

By Senator Bracy

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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 arrest 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 body tissue or fluid;
18 providing applicability; specifying that political
19 subdivisions may enact ordinances concerning public
20 consumption of cannabis or tetrahydrocannabinol;
21 specifying that certain violations may not be
22 considered probation or parole violations; providing
23 for recordkeeping; authorizing the court to require
24 completion of a drug awareness program under certain
25 circumstances; providing penalties for noncompliance;
26 providing for notice of violations; providing for
27 distribution of revenue from civil penalties; amending
28 ss. 893.13, 893.145, and 938.23, F.S.; conforming
29 provisions to changes made by the act; reenacting ss.

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30 112.0455(8) (s), 397.4073(4) (b), 435.07(2), 772.12(2),
31 775.084(1) (a), 810.02(3) (f), 812.014(2) (c),
32 831.311(1), 893.1351(1) and (2), 893.138(3), 893.15,
33 903.133, and 921.187(1) (l), F.S., relating to the
34 Drug-Free Workplace Act, background checks of service
35 provider personnel, exemptions from disqualification,
36 the Drug Dealer Liability Act, violent career
37 criminals, habitual felony offenders, habitual violent
38 felony offenders, three-time violent felony offenders,
39 definitions, procedure, and enhanced penalties or
40 mandatory minimum prison terms, burglary, theft,
41 unlawful sale, manufacture, alteration, delivery,
42 uttering, or possession of counterfeit-resistant
43 prescription blanks for controlled substances,
44 ownership, lease, rental, or possession for
45 trafficking in or manufacturing a controlled
46 substance, local administrative action to abate drug-
47 related, prostitution-related, or stolen-property-
48 related public nuisances and criminal gang activity,
49 rehabilitation, bail on appeal prohibited for certain
50 felony convictions, and disposition, sentencing,
51 alternatives, and restitution, respectively, to
52 incorporate the amendment made to s. 893.13, F.S., in
53 references thereto; reenacting ss. 893.12(2) (a) and
54 893.147(6) (a), F.S., relating to contraband seizure,
55 forfeiture, and sale, and use, possession,
56 manufacture, delivery, transportation, advertisement,
57 or retail sale of drug paraphernalia, respectively, to
58 incorporate the amendment made to s. 893.145, F.S., in

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59 references thereto; providing an effective date.

60

61 WHEREAS, the Legislature finds that existing criminal
62 penalties for the possession of small amounts of cannabis or
63 cannabis accessories are often disproportionate to the severity
64 of the offense, and

65 WHEREAS, the Legislature finds that civil penalties may be
66 more commensurate with the social harm caused by the possession
67 of small amounts of cannabis or cannabis accessories, and

68 WHEREAS, the Legislature finds and declares that this act
69 is in the best interest of the public health, safety, and
70 welfare, NOW, THEREFORE,

71

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

73

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

76 893.131 Personal use quantity of cannabis.-

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

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

81 (b) "Personal use quantity of cannabis" means 20 grams or
82 less of cannabis, except that:

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

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

86 3. The term does not include the estimated weight of any
87 noncannabis ingredients combined with cannabis, such as

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88 ingredients added to prepare food or drink.

89 (2) PERSONAL POSSESSION.—

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

95 2. A person 18 years of age or older who commits a civil
96 violation under subparagraph 1. may request a penalty of up to
97 15 hours of community service in lieu of the civil penalty in
98 subparagraph 1.

99 (b) A person under the age of 18 who knowingly and
100 unlawfully possesses a personal use quantity of cannabis or a
101 cannabis accessory commits a civil violation and shall be
102 ordered to complete up to 15 hours of community service, a drug
103 awareness program, or both. The offender's parent or legal
104 guardian shall be notified of the violation pursuant to
105 paragraph (5) (b) and provided information regarding available
106 drug awareness programs. Within 1 year after the court orders
107 such offender to complete such service, program, or both, the
108 offender or his or her parent or legal guardian shall file with
109 the clerk of the court evidence of such completion.

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

115 (d) A determination of a civil violation under this section
116 is not considered a drug offense under state law or as defined

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117 in 23 C.F.R. s. 192.3 and may not affect a person's driving
118 privileges.

119 (e) A person who fails or refuses to produce his or her
120 identification card issued by the state or driver license, or
121 another form of identification issued by any state, district,
122 county, municipality, school district, college, or university,
123 upon request by a law enforcement officer who informs the person
124 that he or she has been found to be in possession of what
125 appears to the officer to be a personal use quantity of cannabis
126 or a cannabis accessory may be arrested for a violation of this
127 section if the person fails or refuses to truthfully provide his
128 or her name, address, and date of birth to the law enforcement
129 officer.

