

1                   A bill to be entitled  
2           An act relating to driving under the influence  
3           diversion programs; creating s. 316.19395, F.S.;  
4           authorizing judicial circuits to implement a Driving  
5           Under the Influence Diversion Program; providing  
6           guidelines for establishing a diversion program;  
7           specifying that the state attorney of the judicial  
8           circuit shall operate the program; providing for  
9           program eligibility; requiring the program to provide  
10          certain services; requiring a participant to complete  
11          specified program requirements; providing other  
12          diversion program requirements; encouraging judicial  
13          circuits to negotiate with providers of alcohol  
14          monitoring devices to offset costs for indigent  
15          persons; requiring a reduced charge to reckless  
16          driving and a withhold of adjudication for a  
17          participant who successfully completes the program;  
18          authorizing the state attorney of the judicial circuit  
19          to prosecute an offender who fails to successfully  
20          complete program requirements; directing the state  
21          attorney to make a report to the Governor and the  
22          Legislature; amending s. 316.193, F.S.; providing that  
23          a person's new driving-under-the-influence offense  
24          after successful program completion shall be charged  
25          as though the person had a prior driving-under-the-

26 | influence conviction; amending s. 921.0022, F.S.;  
 27 | conforming cross-references; providing an effective  
 28 | date.

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

32 | Section 1. Section 316.19395, Florida Statutes, is created  
 33 | to read:

34 | 316.19395 Driving Under the Influence Model Diversion  
 35 | Program.—

36 | (1) PROGRAM DEVELOPMENT, IMPLEMENTATION, AND OPERATION.—

37 | Each judicial circuit may establish a Driving Under the  
 38 | Influence Diversion Program to give eligible first-time driving-  
 39 | under-the-influence offenders the opportunity to avoid a  
 40 | permanent criminal history record associated with the offense  
 41 | while ensuring offenders receive substance abuse treatment, when  
 42 | necessary. If established, the state attorney of each judicial  
 43 | circuit shall operate the program and may develop the program's  
 44 | policies and procedures, including program implementation,  
 45 | operation, and selection of approved programming providers. If  
 46 | the state attorney chooses to establish the program, the state  
 47 | attorney shall consult representatives of local law enforcement  
 48 | agencies, the public defender, and local programming providers  
 49 | in developing the program's policies and procedures. The program

50 terms and conditions must be published on the website of the  
51 office of the state attorney in each circuit.

52 (2) ELIGIBILITY REQUIREMENTS.—A person charged with  
53 driving under the influence is eligible for diversion program  
54 participation if the person:

55 (a) Has no prior conviction for an alcohol-related or  
56 drug-related criminal traffic offense.

57 (b) Has no prior felony conviction.

58 (c) Has no more than two prior misdemeanor convictions.

59 (d) Has not previously participated in a diversion program  
60 for a driving-under-the-influence charge.

61 (e) Was not involved in a motor vehicle crash or accident  
62 relating to the driving-under-the-influence charge.

63 (f) Was not, at the time of the offense, accompanied in  
64 the vehicle by a person under the age of 18 years.

65 (g) Did not, at the time of the offense, have a blood-  
66 alcohol or breath-alcohol level of 0.20 or greater.

67 (h) Did not cause property damage or damage to another  
68 person relating to the driving-under-the-influence charge.

69  
70 As used in this section, the term "conviction" means being  
71 convicted or found guilty of, or entering a plea of guilty or  
72 nolo contendere to, regardless of adjudication, a crime in any  
73 jurisdiction.

74        (3) PROGRAM REQUIREMENTS.—A person must participate in the  
75 diversion program for a minimum of 12 months, during which time  
76 he or she may not possess or consume alcohol, illegal drugs, or  
77 prescription drugs not prescribed for him or her, and must  
78 complete the following conditions administered by a program  
79 provider approved by the state attorney:

80        (a) Fifty hours of community service if, at the time of  
81 the offense, the participant had a blood-alcohol or breath-  
82 alcohol level of 0.15 or lower;

83        (b) Seventy-five hours of community service if, at the  
84 time of the offense, the participant had a blood-alcohol or  
85 breath-alcohol level higher than 0.15 but lower than 0.20 or did  
86 not provide a blood-alcohol or breath-alcohol sample;

87        (c) A substance abuse course conducted by a DUI program  
88 licensed by the department under s. 322.292, which must include  
89 a psychosocial evaluation of the participant, and any substance  
90 abuse treatment required by such program;

