

By the Committee on Criminal Justice; and Senator Clemens

591-02128-17

2017788c1

1                   A bill to be entitled  
2           An act relating to marketing practices for substance  
3           abuse services; amending s. 16.56, F.S.; authorizing  
4           the Office of Statewide Prosecution in the Department  
5           of Legal Affairs to investigate and prosecute patient  
6           brokering offenses; amending 397.321, F.S.; requiring  
7           the Department of Children and Families to ensure that  
8           substance abuse service provider personnel providing  
9           direct clinical treatment services are certified  
10          through a department-recognized certification process;  
11          exempting specified licensed individuals from  
12          certification; amending s. 397.407, F.S.; revising the  
13          requirements for the referral of patients to, and the  
14          acceptance of referrals from, a recovery residence;  
15          specifying that certain referrals are not prohibited;  
16          providing applicability; clarifying that such  
17          referrals are not required; amending s. 397.501, F.S.;  
18          providing that an application for the disclosure of an  
19          individual's records may be filed as part of an active  
20          criminal investigation; authorizing a court to approve  
21          an application for the disclosure of an individual's  
22          substance abuse treatment records without providing  
23          express notice of the application to the individual or  
24          identified parties with an interest in the records if  
25          the application is filed as part of an active criminal  
26          investigation; providing that upon implementation of  
27          the order granting such application, the individual  
28          and identified parties with an interest in the records  
29          must be afforded an opportunity to seek revocation or

591-02128-17

2017788c1

30 amendment of that order; creating s. 397.488, F.S.;

31 providing legislative findings; prohibiting service

32 providers, operators of recovery residences, and

33 certain third parties from engaging in specified

34 marketing practices; providing penalties; creating s.

35 817.0345, F.S.; prohibiting a person from knowingly

36 and willfully making specified false or misleading

37 statements or providing specified false or misleading

38 information under certain circumstances; providing

39 penalties; amending s. 817.505, F.S.; providing that

40 it is unlawful for a person to offer or pay, or

41 solicit or receive, benefits under certain

42 circumstances; providing fines and penalties; amending

43 s. 895.02, F.S.; revising the definition of the term

44 "racketeering activity"; amending s. 921.0022, F.S.;

45 ranking offenses; providing an effective date.

46

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

48

49 Section 1. Paragraph (a) of subsection (1) of section

50 16.56, Florida Statutes, is amended to read:

51 16.56 Office of Statewide Prosecution.—

52 (1) There is created in the Department of Legal Affairs an

53 Office of Statewide Prosecution. The office shall be a separate

54 "budget entity" as that term is defined in chapter 216. The

55 office may:

56 (a) Investigate and prosecute the offenses of:

57 1. Bribery, burglary, criminal usury, extortion, gambling,

58 kidnapping, larceny, murder, prostitution, perjury, robbery,

591-02128-17

2017788c1

- 59 carjacking, ~~and~~ home-invasion robbery, and patient brokering;  
60 2. Any crime involving narcotic or other dangerous drugs;  
61 3. Any violation of the Florida RICO (Racketeer Influenced  
62 and Corrupt Organization) Act, including any offense listed in  
63 the definition of racketeering activity in s. 895.02(8)(a),  
64 providing such listed offense is investigated in connection with  
65 a violation of s. 895.03 and is charged in a separate count of  
66 an information or indictment containing a count charging a  
67 violation of s. 895.03, the prosecution of which listed offense  
68 may continue independently if the prosecution of the violation  
69 of s. 895.03 is terminated for any reason;  
70 4. Any violation of the Florida Anti-Fencing Act;  
71 5. Any violation of the Florida Antitrust Act of 1980, as  
72 amended;  
73 6. Any crime involving, or resulting in, fraud or deceit  
74 upon any person;  
75 7. Any violation of s. 847.0135, relating to computer  
76 pornography and child exploitation prevention, or any offense  
77 related to a violation of s. 847.0135 or any violation of  
78 chapter 827 where the crime is facilitated by or connected to  
79 the use of the Internet or any device capable of electronic data  
80 storage or transmission;  
81 8. Any violation of chapter 815;  
82 9. Any criminal violation of part I of chapter 499;  
83 10. Any violation of the Florida Motor Fuel Tax Relief Act  
84 of 2004;  
85 11. Any criminal violation of s. 409.920 or s. 409.9201;  
86 12. Any crime involving voter registration, voting, or  
87 candidate or issue petition activities;

591-02128-17

2017788c1

88 13. Any criminal violation of the Florida Money Laundering  
89 Act;

90 14. Any criminal violation of the Florida Securities and  
91 Investor Protection Act; or

92 15. Any violation of chapter 787, as well as any and all  
93 offenses related to a violation of chapter 787;

94

95 or any attempt, solicitation, or conspiracy to commit any of the  
96 crimes specifically enumerated above. The office shall have such  
97 power only when any such offense is occurring, or has occurred,  
98 in two or more judicial circuits as part of a related

99 transaction, or when any such offense is connected with an

100 organized criminal conspiracy affecting two or more judicial

101 circuits. Informations or indictments charging such offenses

102 shall contain general allegations stating the judicial circuits

103 and counties in which crimes are alleged to have occurred or the

104 judicial circuits and counties in which crimes affecting such

105 circuits or counties are alleged to have been connected with an

106 organized criminal conspiracy.

107 Section 2. Subsection (21) of section 397.321, Florida  
108 Statutes, is added to read:

109 397.321 Duties of the department.—The department shall:

110 (21) Ensure that substance abuse service provider personnel

111 who provide direct clinical treatment services as defined in s.

112 397.311(25)(a) are certified through a department-recognized

113 certification process. A physician or a physician assistant

114 licensed under chapter 458 or chapter 459; a professional

115 licensed under chapter 490 or chapter 491; or an advanced

116 registered nurse practitioner licensed under part I of chapter

591-02128-17

2017788c1

117 464 is exempt from the requirements of this subsection.