130 (f) Except as provided in this section, the state or any of
131 its political subdivisions may not impose any penalty or
132 obligation other than those outlined in this section on a person
133 for possessing a personal use quantity of cannabis or a cannabis
134 accessory. The state or any of its political subdivisions may
135 not impose any penalty or obligation exceeding those outlined in
136 this section on a person solely for having cannabinoids or
137 cannabinoid metabolites in his or her urine, blood, sweat, hair,
138 fingernails, toenails, or other tissue or fluid of the human
139 body.

140 (g) Possession of a personal use quantity of cannabis or a
141 cannabis accessory, or the presence of cannabinoids or
142 cannabinoid metabolites in the urine, blood, sweat, hair,
143 fingernails, toenails, or other tissue or fluid of the human
144 body, or a conviction, citation, admission, or plea thereto,
145 does not constitute grounds for denying a person student

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146 financial aid, public housing, or any other form of public
147 financial assistance, including unemployment benefits; denying a
148 person the right to operate a motor vehicle; or disqualifying a
149 person from serving as a foster parent or an adoptive parent.

150 (h) This section does not repeal or modify any law
151 concerning the medical use of cannabis or tetrahydrocannabinol
152 in any other form, such as dronabinol; the possession of more
153 than a personal use quantity of cannabis; or the sale,
154 manufacture, or trafficking of cannabis.

155 (i) This section does not prohibit a political subdivision
156 of the state from enacting ordinances regulating or prohibiting
157 the public consumption of cannabis or tetrahydrocannabinol or
158 providing additional penalties for the public consumption of
159 cannabis or tetrahydrocannabinol if such penalties are not
160 greater than those relating to the public consumption of
161 alcohol.

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

164 (3) RECORDKEEPING.—

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

168 (b) A state, county, or municipal law enforcement agency
169 that collects and reports data for the Federal Bureau of
170 Investigation's Uniform Crime Reporting Program shall collect
171 data on the number of violations of this section and report such
172 data to the Department of Law Enforcement. The Department of Law
173 Enforcement shall compile the data collected pursuant to this
174 paragraph and make it available free of cost to the public. The

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175 Department of Law Enforcement shall update the data annually and
176 make the data available on its public Internet website.

177 (4) DRUG AWARENESS PROGRAMS.—

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

182 (b) The drug awareness program may charge a fee of up to
183 \$75 to offset any program costs. The fees shall be waived based
184 on an offender's financial hardship. All fees shall be payable
185 by the offender upon entry into the program.

186 (5) NOTICE OF VIOLATIONS.—

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

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

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204 the court.

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

208 (a) Fifty percent shall be distributed to or retained by
 209 the municipality where the violation occurred or the county
 210 where it occurred, if the violation occurred in an
 211 unincorporated area.

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

214 Section 2. Subsection (3) and paragraphs (b) and (e) of
 215 subsection (6) of section 893.13, Florida Statutes, are amended
 216 to read:

217 893.13 Prohibited acts; penalties.—

218 (3) A person who delivers, without consideration, a
 219 personal use quantity of cannabis, as defined in s. 893.131, 20
 220 ~~grams or less of cannabis, as defined in this chapter,~~ commits a
 221 misdemeanor of the first degree, punishable as provided in s.
 222 775.082 or s. 775.083. ~~As used in this subsection, the term~~
 223 ~~“cannabis” does not include the resin extracted from the plants~~
 224 ~~of the genus Cannabis or any compound manufacture, salt,~~
 225 ~~derivative, mixture, or preparation of such resin.~~

226 (6)

227 (b) If the offense is the possession of 20 grams or less of
 228 cannabis, as defined in this chapter, and the possession is not
 229 a personal use quantity of cannabis, as defined in s. 893.131,
 230 the person commits a misdemeanor of the first degree, punishable
 231 as provided in s. 775.082 or s. 775.083. As used in this
 232 subsection, the term “cannabis” does not include the resin

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233 extracted from the plants of the genus *Cannabis*, or any compound
234 manufacture, salt, derivative, mixture, or preparation of such
235 resin.

236 (e) Notwithstanding any provision to the contrary of the
237 laws of this state relating to arrest, and except as provided in
238 s. 893.131, a law enforcement officer may arrest without warrant
239 any person who the officer has probable cause to believe is
240 violating the provisions of this chapter relating to possession
241 of cannabis.