91        (d) A Victim Impact Class or a victim's impact panel  
92 session or, if no such class or panel exists in the judicial  
93 circuit, a department-approved driver improvement course  
94 relating to the rights of vulnerable road users relative to  
95 vehicles on the roadway under s. 322.0261(2);

96        (e) Impoundment or immobilization of all vehicles that are  
97 individually or jointly leased or owned and routinely operated  
98 by the participant for a period of 10 days; and

99           (f) One of the following conditions, chosen by the state  
100 attorney, based on the participant's individual circumstances:

101           1. Installation of an ignition interlock device, approved  
102 by the department in accordance with s. 316.1938, on all  
103 vehicles that are individually or jointly leased or owned and  
104 routinely operated by the participant for a period of at least  
105 30 days; or

106           2. Wearing of a continuous transdermal alcohol monitoring  
107 device or use of a mobile alcohol monitoring device or other  
108 continuous alcohol monitoring device approved by a DUI program  
109 licensed by the department under s. 322.292 for a period of at  
110 least 30 days.

111  
112 The Legislature encourages each judicial circuit to negotiate  
113 with providers of alcohol monitoring devices to establish a  
114 procedure for offsetting the cost of all or part of an ignition  
115 interlock device, transdermal alcohol monitoring device, mobile  
116 alcohol monitoring device, or other continuous alcohol  
117 monitoring device when a participant demonstrates a genuine  
118 inability to pay for the device.

119           (4) COMPLETION OF PROGRAM REQUIREMENTS.—If a person  
120 successfully completes the diversion program requirements, the  
121 state attorney operating the program shall:

122 (a) Reduce the criminal charge of driving under the  
 123 influence to a charge of reckless driving, as provided in s.  
 124 316.192; and

125 (b) Allow the person to enter a plea to the charge of  
 126 reckless driving with adjudication withheld.

127 (5) EFFECT OF SUBSEQUENT DUI.—If after successfully  
 128 completing the diversion program a person is charged with a new  
 129 driving-under-the-influence offense, the person shall be charged  
 130 for the new driving-under-the-influence offense in the same  
 131 manner as if the person had a prior conviction for driving under  
 132 the influence under s. 316.193(1).

133 (6) FAILURE TO COMPLETE PROGRAM REQUIREMENTS.—If a person  
 134 fails to successfully complete the diversion program  
 135 requirements, the state attorney may discharge the person from  
 136 the program and prosecute the original offense.

137 (7) ANNUAL REPORT REQUIREMENTS.—By October 1, 2021, and on  
 138 October 1 each year thereafter, the state attorney of each  
 139 judicial circuit that establishes a diversion program shall  
 140 report the results of the program to the Governor, the President  
 141 of the Senate, and the Speaker of the House of Representatives.  
 142 The report shall include the total number of:

143 (a) Cases diverted from prosecution.

144 (b) Persons who successfully completed the program.

145 (c) Persons who failed to successfully complete the  
 146 program and were discharged from participation.

147           (d) Persons who successfully completed the program and  
 148 were later charged with another alcohol-related or drug-related  
 149 criminal traffic offense.

150           (e) Persons who failed to successfully complete the  
 151 program and were later charged with another alcohol-related or  
 152 drug-related criminal traffic offense.

153           Section 2. Paragraphs (b) and (c) of subsection (2) of  
 154 section 316.193, Florida Statutes, are redesignated as  
 155 paragraphs (c) and (d), respectively, paragraph (a) of that  
 156 subsection is amended, and a new paragraph (b) is added to that  
 157 subsection, to read:

158           316.193 Driving under the influence; penalties.—

159           (2) (a) Except as provided in paragraph (c) ~~(b)~~, subsection  
 160 (3), or subsection (4), any person who is convicted of a  
 161 violation of subsection (1) shall be punished:

162           1. By a fine of:

163           a. Not less than \$500 or more than \$1,000 for a first  
 164 conviction.

165           b. Not less than \$1,000 or more than \$2,000 for a second  
 166 conviction; and

167           2. By imprisonment for:

168           a. Not more than 6 months for a first conviction.

169           b. Not more than 9 months for a second conviction.

170           3. For a second conviction, by mandatory placement for a  
 171 period of at least 1 year, at the convicted person's sole

172 expense, of an ignition interlock device approved by the  
 173 department in accordance with s. 316.1938 upon all vehicles that  
 174 are individually or jointly leased or owned and routinely  
 175 operated by the convicted person, when the convicted person  
 176 qualifies for a permanent or restricted license. The  
 177 installation of such device may not occur before July 1, 2003.