118 Section 3. Subsection (11) of section 397.407, Florida  
119 Statutes, is amended to read:

120 397.407 Licensure process; fees.—

121 (11) Effective July 1, 2017 ~~2016~~, a service provider  
122 licensed under this part may not refer a prospective, current,  
123 or discharged patient to, or accept a referral from, a recovery  
124 residence unless the recovery residence holds a valid  
125 certificate of compliance as provided in s. 397.487 and is  
126 actively managed by a certified recovery residence administrator  
127 as provided in s. 397.4871 ~~or the recovery residence is owned~~  
128 ~~and operated by a licensed service provider or a licensed~~  
129 ~~service provider's wholly owned subsidiary.~~ For purposes of this  
130 subsection, the term "refer" means to inform a patient by any  
131 means about the name, address, or other details of the recovery  
132 residence. However, this subsection does not require a licensed  
133 service provider to refer any patient to a recovery residence.  
134 This subsection does not require a recovery residence to refer  
135 any patient to a licensed service provider. This subsection does  
136 not prohibit a referral by a recovery residence to a licensed  
137 service provider when the recovery residence, including its  
138 owners, operators, and employees, do not benefit, directly or  
139 indirectly, from the referral, and does not apply to a licensed  
140 service provider under contract with a managing entity as  
141 defined in s. 394.9082.

142 Section 4. Paragraphs (g) and (h) of subsection (7) of  
143 section 397.501, Florida Statutes, are amended to read:

144 397.501 Rights of individuals.—Individuals receiving  
145 substance abuse services from any service provider are

591-02128-17

2017788c1

146 guaranteed protection of the rights specified in this section,  
147 unless otherwise expressly provided, and service providers must  
148 ensure the protection of such rights.

149 (7) RIGHT TO CONFIDENTIALITY OF INDIVIDUAL RECORDS.—

150 (g) An order authorizing the disclosure of an individual's  
151 records may be applied for by any person having a legally  
152 recognized interest in the disclosure which is sought. The  
153 application may be filed alone ~~separately~~ or as part of a  
154 pending civil action or an active criminal investigation in  
155 which it appears that the individual's records are needed to  
156 provide evidence. An application must use a fictitious name,  
157 such as John Doe or Jane Doe, to refer to any individual and may  
158 not contain or otherwise disclose any identifying information  
159 unless the individual is the applicant or has given a written  
160 consent to disclosure or the court has ordered the record of the  
161 proceeding sealed from public scrutiny.

162 (h) 1. For applications filed alone or as part of a pending  
163 civil action, the individual and the person holding the records  
164 from whom disclosure is sought must be given adequate notice in  
165 a manner which will not disclose identifying information to  
166 other persons, and an opportunity to file a written response to  
167 the application, or to appear in person, for the limited purpose  
168 of providing evidence on the statutory and regulatory criteria  
169 for the issuance of the court order.

170 2. Applications filed as part of an active criminal  
171 investigation may, in the discretion of the court, be granted  
172 without notice. Although no express notice is required to the  
173 agents, owners, and employees of the treatment provider or to  
174 any patient whose records are to be disclosed, upon

591-02128-17

2017788c1

175 implementation of an order so granted, any of these persons must  
176 be afforded an opportunity to seek revocation or amendment of  
177 the order, limited to the presentation of evidence on the  
178 statutory and regulatory criteria for the issuance of the order.

179 Section 5. Section 397.488, Florida Statutes, is created to  
180 read:

181 397.488 Prohibition of deceptive marketing practices.—

182 (1) The Legislature recognizes that consumers of substance  
183 abuse treatment have disabling conditions and that such  
184 consumers and their families are vulnerable and at risk of being  
185 easily victimized by fraudulent marketing practices that  
186 adversely impact the delivery of health care. To protect the  
187 health, safety, and welfare of this vulnerable population, a  
188 service provider, an operator of a recovery residence, or a  
189 third party who provides any form of advertising or marketing  
190 services to a service provider or an operator of a recovery  
191 residence may not engage in any of the following marketing  
192 practices:

193 (a) Making a false or misleading statement or providing  
194 false or misleading information about the provider's or  
195 operator's or third party's products, goods, services, or  
196 geographical locations in its marketing, advertising materials,  
197 or media or on its website.

198 (b) Including on its website false information, electronic  
199 links, or coding or activation that provides false information  
200 or that surreptitiously directs the reader to another website.

201 (c) Soliciting, receiving, or making an attempt to solicit  
202 or receive a commission, benefit, bonus, rebate, kickback, or  
203 bribe, directly or indirectly, in cash or in kind, or engaging

591-02128-17

2017788c1

204 or making an attempt to engage in a split-fee arrangement in  
205 return for a referral or an acceptance or acknowledgment of  
206 treatment from a service provider or recovery residence.

207 (d) Entering into a contract with a marketing provider who  
208 agrees to generate referrals or leads for the placement of  
209 patients with a service provider or in a recovery residence  
210 through a call center or a web-based presence, unless the  
211 service provider or the operator of the recovery residence  
212 discloses the following to the prospective patient so that the  
213 patient can make an informed health care decision:

214 1. Information about the specific licensed service  
215 providers or recovery residences that are represented by the  
216 marketing provider and pay a fee to the marketing provider,  
217 including the identity of such service providers or recovery  
218 residences; and

219 2. Clear and concise instructions that allow the  
220 prospective patient to easily access lists of licensed service  
221 providers and recovery residences on the department website.

222 (2) In addition to any other punishment authorized by law,  
223 a person or entity that knowingly and willfully violates  
224 paragraph (1) (a), paragraph (1) (b), or paragraph (1) (d) commits  
225 a misdemeanor of the first degree, punishable as provided in s.  
226 775.083 or s. 775.089. A violation of paragraph (1) (c) is a  
227 violation of the prohibition on patient brokering and may  
228 subject the party committing the violation to criminal penalties  
229 under s. 817.505.

