
13 penalties or obligations concerning possession of
14 personal use quantities of cannabis or cannabis
15 accessories; prohibiting additional state or local
16 penalties or obligations for having cannabinoids or
17 cannabinoid metabolites in tissue or fluid of the
18 body; providing applicability; specifying that
19 political subdivisions may enact ordinances concerning
20 public consumption of cannabis; specifying that
21 certain violations may not be considered probation or
22 parole violations; providing recordkeeping;
23 authorizing the court to require completion of a drug
24 awareness program under certain circumstances;
25 providing penalties for noncompliance; providing
26 distribution of revenue from civil penalties; amending
27 ss. 893.13, 893.145, and 938.23, F.S.; conforming
28 provisions to changes made by the act; reenacting ss.
29 112.0455(8)(s), 397.451(4)(b), 435.07(2), 772.12(2),

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

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

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

893.131 Personal use quantity of cannabis.-

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

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

(b) "Personal use quantity of cannabis" means 1 ounce or less of cannabis, except that:

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

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

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

(2) PERSONAL POSSESSION.-

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

2. A person 18 years of age or older who commits a civil violation under subparagraph 1. may request a penalty of up to 15 hours of community service in lieu of the civil penalty in subparagraph 1.

(b) A person under the age of 18 years who knowingly and

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

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

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

107 (e) A person who fails or refuses to produce his or her
108 identification card or driver license issued by the state, or
109 another form of identification issued by any state, district,
110 county, municipality, school district, college, or university
111 upon request by a law enforcement officer who informs the person
112 that he or she has been found to be in possession of what
113 appears to the officer to be a personal use quantity of cannabis
114 or a cannabis accessory may be arrested for a violation of this
115 section if the person fails or refuses to truthfully provide his
116 or her name, address, and date of birth to a law enforcement

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117 officer.

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

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

139 (h) This section does not repeal or modify any law
140 concerning the medical use of cannabis or tetrahydrocannabinol
141 in any other form, such as dronabinol; the possession of more
142 than a personal use quantity of cannabis; or the sale,
143 manufacture, or trafficking of cannabis.

144 (i) This section does not prohibit a political subdivision
145 of the state from enacting ordinances regulating or prohibiting

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146 the public consumption of cannabis or tetrahydrocannabinol or
147 providing additional penalties for the public consumption of
148 cannabis or tetrahydrocannabinol if such penalties are not
149 greater than those relating to the public consumption of
150 alcohol.

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

153 (3) RECORDKEEPING.—

154 (a) Except as otherwise provided in this subsection, a
155 record of a violation of this section may not be recorded in any
156 database of criminal offenders.

157 (b) A state, county, or municipal law enforcement agency
158 that collects and reports data for the Federal Bureau of
159 Investigation's Uniform Crime Reporting Program shall collect
160 data on the number of violations of this section and report such
161 data to the Department of Law Enforcement. The Department of Law
162 Enforcement shall compile the data collected pursuant to this
163 paragraph and make it available free of cost to the public. Such
164 law enforcement agency shall update the data annually and make
165 the data available on its public Internet website.

166 (4) DRUG AWARENESS PROGRAMS.—

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

171 (b) The drug awareness program may charge a fee of up to
172 \$75 to offset any program costs. The fees shall be waived based
173 on an offender's financial hardship. All fees shall be payable
174 by the offender upon entry into the program.

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175 (5) NOTICE OF VIOLATIONS.—

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

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

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

197 (a) Fifty percent shall be distributed to or retained by
198 the municipality where the violation occurred or the county
199 where it occurred, if the violation occurred in an
200 unincorporated area.

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

203 Section 2. Subsection (3) and paragraphs (b) and (e) of

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204 subsection (6) of section 893.13, Florida Statutes, are amended
205 to read:

206 893.13 Prohibited acts; penalties.—

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

215 (6)

216 (b) If the offense is the possession of 1 ounce ~~20 grams~~ or
217 less of cannabis, as defined in this chapter, and the possession
218 is not a personal use quantity of cannabis, as defined in s.
219 893.131, the person commits a misdemeanor of the first degree,
220 punishable as provided in s. 775.082 or s. 775.083. As used in
221 this subsection, the term “cannabis” does not include the resin
222 extracted from the plants of the genus *Cannabis*, or any compound
223 manufacture, salt, derivative, mixture, or preparation of such
224 resin.

225 (e) Notwithstanding any provision to the contrary of the
226 laws of this state relating to arrest, and except as provided in
227 s. 893.131, a law enforcement officer may arrest without warrant
228 any person who the officer has probable cause to believe is
229 violating the provisions of this chapter relating to possession
230 of cannabis.