242 Section 3. Section 893.145, Florida Statutes, is amended to
243 read:

244 893.145 "Drug paraphernalia" defined.—The term "drug
245 paraphernalia" means all equipment, products, and materials of
246 any kind which are used, intended for use, or designed for use
247 in planting, propagating, cultivating, growing, harvesting,
248 manufacturing, compounding, converting, producing, processing,
249 preparing, testing, analyzing, packaging, repackaging, storing,
250 containing, concealing, transporting, injecting, ingesting,
251 inhaling, or otherwise introducing into the human body a
252 controlled substance in violation of this chapter or s. 877.111.
253 Drug paraphernalia is deemed to be contraband which shall be
254 subject to civil forfeiture. The term does not include a
255 cannabis accessory, as defined in s. 893.131. The term includes,
256 but is not limited to:

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

261 (2) Kits used, intended for use, or designed for use in

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262 manufacturing, compounding, converting, producing, processing,
263 or preparing controlled substances.

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

267 (4) Testing equipment used, intended for use, or designed
268 for use in identifying, or in analyzing the strength,
269 effectiveness, or purity of, controlled substances.

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

272 (6) Diluents and adulterants, such as quinine
273 hydrochloride, caffeine, dimethyl sulfone, mannitol, mannite,
274 dextrose, and lactose, used, intended for use, or designed for
275 use in diluting controlled substances; or substances such as
276 damiana leaf, marshmallow leaf, and mullein leaf, used, intended
277 for use, or designed for use as carrier mediums of controlled
278 substances.

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

282 (8) Blenders, bowls, containers, spoons, and mixing devices
283 used, intended for use, or designed for use in compounding
284 controlled substances.

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

288 (10) Containers and other objects used, intended for use,
289 or designed for use in storing, concealing, or transporting
290 controlled substances.

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

294 (12) Objects used, intended for use, or designed for use in
295 ingesting, inhaling, or otherwise introducing controlled
296 substances, as described in s. 893.03, or substances described
297 in s. 877.111(1) into the human body, such as:

298 (a) Metal, wooden, acrylic, glass, stone, plastic, or
299 ceramic pipes, with or without screens, permanent screens,
300 hashish heads, or punctured metal bowls.

301 (b) Water pipes.

302 (c) Carburetion tubes and devices.

303 (d) Smoking and carburetion masks.

304 (e) Roach clips: meaning objects used to hold burning
305 material, such as a cannabis cigarette, that has become too
306 small or too short to be held in the hand.

307 (f) Miniature cocaine spoons, and cocaine vials.

308 (g) Chamber pipes.

309 (h) Carburetor pipes.

310 (i) Electric pipes.

311 (j) Air-driven pipes.

312 (k) Chillums.

313 (l) Bongs.

314 (m) Ice pipes or chillers.

315 (n) A cartridge or canister, which means a small metal
316 device used to contain nitrous oxide.

317 (o) A charger, sometimes referred to as a "cracker," which
318 means a small metal or plastic device that contains an interior
319 pin that may be used to expel nitrous oxide from a cartridge or

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320 container.

321 (p) A charging bottle, which means a device that may be
322 used to expel nitrous oxide from a cartridge or canister.

323 (q) A whip-it, which means a device that may be used to
324 expel nitrous oxide.

325 (r) A tank.

326 (s) A balloon.

327 (t) A hose or tube.

328 (u) A 2-liter-type soda bottle.

329 (v) Duct tape.

330 Section 4. Subsection (2) of section 938.23, Florida
331 Statutes, is amended to read:

332 938.23 Assistance grants for alcohol and other drug abuse
333 programs.—

334 (2) All assessments authorized by this section and proceeds
335 of civil penalties levied under s. 893.131 shall be collected by
336 the clerk of court and remitted to the jurisdictional county as
337 described in s. 893.165(2) for deposit into the County Alcohol
338 and Other Drug Abuse Trust Fund or remitted to the Department of
339 Revenue for deposit into the Grants and Donations Trust Fund of
340 the Department of Children and Families pursuant to guidelines
341 and priorities developed by the department. If a County Alcohol
342 and Other Drug Abuse Trust Fund has not been established for any
343 jurisdictional county, assessments collected by the clerk of
344 court shall be remitted to the Department of Revenue for deposit
345 into the Grants and Donations Trust Fund of the Department of
346 Children and Families.