230 Section 6. Section 817.0345, Florida Statutes, is created  
231 to read:

232 817.0345 Prohibition of fraudulent marketing practices.—It



591-02128-17

2017788c1

233 is unlawful for any person to knowingly and willfully make a  
 234 materially false or misleading statement or provide false or  
 235 misleading information about the identity, products, goods,  
 236 services, or geographical location of a licensed service  
 237 provider, as defined in chapter 397, in marketing, advertising  
 238 materials, or other media or on a website with the intent to  
 239 induce another person to seek treatment with that service  
 240 provider. A person who violates this section commits a felony of  
 241 the third degree, punishable as provided in s. 775.082, s.  
 242 775.083, or s. 775.084.

243 Section 7. Subsections (1) and (4) of section 817.505,  
 244 Florida Statutes, are amended to read:

245 817.505 Patient brokering prohibited; exceptions;  
 246 penalties.—

247 (1) It is unlawful for any person, including any health  
 248 care provider or health care facility, to:

249 (a) Offer or pay a ~~any~~ commission, benefit, bonus, rebate,  
 250 kickback, or bribe, directly or indirectly, in cash or in kind,  
 251 or engage in any split-fee arrangement, in any form whatsoever,  
 252 to induce the referral of a patient ~~patients~~ or patronage to or  
 253 from a health care provider or health care facility;

254 (b) Solicit or receive a ~~any~~ commission, benefit, bonus,  
 255 rebate, kickback, or bribe, directly or indirectly, in cash or  
 256 in kind, or engage in any split-fee arrangement, in any form  
 257 whatsoever, in return for referring a patient ~~patients~~ or  
 258 patronage to or from a health care provider or health care  
 259 facility;

260 (c) Solicit or receive a ~~any~~ commission, benefit, bonus,  
 261 rebate, kickback, or bribe, directly or indirectly, in cash or

591-02128-17

2017788c1

262 in kind, or engage in any split-fee arrangement, in any form  
263 whatsoever, in return for the acceptance or acknowledgment of  
264 treatment from a health care provider or health care facility;  
265 or

266 (d) Aid, abet, advise, or otherwise participate in the  
267 conduct prohibited under paragraph (a), paragraph (b), or  
268 paragraph (c).

269 (4) (a) Any person, including an officer, partner, agent,  
270 attorney, or other representative of a firm, joint venture,  
271 partnership, business trust, syndicate, corporation, or other  
272 business entity, who violates any provision of this section  
273 commits a felony of the third degree, punishable as provided in  
274 s. 775.082, ~~s. 775.083~~, or s. 775.084, and a fine of \$50,000.

275 (b) Any person, including an officer, partner, agent,  
276 attorney, or other representative of a firm, joint venture,  
277 partnership, business trust, syndicate, corporation, or other  
278 business entity, who violates any provision of this section,  
279 where the prohibited conduct involves 10 or more patients but  
280 fewer than 20 patients, commits a felony of the second degree,  
281 punishable as provided in s. 775.082 or s. 775.084, and a fine  
282 of \$100,000.

283 (c) Any person, including an officer, partner, agent,  
284 attorney, or other representative of a firm, joint venture,  
285 partnership, business trust, syndicate, corporation, or other  
286 business entity, who violates any provision of this section,  
287 where the prohibited conduct involves 20 or more patients,  
288 commits a felony of the first degree, punishable as provided in  
289 s. 775.082 or s. 775.084, and a fine of \$500,000.

290 Section 8. Paragraph (a) of subsection (8) of section

591-02128-17

2017788c1

291 895.02, Florida Statutes, is amended to read:

292 895.02 Definitions.—As used in ss. 895.01-895.08, the term:

293 (8) "Racketeering activity" means to commit, to attempt to  
294 commit, to conspire to commit, or to solicit, coerce, or  
295 intimidate another person to commit:

296 (a) Any crime that is chargeable by petition, indictment,  
297 or information under the following provisions of the Florida  
298 Statutes:

299 1. Section 210.18, relating to evasion of payment of  
300 cigarette taxes.

301 2. Section 316.1935, relating to fleeing or attempting to  
302 elude a law enforcement officer and aggravated fleeing or  
303 eluding.

304 3. Section 403.727(3)(b), relating to environmental  
305 control.

306 4. Section 409.920 or s. 409.9201, relating to Medicaid  
307 fraud.

308 5. Section 414.39, relating to public assistance fraud.

309 6. Section 440.105 or s. 440.106, relating to workers'  
310 compensation.

311 7. Section 443.071(4), relating to creation of a fictitious  
312 employer scheme to commit reemployment assistance fraud.

313 8. Section 465.0161, relating to distribution of medicinal  
314 drugs without a permit as an Internet pharmacy.

315 9. Section 499.0051, relating to crimes involving  
316 contraband, adulterated, or misbranded drugs.

317 10. Part IV of chapter 501, relating to telemarketing.

318 11. Chapter 517, relating to sale of securities and  
319 investor protection.

591-02128-17

2017788c1

320 12. Section 550.235 or s. 550.3551, relating to dogracing  
321 and horseracing.

322 13. Chapter 550, relating to jai alai frontons.

323 14. Section 551.109, relating to slot machine gaming.

324 15. Chapter 552, relating to the manufacture, distribution,  
325 and use of explosives.

326 16. Chapter 560, relating to money transmitters, if the  
327 violation is punishable as a felony.

328 17. Chapter 562, relating to beverage law enforcement.

329 18. Section 624.401, relating to transacting insurance  
330 without a certificate of authority, s. 624.437(4)(c)1., relating  
331 to operating an unauthorized multiple-employer welfare  
332 arrangement, or s. 626.902(1)(b), relating to representing or  
333 aiding an unauthorized insurer.

334 19. Section 655.50, relating to reports of currency  
335 transactions, when such violation is punishable as a felony.

336 20. Chapter 687, relating to interest and usurious  
337 practices.

338 21. Section 721.08, s. 721.09, or s. 721.13, relating to  
339 real estate timeshare plans.

