

## CHAPTER 2021-220

### Committee Substitute for House Bill No. 921

An act relating to electronic crimes; amending s. 784.048; redefining the term “cyberstalk”; amending s. 836.10, F.S.; defining the term “electronic record”; prohibiting a person from sending, posting, or transmitting, or from procuring the sending, posting, or transmission of a written or electronic record when in such record the person makes a threat to kill or to do bodily harm to another person or to conduct a mass shooting or an act of terrorism; providing criminal penalties; amending s. 921.0022, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Subsection (1) of section 784.048, Florida Statutes, is amended to read:

784.048 Stalking; definitions; penalties.—

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

(a) “Harass” means to engage in a course of conduct directed at a specific person which causes substantial emotional distress to that person and serves no legitimate purpose.

(b) “Course of conduct” means a pattern of conduct composed of a series of acts over a period of time, however short, which evidences a continuity of purpose. The term does not include constitutionally protected activity such as picketing or other organized protests.

(c) “Credible threat” means a verbal or nonverbal threat, or a combination of the two, including threats delivered by electronic communication or implied by a pattern of conduct, which places the person who is the target of the threat in reasonable fear for his or her safety or the safety of his or her family members or individuals closely associated with the person, and which is made with the apparent ability to carry out the threat to cause such harm. It is not necessary to prove that the person making the threat had the intent to actually carry out the threat. The present incarceration of the person making the threat is not a bar to prosecution under this section.

(d) “Cyberstalk” means:

1. To engage in a course of conduct to communicate, or to cause to be communicated, directly or indirectly, words, images, or language by or through the use of electronic mail or electronic communication, directed at or pertaining to a specific person; or

2. To access, or attempt to access, the online accounts or Internet-connected home electronic systems of another person without that person’s permission,

causing substantial emotional distress to that person and serving no legitimate purpose.

Section 2. Subsections (1) and (2) of section 836.10, Florida Statutes, are renumbered as subsections (2) and (3), respectively, present subsection (1) is amended, and a new subsection (1) is added to that section, to read:

836.10 Written or electronic threats to kill, do bodily injury, or conduct a mass shooting or an act of terrorism; punishment; exemption from liability.

(1) As used in this section, the term “electronic record” means any record created, modified, archived, received, or distributed electronically which contains any combination of text, graphics, video, audio, or pictorial represented in digital form, but does not include a telephone call.

(2)(4) It is unlawful for any person to send, post, or transmit, or procure the sending, posting, or transmission of, who writes or composes and also sends or procures the sending of any letter, inscribed communication, or electronic communication, whether such letter or communication be signed or anonymous, to any person, containing a threat to kill or to do bodily injury to the person to whom such letter or communication is sent, or a threat to kill or do bodily injury to any member of the family of the person to whom such letter or communication is sent, or any person who makes, posts, or transmits a threat in a writing or other record, including an electronic record, to conduct a mass shooting or an act of terrorism, in any manner in which it may be viewed by that would allow another person to view the threat, when in such writing or record the person makes a threat to:

(a) Kill or to do bodily harm to another person; or

(b) Conduct a mass shooting or an act of terrorism.

A person who violates this subsection commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 3. Paragraph (f) of subsection (3) of section 921.0022, Florida Statutes, is amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

(f) LEVEL 6

| Florida Statute | Felony Degree | Description  |
|-----------------|---------------|--|
| 316.027(2)(b)   | 2nd           | Leaving the scene of a crash involving serious bodily injury.                              |
| 316.193(2)(b)   | 3rd           | Felony DUI, 4th or subsequent conviction.  |
| 400.9935(4)(c)  | 2nd           | Operating a clinic, or offering services requiring licensure, without a license.           |
| 499.0051(2)     | 2nd           | Knowing forgery of transaction history, transaction information, or transaction statement. |
| 499.0051(3)     | 2nd           | Knowing purchase or receipt of prescription drug from unauthorized person.                 |
| 499.0051(4)     | 2nd           | Knowing sale or transfer of prescription drug to unauthorized person.                      |
| 775.0875(1)     | 3rd           | Taking firearm from law enforcement officer.   |
| 784.021(1)(a)   | 3rd           | Aggravated assault; deadly weapon without intent to kill.                                  |
| 784.021(1)(b)   | 3rd           | Aggravated assault; intent to commit felony.   |
| 784.041         | 3rd           | Felony battery; domestic battery by strangulation.   |
| 784.048(3)      | 3rd           | Aggravated stalking; credible threat.  |
| 784.048(5)      | 3rd           | Aggravated stalking of person under 16.  |
| 784.07(2)(c)    | 2nd           | Aggravated assault on law enforcement officer.   |
| 784.074(1)(b)   | 2nd           | Aggravated assault on sexually violent predators facility staff.                           |
| 784.08(2)(b)    | 2nd           | Aggravated assault on a person 65 years of age or older.                                   |
| 784.081(2)      | 2nd           | Aggravated assault on specified official or employee.                                      |
| 784.082(2)      | 2nd           | Aggravated assault by detained person on visitor or other detainee.                        |
| 784.083(2)      | 2nd           | Aggravated assault on code inspector.  |
| 787.02(2)       | 3rd           | False imprisonment; restraining with purpose other than those in s. 787.01.                |