347 Section 5. For the purpose of incorporating the amendment
348 made by this act to section 893.13, Florida Statutes, in a

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349 reference thereto, paragraph (s) of subsection (8) of section
350 112.0455, Florida Statutes, is reenacted to read:

351 112.0455 Drug-Free Workplace Act.—

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

355 (s) An employer may not discharge, discipline, or
356 discriminate against an employee solely upon voluntarily seeking
357 treatment, while under the employ of the employer, for a drug-
358 related problem if the employee has not previously tested
359 positive for drug use, entered an employee assistance program
360 for drug-related problems, or entered an alcohol and drug
361 rehabilitation program. However, special risk employees may be
362 subject to discharge or disciplinary action when the presence of
363 illicit drugs, pursuant to s. 893.13, is confirmed.

364 Section 6. For the purpose of incorporating the amendment
365 made by this act to section 893.13, Florida Statutes, in a
366 reference thereto, paragraph (b) of subsection (4) of section
367 397.4073, Florida Statutes, is reenacted to read:

368 397.4073 Background checks of service provider personnel.—

369 (4) EXEMPTIONS FROM DISQUALIFICATION.—

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

377 Section 7. For the purpose of incorporating the amendment

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378 made by this act to section 893.13, Florida Statutes, in a
379 reference thereto, subsection (2) of section 435.07, Florida
380 Statutes, is reenacted to read:

381 435.07 Exemptions from disqualification.—Unless otherwise
382 provided by law, the provisions of this section apply to
383 exemptions from disqualification for disqualifying offenses
384 revealed pursuant to background screenings required under this
385 chapter, regardless of whether those disqualifying offenses are
386 listed in this chapter or other laws.

387 (2) Persons employed, or applicants for employment, by
388 treatment providers who treat adolescents 13 years of age and
389 older who are disqualified from employment solely because of
390 crimes under s. 817.563, s. 893.13, or s. 893.147 may be
391 exempted from disqualification from employment pursuant to this
392 chapter without application of the waiting period in
393 subparagraph (1)(a)1.

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

398 772.12 Drug Dealer Liability Act.—

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

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

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407 1. A violation of s. 893.13, except for a violation of s.
408 893.13(2)(a) or (b), (3), (5), (6)(a), (b), or (c), (7); or

409 2. A violation of s. 893.135; and

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

414 Section 9. For the purpose of incorporating the amendment
415 made by this act to section 893.13, Florida Statutes, in a
416 reference thereto, paragraph (a) of subsection (1) of section
417 775.084, Florida Statutes, is reenacted to read:

418 775.084 Violent career criminals; habitual felony offenders
419 and habitual violent felony offenders; three-time violent felony
420 offenders; definitions; procedure; enhanced penalties or
421 mandatory minimum prison terms.—

422 (1) As used in this act:

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

426 1. The defendant has previously been convicted of any
427 combination of two or more felonies in this state or other
428 qualified offenses.

429 2. The felony for which the defendant is to be sentenced
430 was committed:

431 a. While the defendant was serving a prison sentence or
432 other sentence, or court-ordered or lawfully imposed supervision
433 that is imposed as a result of a prior conviction for a felony
434 or other qualified offense; or

435 b. Within 5 years of the date of the conviction of the

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436 defendant's last prior felony or other qualified offense, or
437 within 5 years of the defendant's release from a prison
438 sentence, probation, community control, control release,
439 conditional release, parole or court-ordered or lawfully imposed
440 supervision or other sentence that is imposed as a result of a
441 prior conviction for a felony or other qualified offense,
442 whichever is later.

443 3. The felony for which the defendant is to be sentenced,
444 and one of the two prior felony convictions, is not a violation
445 of s. 893.13 relating to the purchase or the possession of a
446 controlled substance.

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

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

453 Section 10. For the purpose of incorporating the amendment
454 made by this act to section 893.13, Florida Statutes, in a
455 reference thereto, paragraph (f) of subsection (3) of section
456 810.02, Florida Statutes, is reenacted to read:

457 810.02 Burglary.—

458 (3) Burglary is a felony of the second degree, punishable
459 as provided in s. 775.082, s. 775.083, or s. 775.084, if, in the
460 course of committing the offense, the offender does not make an
461 assault or battery and is not and does not become armed with a
462 dangerous weapon or explosive, and the offender enters or
463 remains in a:

464 (f) Structure or conveyance when the offense intended to be

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465 committed therein is theft of a controlled substance as defined
466 in s. 893.02. Notwithstanding any other law, separate judgments
467 and sentences for burglary with the intent to commit theft of a
468 controlled substance under this paragraph and for any applicable
469 possession of controlled substance offense under s. 893.13 or
470 trafficking in controlled substance offense under s. 893.135 may
471 be imposed when all such offenses involve the same amount or
472 amounts of a controlled substance.