340 22. Section 775.13(5)(b), relating to registration of  
341 persons found to have committed any offense for the purpose of  
342 benefiting, promoting, or furthering the interests of a criminal  
343 gang.

344 23. Section 777.03, relating to commission of crimes by  
345 accessories after the fact.

346 24. Chapter 782, relating to homicide.

347 25. Chapter 784, relating to assault and battery.

348 26. Chapter 787, relating to kidnapping or human

591-02128-17

2017788c1

349 trafficking.

350 27. Chapter 790, relating to weapons and firearms.

351 28. Chapter 794, relating to sexual battery, but only if  
352 such crime was committed with the intent to benefit, promote, or  
353 further the interests of a criminal gang, or for the purpose of  
354 increasing a criminal gang member's own standing or position  
355 within a criminal gang.

356 29. Former s. 796.03, former s. 796.035, s. 796.04, s.  
357 796.05, or s. 796.07, relating to prostitution.

358 30. Chapter 806, relating to arson and criminal mischief.

359 31. Chapter 810, relating to burglary and trespass.

360 32. Chapter 812, relating to theft, robbery, and related  
361 crimes.

362 33. Chapter 815, relating to computer-related crimes.

363 34. Chapter 817, relating to fraudulent practices, false  
364 pretenses, fraud generally, ~~and~~ credit card crimes, and patient  
365 brokering.

366 35. Chapter 825, relating to abuse, neglect, or  
367 exploitation of an elderly person or disabled adult.

368 36. Section 827.071, relating to commercial sexual  
369 exploitation of children.

370 37. Section 828.122, relating to fighting or baiting  
371 animals.

372 38. Chapter 831, relating to forgery and counterfeiting.

373 39. Chapter 832, relating to issuance of worthless checks  
374 and drafts.

375 40. Section 836.05, relating to extortion.

376 41. Chapter 837, relating to perjury.

377 42. Chapter 838, relating to bribery and misuse of public

591-02128-17

2017788c1

378

office.

379

43. Chapter 843, relating to obstruction of justice.

380

44. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or s. 847.07, relating to obscene literature and profanity.

382

45. Chapter 849, relating to gambling, lottery, gambling or gaming devices, slot machines, or any of the provisions within that chapter.

385

46. Chapter 874, relating to criminal gangs.

386

47. Chapter 893, relating to drug abuse prevention and control.

388

48. Chapter 896, relating to offenses related to financial transactions.

390

49. Sections 914.22 and 914.23, relating to tampering with or harassing a witness, victim, or informant, and retaliation against a witness, victim, or informant.

393

50. Sections 918.12 and 918.13, relating to tampering with jurors and evidence.

395

Section 9. Paragraphs (c), (d), (f), and (h) of subsection (3) of section 921.0022, Florida Statutes, are amended to read:

397

921.0022 Criminal Punishment Code; offense severity ranking chart.—

399

(3) OFFENSE SEVERITY RANKING CHART

400

(c) LEVEL 3

401

Florida

Felony

Statute

Degree

Description

402

119.10(2)(b)

3rd

Unlawful use of  
confidential information

591-02128-17

2017788c1

from police reports.

403

316.066  
(3) (b) - (d)

3rd

Unlawfully obtaining or using confidential crash reports.

404

316.193 (2) (b)

3rd

Felony DUI, 3rd conviction.

405

316.1935 (2)

3rd

Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.

406

319.30 (4)

3rd

Possession by junkyard of motor vehicle with identification number plate removed.

407

319.33 (1) (a)

3rd

Alter or forge any certificate of title to a motor vehicle or mobile home.

408

319.33 (1) (c)

3rd

Procure or pass title on stolen vehicle.

409

319.33 (4)

3rd

With intent to defraud, possess, sell, etc., a

591-02128-17

2017788c1

blank, forged, or  
unlawfully obtained title  
or registration.

410

327.35 (2) (b)

3rd

Felony BUI.

411

328.05 (2)

3rd

Possess, sell, or  
counterfeit fictitious,  
stolen, or fraudulent  
titles or bills of sale of  
vessels.

412

328.07 (4)

3rd

Manufacture, exchange, or  
possess vessel with  
counterfeit or wrong ID  
number.

413

376.302 (5)

3rd

Fraud related to  
reimbursement for cleanup  
expenses under the Inland  
Protection Trust Fund.

414

379.2431  
(1) (e) 5.

3rd

Taking, disturbing,  
mutilating, destroying,  
causing to be destroyed,  
transferring, selling,  
offering to sell,  
molesting, or harassing  
marine turtles, marine



591-02128-17

2017788c1

turtle eggs, or marine  
 turtle nests in violation  
 of the Marine Turtle  
 Protection Act.

415

379.2431  
 (1) (e) 6.

3rd

Soliciting to commit or  
 conspiring to commit a  
 violation of the Marine  
 Turtle Protection Act.

416

400.9935 (4) (a)  
 or (b)

3rd

Operating a clinic, or  
 offering services requiring  
 licensure, without a  
 license.

417

400.9935 (4) (e)

3rd

Filing a false license  
 application or other  
 required information or  
 failing to report  
 information.

418

440.1051 (3)

3rd

False report of workers'  
 compensation fraud or  
 retaliation for making such  
 a report.

419

501.001 (2) (b)

2nd

Tampers with a consumer  
 product or the container  
 using materially

591-02128-17

2017788c1

false/misleading  
information.

420

624.401 (4) (a)

3rd

Transacting insurance  
without a certificate of  
authority.

421

624.401 (4) (b) 1.

3rd

Transacting insurance  
without a certificate of  
authority; premium  
collected less than  
\$20,000.

422

626.902 (1) (a) &  
(b)

3rd

Representing an  
unauthorized insurer.

423

697.08

3rd

Equity skimming.

424

790.15 (3)

3rd

Person directs another to  
discharge firearm from a  
vehicle.

425

806.10 (1)

3rd

Maliciously injure,  
destroy, or interfere with  
vehicles or equipment used  
in firefighting.