231 Section 3. Section 893.145, Florida Statutes, is amended to
232 read:

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233 893.145 "Drug paraphernalia" defined.—The term "drug
234 paraphernalia" means all equipment, products, and materials of
235 any kind which are used, intended for use, or designed for use
236 in planting, propagating, cultivating, growing, harvesting,
237 manufacturing, compounding, converting, producing, processing,
238 preparing, testing, analyzing, packaging, repackaging, storing,
239 containing, concealing, transporting, injecting, ingesting,
240 inhaling, or otherwise introducing into the human body a
241 controlled substance in violation of this chapter or s. 877.111.
242 Drug paraphernalia is deemed to be contraband which shall be
243 subject to civil forfeiture. The term does not include a
244 cannabis accessory, as defined in s. 893.131. The term includes,
245 but is not limited to:

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

250 (2) Kits used, intended for use, or designed for use in
251 manufacturing, compounding, converting, producing, processing,
252 or preparing controlled substances.

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

256 (4) Testing equipment used, intended for use, or designed
257 for use in identifying, or in analyzing the strength,
258 effectiveness, or purity of, controlled substances.

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

261 (6) Diluents and adulterants, such as quinine

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262 hydrochloride, caffeine, dimethyl sulfone, mannitol, mannite,
263 dextrose, and lactose, used, intended for use, or designed for
264 use in diluting controlled substances; or substances such as
265 damiana leaf, marshmallow leaf, and mullein leaf, used, intended
266 for use, or designed for use as carrier mediums of controlled
267 substances.

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

271 (8) Blenders, bowls, containers, spoons, and mixing devices
272 used, intended for use, or designed for use in compounding
273 controlled substances.

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

277 (10) Containers and other objects used, intended for use,
278 or designed for use in storing, concealing, or transporting
279 controlled substances.

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

283 (12) Objects used, intended for use, or designed for use in
284 ingesting, inhaling, or otherwise introducing controlled
285 substances, as described in s. 893.03, or substances described
286 in s. 877.111(1) into the human body, such as:

287 (a) Metal, wooden, acrylic, glass, stone, plastic, or
288 ceramic pipes, with or without screens, permanent screens,
289 hashish heads, or punctured metal bowls.

290 (b) Water pipes.

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- 291 (c) Carburetion tubes and devices.
- 292 (d) Smoking and carburetion masks.
- 293 (e) Roach clips: meaning objects used to hold burning
294 material, such as a cannabis cigarette, that has become too
295 small or too short to be held in the hand.
- 296 (f) Miniature cocaine spoons, and cocaine vials.
- 297 (g) Chamber pipes.
- 298 (h) Carburetor pipes.
- 299 (i) Electric pipes.
- 300 (j) Air-driven pipes.
- 301 (k) Chillums.
- 302 (l) Bongs.
- 303 (m) Ice pipes or chillers.
- 304 (n) A cartridge or canister, which means a small metal
305 device used to contain nitrous oxide.
- 306 (o) A charger, sometimes referred to as a "cracker," which
307 means a small metal or plastic device that contains an interior
308 pin that may be used to expel nitrous oxide from a cartridge or
309 container.
- 310 (p) A charging bottle, which means a device that may be
311 used to expel nitrous oxide from a cartridge or canister.
- 312 (q) A whip-it, which means a device that may be used to
313 expel nitrous oxide.
- 314 (r) A tank.
- 315 (s) A balloon.
- 316 (t) A hose or tube.
- 317 (u) A 2-liter-type soda bottle.
- 318 (v) Duct tape.
- 319 Section 4. Subsection (2) of section 938.23, Florida

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320 Statutes, is amended to read:

321 938.23 Assistance grants for alcohol and other drug abuse
322 programs.—

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

336 Section 5. For the purpose of incorporating the amendment
337 made by this act to section 893.13, Florida Statutes, in a
338 reference thereto, paragraph (s) of subsection (8) of section
339 112.0455, Florida Statutes, is reenacted to read:

340 112.0455 Drug-Free Workplace Act.—

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

344 (s) An employer may not discharge, discipline, or
345 discriminate against an employee solely upon voluntarily seeking
346 treatment, while under the employ of the employer, for a drug-
347 related problem if the employee has not previously tested
348 positive for drug use, entered an employee assistance program

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349 for drug-related problems, or entered an alcohol and drug
350 rehabilitation program. However, special risk employees may be
351 subject to discharge or disciplinary action when the presence of
352 illicit drugs, pursuant to s. 893.13, is confirmed.

353 Section 6. For the purpose of incorporating the amendment
354 made by this act to section 893.13, Florida Statutes, in a
355 reference thereto, paragraph (b) of subsection (4) of section
356 397.451, Florida Statutes, is reenacted to read:

357 397.451 Background checks of service provider personnel.—

358 (4) EXEMPTIONS FROM DISQUALIFICATION.—

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

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

370 435.07 Exemptions from disqualification.—Unless otherwise
371 provided by law, the provisions of this section apply to
372 exemptions from disqualification for disqualifying offenses
373 revealed pursuant to background screenings required under this
374 chapter, regardless of whether those disqualifying offenses are
375 listed in this chapter or other laws.