473

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

492 Section 11. For the purpose of incorporating the amendment
493 made by this act to section 893.13, Florida Statutes, in a

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494 reference thereto, paragraph (c) of subsection (2) of section
495 812.014, Florida Statutes, is reenacted to read:

496 812.014 Theft.—

497 (2)

498 (c) It is grand theft of the third degree and a felony of
499 the third degree, punishable as provided in s. 775.082, s.
500 775.083, or s. 775.084, if the property stolen is:

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

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

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

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

505 5. A firearm.

506 6. A motor vehicle, except as provided in paragraph (a).

507 7. Any commercially farmed animal, including any animal of
508 the equine, avian, bovine, or swine class or other grazing
509 animal; a bee colony of a registered beekeeper; and aquaculture
510 species raised at a certified aquaculture facility. If the
511 property stolen is a commercially farmed animal, including an
512 animal of the equine, avian, bovine, or swine class or other
513 grazing animal; a bee colony of a registered beekeeper; or an
514 aquaculture species raised at a certified aquaculture facility,
515 a \$10,000 fine shall be imposed.

516 8. Any fire extinguisher.

517 9. Any amount of citrus fruit consisting of 2,000 or more
518 individual pieces of fruit.

519 10. Taken from a designated construction site identified by
520 the posting of a sign as provided for in s. 810.09(2)(d).

521 11. Any stop sign.

522 12. Anhydrous ammonia.

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523 13. Any amount of a controlled substance as defined in s.
524 893.02. Notwithstanding any other law, separate judgments and
525 sentences for theft of a controlled substance under this
526 subparagraph and for any applicable possession of controlled
527 substance offense under s. 893.13 or trafficking in controlled
528 substance offense under s. 893.135 may be imposed when all such
529 offenses involve the same amount or amounts of a controlled
530 substance.

531
532 However, if the property is stolen within a county that is
533 subject to a state of emergency declared by the Governor under
534 chapter 252, the property is stolen after the declaration of
535 emergency is made, and the perpetration of the theft is
536 facilitated by conditions arising from the emergency, the
537 offender commits a felony of the second degree, punishable as
538 provided in s. 775.082, s. 775.083, or s. 775.084, if the
539 property is valued at \$5,000 or more, but less than \$10,000, as
540 provided under subparagraph 2., or if the property is valued at
541 \$10,000 or more, but less than \$20,000, as provided under
542 subparagraph 3. As used in this paragraph, the term "conditions
543 arising from the emergency" means civil unrest, power outages,
544 curfews, voluntary or mandatory evacuations, or a reduction in
545 the presence of or the response time for first responders or
546 homeland security personnel. For purposes of sentencing under
547 chapter 921, a felony offense that is reclassified under this
548 paragraph is ranked one level above the ranking under s.
549 921.0022 or s. 921.0023 of the offense committed.

550 Section 12. For the purpose of incorporating the amendment
551 made by this act to section 893.13, Florida Statutes, in

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552 references thereto, subsection (1) of section 831.311, Florida
553 Statutes, is reenacted to read:

554 831.311 Unlawful sale, manufacture, alteration, delivery,
555 uttering, or possession of counterfeit-resistant prescription
556 blanks for controlled substances.—

557 (1) It is unlawful for any person having the intent to
558 injure or defraud any person or to facilitate any violation of
559 s. 893.13 to sell, manufacture, alter, deliver, utter, or
560 possess with intent to injure or defraud any person, or to
561 facilitate any violation of s. 893.13, any counterfeit-resistant
562 prescription blanks for controlled substances, the form and
563 content of which are adopted by rule of the Department of Health
564 pursuant to s. 893.065.

565 Section 13. For the purpose of incorporating the amendment
566 made by this act to section 893.13, Florida Statutes, in
567 references thereto, subsections (1) and (2) of section 893.1351,
568 Florida Statutes, are reenacted to read:

569 893.1351 Ownership, lease, rental, or possession for
570 trafficking in or manufacturing a controlled substance.—

571 (1) A person may not own, lease, or rent any place,
572 structure, or part thereof, trailer, or other conveyance with
573 the knowledge that the place, structure, trailer, or conveyance
574 will be used for the purpose of trafficking in a controlled
575 substance, as provided in s. 893.135; for the sale of a
576 controlled substance, as provided in s. 893.13; or for the
577 manufacture of a controlled substance intended for sale or
578 distribution to another. A person who violates this subsection
579 commits a felony of the third degree, punishable as provided in
580 s. 775.082, s. 775.083, or s. 775.084.

