

1 A bill to be entitled
 2 An act relating to stalking; amending s. 784.048, F.S.;
 3 redefining the terms "harass," "credible threat," and
 4 "cyberstalk"; defining the terms "electronic
 5 communication," "electronic communication device," and
 6 "immediate family"; increasing criminal penalties;
 7 providing for reclassification of criminal penalties for
 8 certain offenses; providing for a civil cause of action
 9 and remedies; providing that the civil remedies are in
 10 addition to any other civil, administrative, or criminal
 11 remedies provided by law; amending s. 921.0022, F.S.,
 12 relating to the offense severity ranking chart; conforming
 13 provisions to changes made by the act; providing an
 14 effective date.

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

17
 18 Section 1. Section 784.048, Florida Statutes, is amended
 19 to read:

20 784.048 Stalking; definitions; penalties.--

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

22 (a) "Harass" means to engage in a course of conduct, or to
 23 cause or encourage another to engage in a course of conduct,
 24 directed at a specific person which ~~that~~ causes substantial
 25 emotional distress in such person and serves no legitimate
 26 purpose.

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

29 short, evidencing a continuity of purpose. Constitutionally
 30 protected activity is not included within the meaning of "course
 31 of conduct." Such constitutionally protected activity includes
 32 picketing or other organized protests.

33 (c) "Credible threat" means any a threat, including a
 34 threat delivered by means of an electronic communication device,
 35 made with the intent to cause the person who is the target of
 36 the threat to reasonably fear bodily injury or death to himself
 37 or herself or to a member of his or her immediate family ~~for his~~
 38 ~~or her safety. The threat must be against the life of, or a~~
 39 ~~threat to cause bodily injury to, a person.~~

40 (d) "Cyberstalk" means to engage in a course of conduct,
 41 or to cause or encourage another to engage in a course of
 42 conduct, to communicate, or to cause to be communicated, words,
 43 images, or language by or through the use of electronic mail or
 44 electronic communication, directed at a specific person, causing
 45 substantial emotional distress to that person and serving no
 46 legitimate purpose.

47 (e) "Electronic communication" means any transfer of
 48 signs, signals, writings, images, sounds, data, or intelligence
 49 of any nature transmitted in whole or in part by a wire, radio,
 50 electromagnetic, photoelectronic, or photooptical system that
 51 affects interstate or foreign commerce.

52 (f) "Electronic communication device" means any type of
 53 instrument, device, machine, equipment, or software that is
 54 capable of transmitting, acquiring, encrypting, transferring,
 55 decrypting, or receiving any signs, signals, writings, data,
 56 images, sounds, or intelligence of any nature by wire, radio,

57 optical, or other electromagnetic system. The term includes, but
 58 is not limited to, telephones, cellular phones, computers, video
 59 recorders, fax machines, or pagers.

60 (g) "Immediate family" means spouses, former spouses,
 61 persons related by blood or marriage, persons who are presently
 62 residing together as if a family or who have resided together in
 63 the past as if a family, and persons who are parents of a child
 64 in common regardless of whether they have been married. With the
 65 exception of persons who have a child in common, the immediate
 66 family members must be currently residing or have within the
 67 previous 6 months resided together in the same single dwelling
 68 unit.

69 (2) Any person who willfully, maliciously, and repeatedly
 70 follows, harasses, or cyberstalks another person commits the
 71 offense of stalking, a felony ~~misdemeanor~~ of the third ~~first~~
 72 degree, punishable as provided in s. 775.082, ~~or~~ s. 775.083, or
 73 s. 775.084.

74 (3) Any person who willfully, maliciously, and repeatedly
 75 follows, harasses, or cyberstalks another person, and
 76 purposefully engages in a course of conduct involving ~~makes~~ a
 77 credible threat with the intent to place that person in
 78 reasonable fear of death or bodily injury of the person, or the
 79 person's immediate family ~~child, sibling, spouse, parent, or~~
 80 ~~dependent~~, commits the offense of aggravated stalking, a felony
 81 of the second ~~third~~ degree, punishable as provided in s.
 82 775.082, s. 775.083, or s. 775.084.