426

806.10 (2)

3rd

Interferes with or assaults  
firefighter in performance

591-02128-17

2017788c1

of duty.

427

810.09(2)(c)

3rd

Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.

428

812.014(2)(c)2.

3rd

Grand theft; \$5,000 or more but less than \$10,000.

429

812.0145(2)(c)

3rd

Theft from person 65 years of age or older; \$300 or more but less than \$10,000.

430

815.04(5)(b)

2nd

Computer offense devised to defraud or obtain property.

431

817.034(4)(a)3.

3rd

Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000.

432

817.233

3rd

Burning to defraud insurer.

433

817.234

3rd

(8)(b) & (c)

Unlawful solicitation of persons involved in motor vehicle accidents.

591-02128-17

2017788c1

434

817.234 (11) (a) 3rd Insurance fraud; property value less than \$20,000.

435

817.236 3rd Filing a false motor vehicle insurance application.

436

817.2361 3rd Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.

437

817.413 (2) 3rd Sale of used goods as new.

438

~~817.505 (4) 3rd Patient brokering.~~

439

828.12 (2) 3rd Tortures any animal with intent to inflict intense pain, serious physical injury, or death.

440

831.28 (2) (a) 3rd Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument.

441

831.29 2nd Possession of instruments

591-02128-17

2017788c1

for counterfeiting driver licenses or identification cards.

442

838.021 (3) (b)

3rd

Threatens unlawful harm to public servant.

443

843.19

3rd

Injure, disable, or kill police dog or horse.

444

860.15 (3)

3rd

Overcharging for repairs and parts.

445

870.01 (2)

3rd

Riot; inciting or encouraging.

446

893.13 (1) (a) 2.

3rd

Sell, manufacture, or deliver cannabis (or other s. 893.03 (1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 5., (2) (c) 6., (2) (c) 7., (2) (c) 8., (2) (c) 9., (3), or (4) drugs).

447

893.13 (1) (d) 2.

2nd

Sell, manufacture, or deliver s. 893.03 (1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 5.,

591-02128-17

2017788c1

(2) (c) 6., (2) (c) 7.,  
 (2) (c) 8., (2) (c) 9., (3), or  
 (4) drugs within 1,000 feet  
 of university.

448

893.13 (1) (f) 2.

2nd

Sell, manufacture, or  
 deliver s. 893.03 (1) (c),  
 (2) (c) 1., (2) (c) 2.,  
 (2) (c) 3., (2) (c) 5.,  
 (2) (c) 6., (2) (c) 7.,  
 (2) (c) 8., (2) (c) 9., (3), or  
 (4) drugs within 1,000 feet  
 of public housing facility.

449

893.13 (4) (c)

3rd

Use or hire of minor;  
 deliver to minor other  
 controlled substances.

450

893.13 (6) (a)

3rd

Possession of any  
 controlled substance other  
 than felony possession of  
 cannabis.

451

893.13 (7) (a) 8.

3rd

Withhold information from  
 practitioner regarding  
 previous receipt of or  
 prescription for a  
 controlled substance.

452

591-02128-17

2017788c1

453

893.13(7)(a)9. 3rd Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.

454

893.13(7)(a)10. 3rd Affix false or forged label to package of controlled substance.

455

893.13(7)(a)11. 3rd Furnish false or fraudulent material information on any document or record required by chapter 893.

456

893.13(8)(a)1. 3rd Knowingly assist a patient, other person, or owner of an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or related to the practitioner's practice.

893.13(8)(a)2. 3rd Employ a trick or scheme in the practitioner's practice to assist a patient, other person, or owner of an animal in obtaining a

591-02128-17

2017788c1

controlled substance.

457

893.13 (8) (a) 3.

3rd

Knowingly write a prescription for a controlled substance for a fictitious person.

458

893.13 (8) (a) 4.

3rd

Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.

459

918.13 (1) (a)

3rd

Alter, destroy, or conceal investigation evidence.

460

944.47  
(1) (a) 1. & 2.

3rd

Introduce contraband to correctional facility.

461

944.47 (1) (c)

2nd

Possess contraband while upon the grounds of a correctional institution.

462

985.721

3rd

Escapes from a juvenile facility (secure detention or residential commitment



591-02128-17

2017788c1

facility).

463  
464  
465  
466  
467  
468  
469  
470

(d) LEVEL 4

Florida Statute	Felony Degree	Description
316.1935 (3) (a)	2nd	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.
499.0051 (1)	3rd	Failure to maintain or deliver transaction history, transaction information, or transaction statements.
499.0051 (5)	2nd	Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.

591-02128-17 2017788c1

471 517.07(1) 3rd Failure to register securities.

472 517.12(1) 3rd Failure of dealer, associated person, or issuer of securities to register.

473 784.07(2)(b) 3rd Battery of law enforcement officer, firefighter, etc.

474 784.074(1)(c) 3rd Battery of sexually violent predators facility staff.

475 784.075 3rd Battery on detention or commitment facility staff.

476 784.078 3rd Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.

477 784.08(2)(c) 3rd Battery on a person 65 years of age or older.

591-02128-17

2017788c1

478	784.081 (3)	3rd	Battery on specified official or employee.
479	784.082 (3)	3rd	Battery by detained person on visitor or other detainee.
480	784.083 (3)	3rd	Battery on code inspector.
481	784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.
482	787.03 (1)	3rd	Interference with custody; wrongly takes minor from appointed guardian.
483	787.04 (2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.
	787.04 (3)	3rd	Carrying child beyond state lines with

591-02128-17

2017788c1

criminal intent to avoid  
producing child at  
custody hearing or  
delivering to designated  
person.

484

787.07

3rd

Human smuggling.

485

790.115 (1)

3rd

Exhibiting firearm or  
weapon within 1,000 feet  
of a school.

486

790.115 (2) (b)

3rd

Possessing electric  
weapon or device,  
destructive device, or  
other weapon on school  
property.