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581 (2) A person may not knowingly be in actual or constructive
582 possession of any place, structure, or part thereof, trailer, or
583 other conveyance with the knowledge that the place, structure,
584 or part thereof, trailer, or conveyance will be used for the
585 purpose of trafficking in a controlled substance, as provided in
586 s. 893.135; for the sale of a controlled substance, as provided
587 in s. 893.13; or for the manufacture of a controlled substance
588 intended for sale or distribution to another. A person who
589 violates this subsection commits a felony of the second degree,
590 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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

595 893.138 Local administrative action to abate drug-related,
596 prostitution-related, or stolen-property-related public
597 nuisances and criminal gang activity.-

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

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

603 (b) Section 810.02, relating to burglary;

604 (c) Section 812.014, relating to theft;

605 (d) Section 812.131, relating to robbery by sudden
606 snatching; or

607 (e) Section 893.13, relating to the unlawful distribution
608 of controlled substances,

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

612 Section 15. For the purpose of incorporating the amendment
613 made by this act to section 893.13, Florida Statutes, in a
614 reference thereto, section 893.15, Florida Statutes, is
615 reenacted to read:

616 893.15 Rehabilitation.—Any person who violates s.
617 893.13(6) (a) or (b) relating to possession may, in the
618 discretion of the trial judge, be required to participate in a
619 substance abuse services program approved or regulated by the
620 Department of Children and Families pursuant to the provisions
621 of chapter 397, provided the director of such program approves
622 the placement of the defendant in such program. Such required
623 participation shall be imposed in addition to any penalty or
624 probation otherwise prescribed by law. However, the total time
625 of such penalty, probation, and program participation shall not
626 exceed the maximum length of sentence possible for the offense.

627 Section 16. For the purpose of incorporating the amendment
628 made by this act to section 893.13, Florida Statutes, in a
629 reference thereto, section 903.133, Florida Statutes, is
630 reenacted to read:

631 903.133 Bail on appeal; prohibited for certain felony
632 convictions.—Notwithstanding the provisions of s. 903.132, no
633 person adjudged guilty of a felony of the first degree for a
634 violation of s. 782.04(2) or (3), s. 787.01, s. 794.011(4), s.
635 806.01, s. 893.13, or s. 893.135, or adjudged guilty of a
636 violation of s. 794.011(2) or (3), shall be admitted to bail
637 pending review either by posttrial motion or appeal.

638 Section 17. For the purpose of incorporating the amendment

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639 made by this act to section 893.13, Florida Statutes, in a
640 reference thereto, paragraph (1) of subsection (1) of section
641 921.187, Florida Statutes, is reenacted to read:

642 921.187 Disposition and sentencing; alternatives;
643 restitution.—

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

649 (1)1. Require the offender who violates any criminal
650 provision of chapter 893 to pay an additional assessment in an
651 amount up to the amount of any fine imposed, pursuant to ss.
652 938.21 and 938.23.

653 2. Require the offender who violates any provision of s.
654 893.13 to pay an additional assessment in an amount of \$100,
655 pursuant to ss. 938.055 and 943.361.

656 Section 18. For the purpose of incorporating the amendment
657 made by this act to section 893.145, Florida Statutes, in a
658 reference thereto, paragraph (a) of subsection (2) of section
659 893.12, Florida Statutes, is reenacted to read:

660 893.12 Contraband; seizure, forfeiture, sale.—

661 (2) (a) Any vessel, vehicle, aircraft, or drug paraphernalia
662 as defined in s. 893.145 which has been or is being used in
663 violation of any provision of this chapter or in, upon, or by
664 means of which any violation of this chapter has taken or is
665 taking place may be seized and forfeited as provided by the
666 Florida Contraband Forfeiture Act.

667 Section 19. For the purpose of incorporating the amendment

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668 made by this act to section 893.145, Florida Statutes, in a
669 reference thereto, paragraph (a) of subsection (6) of section
670 893.147, Florida Statutes, is reenacted to read:

671 893.147 Use, possession, manufacture, delivery,
672 transportation, advertisement, or retail sale of drug
673 paraphernalia, specified machines, and materials.—

674 (6) RETAIL SALE OF DRUG PARAPHERNALIA.—

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

679 Section 20. This act shall take effect July 1, 2019.