83 (4) Any person who, after an injunction for protection
 84 against repeat violence, sexual violence, or dating violence

HB 867

2008

85 pursuant to s. 784.046, or an injunction for protection against
86 domestic violence pursuant to s. 741.30, or after any other
87 court-imposed prohibition of conduct toward the subject person
88 or that person's property, knowingly, willfully, maliciously,
89 and repeatedly follows, harasses, or cyberstalks another person
90 commits the offense of aggravated stalking, a felony of the
91 second ~~third~~ degree, punishable as provided in s. 775.082, s.
92 775.083, or s. 775.084.

93 (5) Any person who willfully, maliciously, and repeatedly
94 follows, harasses, or cyberstalks a minor under 16 years of age
95 commits the offense of aggravated stalking, a felony of the
96 second ~~third~~ degree, punishable as provided in s. 775.082, s.
97 775.083, or s. 775.084.

98 (6) Any law enforcement officer may arrest, without a
99 warrant, any person he or she has probable cause to believe has
100 violated the provisions of this section.

101 (7) Any person who, after having been sentenced for a
102 violation of s. 794.011 or s. 800.04, and prohibited from
103 contacting the victim of the offense under s. 921.244,
104 willfully, maliciously, and repeatedly follows, harasses, or
105 cyberstalks the victim commits the offense of aggravated
106 stalking, a felony of the second ~~third~~ degree, punishable as
107 provided in s. 775.082, s. 775.083, or s. 775.084.

108 (8) If a person is charged with violating any provision of
109 this section and conceals his or her identification from the
110 person who is the victim of the violation, uses the electronic
111 bandwidth of another person while violating this section, or
112 destroys evidence of a person's violation of this section, the

113 offense for which the person is charged shall be reclassified as
 114 follows:

115 (a) In the case of aggravated stalking of a minor younger
 116 than 16 years of age, from a felony of the second degree to a
 117 felony of the first degree.

118 (b) In the case of aggravated stalking, from a felony of
 119 the second degree to a felony of the first degree.

120 (c) In the case of stalking, from a felony of the third
 121 degree to a felony of the second degree.

122 (9)(8) The punishment imposed under this section shall run
 123 consecutive to any former sentence imposed for a conviction for
 124 any offense under s. 794.011 or s. 800.04.

125 (10)(a) Notwithstanding any other remedy or relief to
 126 which a person is entitled, a person suffering damage as a
 127 result of a violation of this section may bring an action to
 128 recover or obtain actual, punitive, and treble damages,
 129 equitable relief, reasonable attorney's fees, investigative
 130 costs, court costs, witness costs, deposition expenses, and any
 131 other relief a court considers proper.

132 (b) The remedies of this subsection are in addition to any
 133 other civil, administrative, or criminal remedies provided by
 134 law.

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

137 921.0022 Criminal Punishment Code; offense severity
 138 ranking chart.--

139 (3) OFFENSE SEVERITY RANKING CHART

140 (f) LEVEL 6

HB 867

2008

141	Florida	Felony	Description
142	Statute	Degree	
142	316.193 (2) (b)	3rd	Felony DUI, 4th or subsequent conviction.
143	499.0051 (3)	2nd	Forgery of pedigree papers.
144	499.0051 (4)	2nd	Purchase or receipt of legend drug from unauthorized person.
145	499.0051 (5)	2nd	Sale of legend drug to unauthorized person.
146	775.0875 (1)	3rd	Taking firearm from law enforcement officer.
147	784.021 (1) (a)	3rd	Aggravated assault; deadly weapon without intent to kill.
148	784.021 (1) (b)	3rd	Aggravated assault; intent to commit felony.
149	784.041	3rd	Felony battery; domestic battery by strangulation.

150

HB 867

2008

151	784.048 (3)	<u>2nd</u> 3rd	Aggravated stalking; credible threat.
152	784.048 (5)	<u>2nd</u> 3rd	Aggravated stalking of person under 16.
153	784.07 (2) (c)	2nd	Aggravated assault on law enforcement officer.
154	784.074 (1) (b)	2nd	Aggravated assault on sexually violent predators facility staff.
155	784.08 (2) (b)	2nd	Aggravated assault on a person 65 years of age or older.
156	784.081 (2)	2nd	Aggravated assault on specified official or employee.
157	784.082 (2)	2nd	Aggravated assault by detained person on visitor or other detainee.
158	784.083 (2)	2nd	Aggravated assault on code inspector.
159	787.02 (2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
	790.115 (2) (d)	2nd	Discharging firearm or weapon on

HB 867

2008

school property.