178  
 179 The portion of a fine imposed in excess of \$500 pursuant to sub-  
 180 subparagraph 1.a. and the portion of a fine imposed in excess of  
 181 \$1,000 pursuant to sub-subparagraph 1.b., shall be remitted by  
 182 the clerk to the Department of Revenue for deposit into the  
 183 General Revenue Fund.

184 (b) A person who successfully completes a diversion  
 185 program under s. 316.19395 and is thereafter charged with a new  
 186 driving-under-the-influence offense shall be charged for the new  
 187 offense in the same manner as if the person had a prior  
 188 conviction for driving under the influence.

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

191 921.0022 Criminal Punishment Code; offense severity  
 192 ranking chart.—

193 (3) OFFENSE SEVERITY RANKING CHART  
 194 (c) LEVEL 3

195  
 Florida                      Felony                      Description



	Statute	Degree	
196	119.10 (2) (b)	3rd	Unlawful use of confidential information from police reports.
197	316.066 (3) (b) - (d)	3rd	Unlawfully obtaining or using confidential crash reports.
198	<u>316.193 (2) (c)</u> <del>316.193 (2) (b)</del>	3rd	Felony DUI, 3rd conviction.
199	316.1935 (2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.
200	319.30 (4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
201	319.33 (1) (a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
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203	319.33 (1) (c)	3rd	Procure or pass title on stolen vehicle.
204	319.33 (4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
205	327.35 (2) (b)	3rd	Felony BUI.
206	328.05 (2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
207	328.07 (4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
208	376.302 (5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
	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 turtle eggs, or  
 marine turtle nests in  
 violation of the Marine Turtle  
 Protection Act.

209

379.2431                      3rd      Possessing any marine turtle  
 (1) (e) 6.                      species or hatchling, or parts  
    thereof, or the nest of any  
    marine turtle species described  
    in the Marine Turtle Protection  
    Act.

210

379.2431                      3rd      Soliciting to commit or  
 (1) (e) 7.                      conspiring to commit a  
    violation of the Marine Turtle  
    Protection Act.

211

400.9935 (4) (a)              3rd      Operating a clinic, or offering  
 or (b)                              services requiring licensure,  
    without a license.

212

400.9935 (4) (e)              3rd      Filing a false license

application or other required information or failing to report information.

213

440.1051(3) 3rd False report of workers' compensation fraud or retaliation for making such a report.

214

501.001(2)(b) 2nd Tampers with a consumer product or the container using materially false/misleading information.

215

624.401(4)(a) 3rd Transacting insurance without a certificate of authority.

216

624.401(4)(b)1. 3rd Transacting insurance without a certificate of authority; premium collected less than \$20,000.

217

626.902(1)(a) & 3rd Representing an unauthorized  
(b) insurer.

218

219	697.08	3rd	Equity skimming.
220	790.15 (3)	3rd	Person directs another to discharge firearm from a vehicle.
221	806.10 (1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
222	806.10 (2)	3rd	Interferes with or assaults firefighter in performance of duty.
223	810.09 (2) (c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
224	812.014 (2) (c) 2.	3rd	Grand theft; \$5,000 or more but less than \$10,000.
	812.0145 (2) (c)	3rd	Theft from person 65 years of age or older; \$300 or more but less than \$10,000.

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225	812.015 (8) (b)	3rd	Retail theft with intent to sell; conspires with others.
226	815.04 (5) (b)	2nd	Computer offense devised to defraud or obtain property.
227	817.034 (4) (a) 3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000.
228	817.233	3rd	Burning to defraud insurer.
229	817.234 (8) (b) & (c)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.
230	817.234 (11) (a)	3rd	Insurance fraud; property value less than \$20,000.
231	817.236	3rd	Filing a false motor vehicle insurance application.
232	817.2361	3rd	Creating, marketing, or

presenting a false or  
fraudulent motor vehicle  
insurance card.

233

817.413(2) 3rd Sale of used goods of \$1,000 or  
more as new.

234

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

235

831.29 2nd Possession of instruments for  
counterfeiting driver licenses  
or identification cards.

236

838.021(3)(b) 3rd Threatens unlawful harm to  
public servant.

237

843.19 2nd Injure, disable, or kill  
police, fire, or SAR canine or  
police horse.

238

860.15(3) 3rd Overcharging for repairs and

parts.

239

870.01(2) 3rd Riot; inciting or encouraging.

240

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)6.,  
(2)(c)7., (2)(c)8., (2)(c)9.,  
(2)(c)10., (3), or (4) drugs).