376 (2) Persons employed, or applicants for employment, by
377 treatment providers who treat adolescents 13 years of age and

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378 older who are disqualified from employment solely because of
379 crimes under s. 817.563, s. 893.13, or s. 893.147 may be
380 exempted from disqualification from employment pursuant to this
381 chapter without application of the waiting period in
382 subparagraph (1)(a)1.

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

387 772.12 Drug Dealer Liability Act.—

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

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

396 1. A violation of s. 893.13, except for a violation of s.
397 893.13(2)(a) or (b), (3), (5), (6)(a), (b), or (c), (7); or

398 2. A violation of s. 893.135; and

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

403 Section 9. For the purpose of incorporating the amendment
404 made by this act to section 893.13, Florida Statutes, in a
405 reference thereto, paragraph (a) of subsection (1) of section
406 775.084, Florida Statutes, is reenacted to read:

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407 775.084 Violent career criminals; habitual felony offenders
408 and habitual violent felony offenders; three-time violent felony
409 offenders; definitions; procedure; enhanced penalties or
410 mandatory minimum prison terms.-

411 (1) As used in this act:

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

415 1. The defendant has previously been convicted of any
416 combination of two or more felonies in this state or other
417 qualified offenses.

418 2. The felony for which the defendant is to be sentenced
419 was committed:

420 a. While the defendant was serving a prison sentence or
421 other sentence, or court-ordered or lawfully imposed supervision
422 that is imposed as a result of a prior conviction for a felony
423 or other qualified offense; or

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

432 3. The felony for which the defendant is to be sentenced,
433 and one of the two prior felony convictions, is not a violation
434 of s. 893.13 relating to the purchase or the possession of a
435 controlled substance.

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

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

442 Section 10. For the purpose of incorporating the amendment
443 made by this act to section 893.13, Florida Statutes, in a
444 reference thereto, paragraph (f) of subsection (3) of section
445 810.02, Florida Statutes, is reenacted to read:

446 810.02 Burglary.—

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

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

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463 However, if the burglary is committed within a county that is
464 subject to a state of emergency declared by the Governor under

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

481 Section 11. For the purpose of incorporating the amendment
482 made by this act to section 893.13, Florida Statutes, in a
483 reference thereto, paragraph (c) of subsection (2) of section
484 812.014, Florida Statutes, is reenacted to read:

485 812.014 Theft.—

486 (2)

487 (c) It is grand theft of the third degree and a felony of
488 the third degree, punishable as provided in s. 775.082, s.
489 775.083, or s. 775.084, if the property stolen is:

490 1. Valued at \$300 or more, but less than \$5,000.

491 2. Valued at \$5,000 or more, but less than \$10,000.

492 3. Valued at \$10,000 or more, but less than \$20,000.

493 4. A will, codicil, or other testamentary instrument.

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- 494 5. A firearm.
- 495 6. A motor vehicle, except as provided in paragraph (a).
- 496 7. Any commercially farmed animal, including any animal of
497 the equine, bovine, or swine class or other grazing animal; a
498 bee colony of a registered beekeeper; and aquaculture species
499 raised at a certified aquaculture facility. If the property
500 stolen is aquaculture species raised at a certified aquaculture
501 facility, then a \$10,000 fine shall be imposed.
- 502 8. Any fire extinguisher.
- 503 9. Any amount of citrus fruit consisting of 2,000 or more
504 individual pieces of fruit.
- 505 10. Taken from a designated construction site identified by
506 the posting of a sign as provided for in s. 810.09(2)(d).
- 507 11. Any stop sign.
- 508 12. Anhydrous ammonia.
- 509 13. Any amount of a controlled substance as defined in s.
510 893.02. Notwithstanding any other law, separate judgments and
511 sentences for theft of a controlled substance under this
512 subparagraph and for any applicable possession of controlled
513 substance offense under s. 893.13 or trafficking in controlled
514 substance offense under s. 893.135 may be imposed when all such
515 offenses involve the same amount or amounts of a controlled
516 substance.
- 517
- 518 However, if the property is stolen within a county that is
519 subject to a state of emergency declared by the Governor under
520 chapter 252, the property is stolen after the declaration of
521 emergency is made, and the perpetration of the theft is
522 facilitated by conditions arising from the emergency, the

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

536 Section 12. For the purpose of incorporating the amendment
537 made by this act to section 893.13, Florida Statutes, in a
538 reference thereto, subsection (1) of section 831.311, Florida
539 Statutes, is reenacted to read:

540 831.311 Unlawful sale, manufacture, alteration, delivery,
541 uttering, or possession of counterfeit-resistant prescription
542 blanks for controlled substances.—

543 (1) It is unlawful for any person having the intent to
544 injure or defraud any person or to facilitate any violation of
545 s. 893.13 to sell, manufacture, alter, deliver, utter, or
546 possess with intent to injure or defraud any person, or to
547 facilitate any violation of s. 893.13, any counterfeit-resistant
548 prescription blanks for controlled substances, the form and
549 content of which are adopted by rule of the Department of Health
550 pursuant to s. 893.065.