160

790.161(2) 2nd Make, possess, or throw destructive device with intent to do bodily harm or damage property.

161

790.164(1) 2nd False report of deadly explosive, weapon of mass destruction, or act of arson or violence to state property.

162

790.19 2nd Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.

163

794.011(8)(a) 3rd Solicitation of minor to participate in sexual activity by custodial adult.

164

794.05(1) 2nd Unlawful sexual activity with specified minor.

165

800.04(5)(d) 3rd Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender less than 18 years.

166

800.04(6)(b) 2nd Lewd or lascivious conduct; offender 18 years of age or older.

167

HB 867

2008

168	806.031 (2)	2nd	Arson resulting in great bodily harm to firefighter or any other person.
169	810.02 (3) (c)	2nd	Burglary of occupied structure; unarmed; no assault or battery.
170	812.014 (2) (b) 1.	2nd	Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree.
171	812.014 (6)	2nd	Theft; property stolen \$3,000 or more; coordination of others.
172	812.015 (9) (a)	2nd	Retail theft; property stolen \$300 or more; second or subsequent conviction.
173	812.015 (9) (b)	2nd	Retail theft; property stolen \$3,000 or more; coordination of others.
174	812.13 (2) (c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).
175	817.034 (4) (a) 1.	1st	Communications fraud, value greater than \$50,000.
	817.4821 (5)	2nd	Possess cloning paraphernalia with

HB 867

2008

intent to create cloned cellular
telephones.

176

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

177

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

178

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

179

825.103 (2) (c) 3rd Exploiting an elderly person or
disabled adult and property is valued
at less than \$20,000.

180

827.03 (1) 3rd Abuse of a child.

181

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

182

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

183

836.05 2nd Threats; extortion.

184

836.10 2nd Written threats to kill or do bodily

HB 867

2008

injury.

185

843.12 3rd Aids or assists person to escape.

186

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

187

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

188

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.

189

944.40 2nd Escapes.

190

944.46 3rd Harboring, concealing, aiding escaped prisoners.

191

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

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HB 867

2008

193	951.22 (1)	3rd	Intoxicating drug, firearm, or weapon introduced into county facility.
194	(g) LEVEL 7		
195			
	Florida Statute	Felony Degree	Description
196			
	316.027 (1) (b)	1st	Accident involving death, failure to stop; leaving scene.
197			
	316.193 (3) (c) 2.	3rd	DUI resulting in serious bodily injury.
198			
	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.
199			
	327.35 (3) (c) 2.	3rd	Vessel BUI resulting in serious bodily injury.
200			
	402.319 (2)	2nd	Misrepresentation and negligence or intentional act resulting in great

HB 867

2008

bodily harm, permanent disfiguration,
 permanent disability, or death.

201

409.920 (2) 3rd Medicaid provider fraud.

202

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

203

456.065 (2) 2nd Practicing a health care profession
 without a license which results in
 serious bodily injury.

204

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

205

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

206

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

207

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

208

462.17 3rd Practicing naturopathy without a
 license.

209

HB 867

2008

210	463.015 (1)	3rd	Practicing optometry without a license.
211	464.016 (1)	3rd	Practicing nursing without a license.
212	465.015 (2)	3rd	Practicing pharmacy without a license.
213	466.026 (1)	3rd	Practicing dentistry or dental hygiene without a license.
214	467.201	3rd	Practicing midwifery without a license.
215	468.366	3rd	Delivering respiratory care services without a license.
216	483.828 (1)	3rd	Practicing as clinical laboratory personnel without a license.
217	483.901 (9)	3rd	Practicing medical physics without a license.
218	484.013 (1) (c)	3rd	Preparing or dispensing optical devices without a prescription.
	484.053	3rd	Dispensing hearing aids without a

HB 867

2008

license.

219

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.

220

560.123(8)(b)1.

3rd

Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by money transmitter.

221

560.125(5)(a)

3rd

Money transmitter business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.

222

655.50(10)(b)1.