| Florida Statute | Felony Degree | Description  |
|-----------------|---------------|--|
| 790.115(2)(d)   | 2nd           | Discharging firearm or weapon on school property.  |
| 790.161(2)      | 2nd           | Make, possess, or throw destructive device with intent to do bodily harm or damage property.   |
| 790.164(1)      | 2nd           | False report concerning bomb, explosive, weapon of mass destruction, act of arson or violence to state property, or use of firearms in violent manner. |
| 790.19          | 2nd           | Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.   |
| 794.011(8)(a)   | 3rd           | Solicitation of minor to participate in sexual activity by custodial adult.  |
| 794.05(1)       | 2nd           | Unlawful sexual activity with specified minor.   |
| 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.                            |
| 800.04(6)(b)    | 2nd           | Lewd or lascivious conduct; offender 18 years of age or older.   |
| 806.031(2)      | 2nd           | Arson resulting in great bodily harm to firefighter or any other person.   |
| 810.02(3)(c)    | 2nd           | Burglary of occupied structure; unarmed; no assault or battery.  |
| 810.145(8)(b)   | 2nd           | Video voyeurism; certain minor victims; 2nd or subsequent offense.   |
| 812.014(2)(b)1. | 2nd           | Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree.  |
| 812.014(6)      | 2nd           | Theft; property stolen \$3,000 or more; coordination of others.  |
| 812.015(9)(a)   | 2nd           | Retail theft; property stolen \$750 or more; second or subsequent conviction.  |
| 812.015(9)(b)   | 2nd           | Retail theft; aggregated property stolen within 30 days is \$3,000 or more; coordination of others.  |

| Florida Statute  | Felony Degree | Description   |
|------------------|---------------|---|
| 812.13(2)(c)     | 2nd           | Robbery, no firearm or other weapon (strong-arm robbery).   |
| 817.4821(5)      | 2nd           | Possess cloning paraphernalia with intent to create cloned cellular telephones.   |
| 817.505(4)(b)    | 2nd           | Patient brokering; 10 or more patients.   |
| 825.102(1)       | 3rd           | Abuse of an elderly person or disabled adult.   |
| 825.102(3)(c)    | 3rd           | Neglect of an elderly person or disabled adult.   |
| 825.1025(3)      | 3rd           | Lewd or lascivious molestation of an elderly person or disabled adult.  |
| 825.103(3)(c)    | 3rd           | Exploiting an elderly person or disabled adult and property is valued at less than \$10,000.  |
| 827.03(2)(c)     | 3rd           | Abuse of a child.   |
| 827.03(2)(d)     | 3rd           | Neglect of a child.   |
| 827.071(2) & (3) | 2nd           | Use or induce a child in a sexual performance, or promote or direct such performance.   |
| 836.05           | 2nd           | Threats; extortion.   |
| 836.10           | 2nd           | Written <u>or electronic</u> threats to kill, do bodily injury, or conduct a mass shooting or an act of terrorism.  |
| 843.12           | 3rd           | Aids or assists person to escape.   |
| 847.011          | 3rd           | Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors.   |
| 847.012          | 3rd           | Knowingly using a minor in the production of materials harmful to minors.   |
| 847.0135(2)      | 3rd           | Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.  |
| 914.23           | 2nd           | Retaliation against a witness, victim, or informant, with bodily injury.  |
| 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. |
| 944.40           | 2nd           | Escapes.  |

| Florida Statute | Felony Degree | Description  |
|-----------------|---------------|--|
| 944.46          | 3rd           | Harboring, concealing, aiding escaped prisoners.                                       |
| 944.47(1)(a)5.  | 2nd           | Introduction of contraband (firearm, weapon, or explosive) into correctional facility. |
| 951.22(1)(i)    | 3rd           | Firearm or weapon introduced into county detention facility.                           |

Section 4. This act shall take effect October 1, 2021.

Approved by the Governor June 29, 2021.

Filed in Office Secretary of State June 29, 2021.