551 Section 13. For the purpose of incorporating the amendment

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552 made by this act to section 893.13, Florida Statutes, in a
553 reference thereto, subsections (1) and (2) of section 893.1351,
554 Florida Statutes, are reenacted to read:

555 893.1351 Ownership, lease, rental, or possession for
556 trafficking in or manufacturing a controlled substance.—

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

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

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

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581 893.138 Local administrative action to abate drug-related,
582 prostitution-related, or stolen-property-related public
583 nuisances and criminal gang activity.—

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

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

589 (b) Section 810.02, relating to burglary;

590 (c) Section 812.014, relating to theft;

591 (d) Section 812.131, relating to robbery by sudden
592 snatching; or

593 (e) Section 893.13, relating to the unlawful distribution
594 of controlled substances,

595

596 may be declared to be a public nuisance, and such nuisance may
597 be abated pursuant to the procedures provided in this section.

598 Section 15. For the purpose of incorporating the amendment
599 made by this act to section 893.13, Florida Statutes, in a
600 reference thereto, section 893.15, Florida Statutes, is
601 reenacted to read:

602 893.15 Rehabilitation.—Any person who violates s.
603 893.13(6) (a) or (b) relating to possession may, in the
604 discretion of the trial judge, be required to participate in a
605 substance abuse services program approved or regulated by the
606 Department of Children and Families pursuant to the provisions
607 of chapter 397, provided the director of such program approves
608 the placement of the defendant in such program. Such required
609 participation shall be imposed in addition to any penalty or

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610 probation otherwise prescribed by law. However, the total time
611 of such penalty, probation, and program participation shall not
612 exceed the maximum length of sentence possible for the offense.

613 Section 16. For the purpose of incorporating the amendment
614 made by this act to section 893.13, Florida Statutes, in a
615 reference thereto, section 903.133, Florida Statutes, is
616 reenacted to read:

617 903.133 Bail on appeal; prohibited for certain felony
618 convictions.—Notwithstanding the provisions of s. 903.132, no
619 person adjudged guilty of a felony of the first degree for a
620 violation of s. 782.04(2) or (3), s. 787.01, s. 794.011(4), s.
621 806.01, s. 893.13, or s. 893.135, or adjudged guilty of a
622 violation of s. 794.011(2) or (3), shall be admitted to bail
623 pending review either by posttrial motion or appeal.

624 Section 17. For the purpose of incorporating the amendment
625 made by this act to section 893.13, Florida Statutes, in a
626 reference thereto, paragraph (1) of subsection (1) of section
627 921.187, Florida Statutes, is reenacted to read:

628 921.187 Disposition and sentencing; alternatives;
629 restitution.—

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

635 (1)1. Require the offender who violates any criminal
636 provision of chapter 893 to pay an additional assessment in an
637 amount up to the amount of any fine imposed, pursuant to ss.
638 938.21 and 938.23.

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639 2. Require the offender who violates any provision of s.
640 893.13 to pay an additional assessment in an amount of \$100,
641 pursuant to ss. 938.055 and 943.361.

642 Section 18. For the purpose of incorporating the amendment
643 made by this act to section 893.145, Florida Statutes, in a
644 reference thereto, paragraph (a) of subsection (2) of section
645 893.12, Florida Statutes, is reenacted to read:

646 893.12 Contraband; seizure, forfeiture, sale.—

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

653 Section 19. For the purpose of incorporating the amendment
654 made by this act to section 893.145, Florida Statutes, in a
655 reference thereto, paragraph (a) of subsection (6) of section
656 893.147, Florida Statutes, is reenacted to read:

657 893.147 Use, possession, manufacture, delivery,
658 transportation, advertisement, or retail sale of drug
659 paraphernalia.—

660 (6) RETAIL SALE OF DRUG PARAPHERNALIA.—

661 (a) It is unlawful for a person to knowingly and willfully
662 sell or offer for sale at retail any drug paraphernalia
663 described in s. 893.145(12) (a)-(c) or (g)-(m), other than a pipe
664 that is primarily made of briar, meerschaum, clay, or corn cob.

665 Section 20. This act shall take effect July 1, 2017.