3rd

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

223

775.21(10)(a)

3rd

Sexual predator; failure to register; failure to renew driver's license or identification card; other registration violations.

224

HB 867

2008

225	775.21(10)(b)	3rd	Sexual predator working where children regularly congregate.
226	775.21(10)(g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
227	782.051(3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
228	782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
229	782.071	2nd	Killing of a human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide).
230	782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
	784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or

HB 867

2008

disfigurement.

231

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

232

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

233

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

234

784.048 (7) 2nd ~~3rd~~ Aggravated stalking; violation of
court order.

235

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

236

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

237

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

238

784.081 (1) 1st Aggravated battery on specified
official or employee.

239

784.082 (1) 1st Aggravated battery by detained person

HB 867

2008

on visitor or other detainee.

240 784.083 (1) 1st Aggravated battery on code inspector.

241 790.07 (4) 1st Specified weapons violation
subsequent to previous conviction of
s. 790.07(1) or (2).

242 790.16 (1) 1st Discharge of a machine gun under
specified circumstances.

243 790.165 (2) 2nd Manufacture, sell, possess, or
deliver hoax bomb.

244 790.165 (3) 2nd Possessing, displaying, or
threatening to use any hoax bomb
while committing or attempting to
commit a felony.

245 790.166 (3) 2nd Possessing, selling, using, or
attempting to use a hoax weapon of
mass destruction.

246 790.166 (4) 2nd Possessing, displaying, or
threatening to use a hoax weapon of
mass destruction while committing or
attempting to commit a felony.

247

HB 867

2008

248	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.
249	796.03	2nd	Procuring any person under 16 years for prostitution.
250	800.04 (5) (c) 1.	2nd	Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years.
251	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.
252	806.01 (2)	2nd	Maliciously damage structure by fire or explosive.
253	810.02 (3) (a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
254	810.02 (3) (b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
	810.02 (3) (d)	2nd	Burglary of occupied conveyance;

HB 867

2008

unarmed; no assault or battery.

255

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

256

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.

257

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

258

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

259

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

260

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

261

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

HB 867

2008

property and traffics in stolen property.

262

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

263

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

264

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

265

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

266

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

267

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

268

825.102 (3) (b) 2nd Neglecting an elderly person or

HB 867

2008

disabled adult causing great bodily harm, disability, or disfigurement.

269

825.103 (2) (b) 2nd Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000.

270

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

271

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

272

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

273

838.015 2nd Bribery.

274

838.016 2nd Unlawful compensation or reward for official behavior.

275

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

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HB 867

2008

277	838.22	2nd	Bid tampering.
278	847.0135(3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
279	847.0135(4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
280	872.06	2nd	Abuse of a dead human body.
281	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.
	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

HB 867

2008

site.

282 893.13(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).

283 893.135(1)(a)1. 1st Trafficking in cannabis, more than 25
lbs., less than 2,000 lbs.

284 893.135(1)(b)1.a. 1st Trafficking in cocaine, more than 28
grams, less than 200 grams.

285 893.135(1)(c)1.a. 1st Trafficking in illegal drugs, more
than 4 grams, less than 14 grams.

286 893.135(1)(d)1. 1st Trafficking in phencyclidine, more
than 28 grams, less than 200 grams.

287 893.135(1)(e)1. 1st Trafficking in methaqualone, more
than 200 grams, less than 5
kilograms.

288 893.135(1)(f)1. 1st Trafficking in amphetamine, more than
14 grams, less than 28 grams.

289 893.135(1)(g)1.a. 1st Trafficking in flunitrazepam, 4 grams
or more, less than 14 grams.

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HB 867

2008

291	893.135 (1) (h) 1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
292	893.135 (1) (j) 1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
293	893.135 (1) (k) 2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
294	896.101 (5) (a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.
295	896.104 (4) (a) 1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.
296	943.0435 (4) (c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.
	943.0435 (8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting

HB 867

2008

requirements.

297

943.0435(9)(a) 3rd Sexual offender; failure to comply with reporting requirements.

298

943.0435(13) 3rd Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.

299

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

300

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

301

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

302

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

303

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

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HB 867

2008

305

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

306

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

307

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

308

Section 3. This act shall take effect October 1, 2008.