487

790.115 (2) (c)

3rd

Possessing firearm on  
school property.

488

800.04 (7) (c)

3rd

Lewd or lascivious  
exhibition; offender  
less than 18 years.

489

810.02 (4) (a)

3rd

Burglary, or attempted  
burglary, of an  
unoccupied structure;  
unarmed; no assault or

591-02128-17

2017788c1

battery.

490

810.02 (4) (b)

3rd

Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.

491

810.06

3rd

Burglary; possession of tools.

492

810.08 (2) (c)

3rd

Trespass on property, armed with firearm or dangerous weapon.

493

812.014 (2) (c) 3.

3rd

Grand theft, 3rd degree \$10,000 or more but less than \$20,000.

494

812.014  
(2) (c) 4.-10.

3rd

Grand theft, 3rd degree, a will, firearm, motor vehicle, livestock, etc.

495

812.0195 (2)

3rd

Dealing in stolen property by use of the Internet; property stolen \$300 or more.

496

817.505 (4) (a)

3rd

Patient brokering.

591-02128-17

2017788c1

497

817.563 (1) 3rd Sell or deliver  
substance other than  
controlled substance  
agreed upon, excluding  
s. 893.03(5) drugs.

498

817.568 (2) (a) 3rd Fraudulent use of  
personal identification  
information.

499

817.625 (2) (a) 3rd Fraudulent use of  
scanning device or  
reencoder.

500

828.125 (1) 2nd Kill, maim, or cause  
great bodily harm or  
permanent breeding  
disability to any  
registered horse or  
cattle.

501

837.02 (1) 3rd Perjury in official  
proceedings.

502

837.021 (1) 3rd Make contradictory  
statements in official  
proceedings.

591-02128-17

2017788c1

503

838.022 3rd Official misconduct.

504

839.13(2)(a) 3rd Falsifying records of an individual in the care and custody of a state agency.

505

839.13(2)(c) 3rd Falsifying records of the Department of Children and Families.

506

843.021 3rd Possession of a concealed handcuff key by a person in custody.

507

843.025 3rd Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.

508

843.15(1)(a) 3rd Failure to appear while on bail for felony (bond estreature or bond jumping).

509

847.0135(5)(c) 3rd Lewd or lascivious

591-02128-17

2017788c1

exhibition using  
computer; offender less  
than 18 years.

510

874.05 (1) (a)

3rd

Encouraging or  
recruiting another to  
join a criminal gang.

511

893.13 (2) (a) 1.

2nd

Purchase of cocaine (or  
other s. 893.03 (1) (a),  
(b), or (d), (2) (a),  
(2) (b), or (2) (c) 4.  
drugs).

512

914.14 (2)

3rd

Witnesses accepting  
bribes.

513

914.22 (1)

3rd

Force, threaten, etc.,  
witness, victim, or  
informant.

514

914.23 (2)

3rd

Retaliation against a  
witness, victim, or  
informant, no bodily  
injury.

515

918.12

3rd

Tampering with jurors.

516

934.215

3rd

Use of two-way



591-02128-17

2017788c1

communications device to facilitate commission of a crime.

517

518

519 (f) LEVEL 6

520

Florida  
Statute

Felony  
Degree

Description

521

316.027 (2) (b)

2nd

Leaving the scene of a crash involving serious bodily injury.

522

316.193 (2) (b)

3rd

Felony DUI, 4th or subsequent conviction.

523

400.9935 (4) (c)

2nd

Operating a clinic, or offering services requiring licensure, without a license.

524

499.0051 (2)

2nd

Knowing forgery of transaction history, transaction information, or transaction statement.

525

499.0051 (3)

2nd

Knowing purchase or

591-02128-17

2017788c1

receipt of prescription  
drug from unauthorized  
person.

526

499.0051 (4)

2nd

Knowing sale or transfer  
of prescription drug to  
unauthorized person.

527

775.0875 (1)

3rd

Taking firearm from law  
enforcement officer.

528

784.021 (1) (a)

3rd

Aggravated assault;  
deadly weapon without  
intent to kill.

529

784.021 (1) (b)

3rd

Aggravated assault;  
intent to commit felony.

530

784.041

3rd

Felony battery; domestic  
battery by  
strangulation.

531

784.048 (3)

3rd

Aggravated stalking;  
credible threat.

532

784.048 (5)

3rd

Aggravated stalking of  
person under 16.

533

784.07 (2) (c)

2nd

Aggravated assault on

591-02128-17

2017788c1

law enforcement officer.

534

784.074 (1) (b)

2nd

Aggravated assault on sexually violent predators facility staff.

535

784.08 (2) (b)

2nd

Aggravated assault on a person 65 years of age or older.

536

784.081 (2)

2nd

Aggravated assault on specified official or employee.

537

784.082 (2)

2nd

Aggravated assault by detained person on visitor or other detainee.

538

784.083 (2)

2nd

Aggravated assault on code inspector.

539

787.02 (2)

3rd

False imprisonment; restraining with purpose other than those in s. 787.01.

540

790.115 (2) (d)

2nd

Discharging firearm or

591-02128-17

2017788c1

weapon on school  
property.

541

790.161 (2)

2nd

Make, possess, or throw  
destructive device with  
intent to do bodily harm  
or damage property.

542

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.

543

790.19

2nd

Shooting or throwing  
deadly missiles into  
dwellings, vessels, or  
vehicles.

544

794.011 (8) (a)

3rd

Solicitation of minor to  
participate in sexual  
activity by custodial  
adult.

545

794.05 (1)

2nd

Unlawful sexual activity  
with specified minor.

546

591-02128-17 2017788c1

547	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.
548	800.04 (6) (b)	2nd	Lewd or lascivious conduct; offender 18 years of age or older.
549	806.031 (2)	2nd	Arson resulting in great bodily harm to firefighter or any other person.
550	810.02 (3) (c)	2nd	Burglary of occupied structure; unarmed; no assault or battery.
551	810.145 (8) (b)	2nd	Video voyeurism; certain minor victims; 2nd or subsequent offense.
552	812.014 (2) (b) 1.	2nd	Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree.

591-02128-17 2017788c1

553 812.014 (6) 2nd Theft; property stolen  
\$3,000 or more;  
coordination of others.

554 812.015 (9) (a) 2nd Retail theft; property  
stolen \$300 or more;  
second or subsequent  
conviction.

555 812.015 (9) (b) 2nd Retail theft; property  
stolen \$3,000 or more;  
coordination of others.

556 812.13 (2) (c) 2nd Robbery, no firearm or  
other weapon (strong-arm  
robbery).

557 817.4821 (5) 2nd Possess cloning  
paraphernalia with  
intent to create cloned  
cellular telephones.

558 817.505 (4) (b) 2nd Patient brokering; 10 or  
more patients.

559 825.102 (1) 3rd Abuse of an elderly  
person or disabled  
adult.

591-02128-17 2017788c1

560 825.102 (3) (c) 3rd Neglect of an elderly person or disabled adult.

561 825.1025 (3) 3rd Lewd or lascivious molestation of an elderly person or disabled adult.

562 825.103 (3) (c) 3rd Exploiting an elderly person or disabled adult and property is valued at less than \$10,000.

563 827.03 (2) (c) 3rd Abuse of a child.

564 827.03 (2) (d) 3rd Neglect of a child.

565 827.071 (2) & (3) 2nd Use or induce a child in a sexual performance, or promote or direct such performance.

566 836.05 2nd Threats; extortion.

567 836.10 2nd Written threats to kill or do bodily injury.

843.12 3rd Aids or assists person

591-02128-17

2017788c1

to escape.

568

847.011

3rd

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

569

847.012

3rd

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

570

847.0135 (2)

3rd

Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.

571

914.23

2nd

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

572

944.35 (3) (a) 2.

3rd

Committing malicious battery upon or inflicting cruel or inhuman treatment on an



591-02128-17

2017788c1

inmate or offender on  
community supervision,  
resulting in great  
bodily harm.

573

944.40

2nd

Escapes.

574

944.46

3rd

Harboring, concealing,  
aiding escaped  
prisoners.

575

944.47 (1) (a) 5.

2nd

Introduction of  
contraband (firearm,  
weapon, or explosive)  
into correctional  
facility.

576

951.22 (1)

3rd

Intoxicating drug,  
firearm, or weapon  
introduced into county  
facility.

577

578

579

(h) LEVEL 8

580

Florida  
Statute

Felony  
Degree

Description

581

316.193

2nd

DUI manslaughter.

591-02128-17

2017788c1

(3) (c) 3.a.

582

316.1935 (4) (b)

1st

Aggravated fleeing or attempted eluding with serious bodily injury or death.

583

327.35 (3) (c) 3.

2nd

Vessel BUI manslaughter.

584

499.0051 (7)

1st

Knowing trafficking in contraband prescription drugs.

585

499.0051 (8)

1st

Knowing forgery of prescription labels or prescription drug labels.

586

560.123 (8) (b) 2.

2nd

Failure to report currency or payment instruments totaling or exceeding \$20,000, but less than \$100,000 by money transmitter.

587

560.125 (5) (b)

2nd

Money transmitter business by unauthorized person, currency or payment instruments totaling or exceeding

591-02128-17

2017788c1

\$20,000, but less than  
\$100,000.

588

655.50(10)(b)2.

2nd

Failure to report  
financial transactions  
totaling or exceeding  
\$20,000, but less than  
\$100,000 by financial  
institutions.

589

777.03(2)(a)

1st

Accessory after the fact,  
capital felony.

590

782.04(4)

2nd

Killing of human without  
design when engaged in  
act or attempt of any  
felony other than arson,  
sexual battery, robbery,  
burglary, kidnapping,  
aggravated fleeing or  
eluding with serious  
bodily injury or death,  
aircraft piracy, or  
unlawfully discharging  
bomb.

591

782.051(2)

1st

Attempted felony murder  
while perpetrating or  
attempting to perpetrate

591-02128-17

2017788c1

a felony not enumerated  
in s. 782.04(3).

592

782.071(1)(b)

1st

Committing vehicular  
homicide and failing to  
render aid or give  
information.

593

782.072(2)

1st

Committing vessel  
homicide and failing to  
render aid or give  
information.

594

787.06(3)(a)1.

1st

Human trafficking for  
labor and services of a  
child.

595

787.06(3)(b)

1st

Human trafficking using  
coercion for commercial  
sexual activity of an  
adult.

596

787.06(3)(c)2.

1st

Human trafficking using  
coercion for labor and  
services of an  
unauthorized alien adult.

597

787.06(3)(e)1.

1st

Human trafficking for  
labor and services by the

591-02128-17

2017788c1

transfer or transport of  
a child from outside  
Florida to within the  
state.

598

787.06(3)(f)2.

1st

Human trafficking using  
coercion for commercial  
sexual activity by the  
transfer or transport of  
any adult from outside  
Florida to within the  
state.

599

790.161(3)

1st

Discharging a destructive  
device which results in  
bodily harm or property  
damage.

600

794.011(5)(a)

1st

Sexual battery; victim 12  
years of age or older but  
younger than 18 years;  
offender 18 years or  
older; offender does not  
use physical force likely  
to cause serious injury.

601

794.011(5)(b)

2nd

Sexual battery; victim  
and offender 18 years of  
age or older; offender

591-02128-17

2017788c1

does not use physical  
force likely to cause  
serious injury.

602

794.011 (5) (c)

2nd

Sexual battery; victim 12  
years of age or older;  
offender younger than 18  
years; offender does not  
use physical force likely  
to cause injury.

603

794.011 (5) (d)

1st

Sexual battery; victim 12  
years of age or older;  
offender does not use  
physical force likely to  
cause serious injury;  
prior conviction for  
specified sex offense.

604

794.08 (3)

2nd

Female genital  
mutilation, removal of a  
victim younger than 18  
years of age from this  
state.

605

800.04 (4) (b)

2nd

Lewd or lascivious  
battery.

606

800.04 (4) (c)

1st

Lewd or lascivious

591-02128-17

2017788c1

battery; offender 18  
years of age or older;  
prior conviction for  
specified sex offense.

607

806.01 (1)

1st

Maliciously damage  
dwelling or structure by  
fire or explosive,  
believing person in  
structure.

608

810.02 (2) (a)

1st, PBL

Burglary with assault or  
battery.

609

810.02 (2) (b)

1st, PBL

Burglary; armed with  
explosives or dangerous  
weapon.

610

810.02 (2) (c)

1st

Burglary of a dwelling or  
structure causing  
structural damage or  
\$1,000 or more property  
damage.

611

812.014 (2) (a) 2.

1st

Property stolen; cargo  
valued at \$50,000 or  
more, grand theft in 1st  
degree.

612

591-02128-17 2017788c1

613	812.13 (2) (b)	1st	Robbery with a weapon.
614	812.135 (2) (c)	1st	Home-invasion robbery, no firearm, deadly weapon, or other weapon.
615	<u>817.505 (4) (c)</u>	<u>1st</u>	<u>Patient brokering; 20 or more patients.</u>
616	817.535 (2) (b)	2nd	Filing false lien or other unauthorized document; second or subsequent offense.
617	817.535 (3) (a)	2nd	Filing false lien or other unauthorized document; property owner is a public officer or employee.
618	817.535 (4) (a) 1.	2nd	Filing false lien or other unauthorized document; defendant is incarcerated or under supervision.
618	817.535 (5) (a)	2nd	Filing false lien or other unauthorized document; owner of the



591-02128-17

2017788c1

property incurs financial  
loss as a result of the  
false instrument.

619

817.568 (6)

2nd

Fraudulent use of  
personal identification  
information of an  
individual under the age  
of 18.

620

817.611 (2) (c)

1st

Traffic in or possess 50  
or more counterfeit  
credit cards or related  
documents.

621

825.102 (2)

1st

Aggravated abuse of an  
elderly person or  
disabled adult.

622

825.1025 (2)

2nd

Lewd or lascivious  
battery upon an elderly  
person or disabled adult.

623

825.103 (3) (a)

1st

Exploiting an elderly  
person or disabled adult  
and property is valued at  
\$50,000 or more.

624

837.02 (2)

2nd

Perjury in official

591-02128-17

2017788c1

proceedings relating to  
prosecution of a capital  
felony.

625

837.021 (2)

2nd

Making contradictory  
statements in official  
proceedings relating to  
prosecution of a capital  
felony.

626

860.121 (2) (c)

1st

Shooting at or throwing  
any object in path of  
railroad vehicle  
resulting in great bodily  
harm.

627

860.16

1st

Aircraft piracy.

628

893.13 (1) (b)

1st

Sell or deliver in excess  
of 10 grams of any  
substance specified in s.  
893.03(1) (a) or (b).

629

893.13 (2) (b)

1st

Purchase in excess of 10  
grams of any substance  
specified in s.  
893.03(1) (a) or (b).

630

893.13 (6) (c)

1st

Possess in excess of 10

591-02128-17

2017788c1

grams of any substance  
 specified in s.  
 893.03(1) (a) or (b).

631

893.135 (1) (a) 2.

1st

Trafficking in cannabis,  
 more than 2,000 lbs.,  
 less than 10,000 lbs.

632

893.135  
 (1) (b) 1.b.

1st

Trafficking in cocaine,  
 more than 200 grams, less  
 than 400 grams.

633

893.135  
 (1) (c) 1.b.

1st

Trafficking in illegal  
 drugs, more than 14  
 grams, less than 28  
 grams.

634

893.135  
 (1) (c) 2.c.

1st

Trafficking in  
 hydrocodone, 50 grams or  
 more, less than 200  
 grams.

635

893.135  
 (1) (c) 3.c.

1st

Trafficking in oxycodone,  
 25 grams or more, less  
 than 100 grams.

636

893.135  
 (1) (d) 1.b.

1st

Trafficking in  
 phencyclidine, more than  
 200 grams, less than 400

591-02128-17

2017788c1

grams.

637

893.135  
(1) (e) 1.b.

1st

Trafficking in  
methaqualone, more than 5  
kilograms, less than 25  
kilograms.

638

893.135  
(1) (f) 1.b.

1st

Trafficking in  
amphetamine, more than 28  
grams, less than 200  
grams.

639

893.135  
(1) (g) 1.b.

1st

Trafficking in  
flunitrazepam, 14 grams  
or more, less than 28  
grams.

640

893.135  
(1) (h) 1.b.

1st

Trafficking in gamma-  
hydroxybutyric acid  
(GHB), 5 kilograms or  
more, less than 10  
kilograms.

641

893.135  
(1) (j) 1.b.

1st

Trafficking in 1,4-  
Butanediol, 5 kilograms  
or more, less than 10  
kilograms.

642

893.135

1st

Trafficking in

	591-02128-17		2017788c1
	(1) (k) 2.b.		Phenethylamines, 200 grams or more, less than 400 grams.
643	893.1351 (3)	1st	Possession of a place used to manufacture controlled substance when minor is present or resides there.
644	895.03 (1)	1st	Use or invest proceeds derived from pattern of racketeering activity.
645	895.03 (2)	1st	Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.
646	895.03 (3)	1st	Conduct or participate in any enterprise through pattern of racketeering activity.
647	896.101 (5) (b)	2nd	Money laundering, financial transactions totaling or exceeding

591-02128-17

2017788c1

\$20,000, but less than  
\$100,000.

648

896.104 (4) (a) 2.

2nd

Structuring transactions  
to evade reporting or  
registration  
requirements, financial  
transactions totaling or  
exceeding \$20,000 but  
less than \$100,000.

649

650

Section 10. This act shall take effect July 1, 2017.