241

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)6.,  
(2)(c)7., (2)(c)8., (2)(c)9.,  
(2)(c)10., (3), or (4) drugs  
within 1,000 feet of  
university.

242

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)6.,  
(2)(c)7., (2)(c)8., (2)(c)9.,  
(2)(c)10., (3), or (4) drugs  
within 1,000 feet of public



housing facility.

243

893.13(4)(c) 3rd Use or hire of minor; deliver to minor other controlled substances.

244

893.13(6)(a) 3rd Possession of any controlled substance other than felony possession of cannabis.

245

893.13(7)(a)8. 3rd Withhold information from practitioner regarding previous receipt of or prescription for a controlled substance.

246

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

247

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

248

893.13(7)(a)11. 3rd Furnish false or fraudulent

material information on any document or record required by chapter 893.

249

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.

250

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 controlled substance.

251

893.13(8)(a)3. 3rd

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

252

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.

253

918.13(1) (a) 3rd Alter, destroy, or conceal investigation evidence.

254

944.47 3rd Introduce contraband to (1) (a) 1. & 2. correctional facility.

255

944.47(1) (c) 2nd Possess contraband while upon the grounds of a correctional institution.

256

985.721 3rd Escapes from a juvenile facility (secure detention or residential commitment facility).

257

258 (f) LEVEL 6

259

Florida Felony Description

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	Statute	Degree	
260	316.027 (2) (b)	2nd	Leaving the scene of a crash involving serious bodily injury.
261	<u>316.193 (2) (c)</u> <del>316.193 (2) (b)</del>	3rd	Felony DUI, 4th or subsequent conviction.
262	400.9935 (4) (c)	2nd	Operating a clinic, or offering services requiring licensure, without a license.
263	499.0051 (2)	2nd	Knowing forgery of transaction history, transaction information, or transaction statement.
264	499.0051 (3)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.
265	499.0051 (4)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.

266	775.0875 (1)	3rd	Taking firearm from law enforcement officer.
267	784.021 (1) (a)	3rd	Aggravated assault; deadly weapon without intent to kill.
268	784.021 (1) (b)	3rd	Aggravated assault; intent to commit felony.
269	784.041	3rd	Felony battery; domestic battery by strangulation.
270	784.048 (3)	3rd	Aggravated stalking; credible threat.
271	784.048 (5)	3rd	Aggravated stalking of person under 16.
272	784.07 (2) (c)	2nd	Aggravated assault on law enforcement officer.
273	784.074 (1) (b)	2nd	Aggravated assault on sexually violent predators facility staff.

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274	784.08 (2) (b)	2nd	Aggravated assault on a person 65 years of age or older.
275	784.081 (2)	2nd	Aggravated assault on specified official or employee.
276	784.082 (2)	2nd	Aggravated assault by detained person on visitor or other detainee.
277	784.083 (2)	2nd	Aggravated assault on code inspector.
278	787.02 (2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
279	790.115 (2) (d)	2nd	Discharging firearm or weapon on school property.
280	790.161 (2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property.

281	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.
282	790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.
283	794.011(8)(a)	3rd	Solicitation of minor to participate in sexual activity by custodial adult.
284	794.05(1)	2nd	Unlawful sexual activity with specified minor.
285	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.
286	800.04(6)(b)	2nd	Lewd or lascivious conduct;

offender 18 years of age or older.

287

806.031 (2) 2nd Arson resulting in great bodily harm to firefighter or any other person.

288

810.02 (3) (c) 2nd Burglary of occupied structure; unarmed; no assault or battery.

289

810.145 (8) (b) 2nd Video voyeurism; certain minor victims; 2nd or subsequent offense.

290

812.014 (2) (b) 1. 2nd Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree.

291

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

292

812.015 (9) (a) 2nd Retail theft; property stolen \$750 or more; second or subsequent conviction.



293	812.015 (9) (b)	2nd	Retail theft; aggregated property stolen within 30 days is \$3,000 or more; coordination of others.
294	812.13 (2) (c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).
295	817.4821 (5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.
296	817.505 (4) (b)	2nd	Patient brokering; 10 or more patients.
297	825.102 (1)	3rd	Abuse of an elderly person or disabled adult.
298	825.102 (3) (c)	3rd	Neglect of an elderly person or disabled adult.
299	825.1025 (3)	3rd	Lewd or lascivious molestation of an elderly person or disabled adult.

300	825.103(3)(c)	3rd	Exploiting an elderly person or disabled adult and property is valued at less than \$10,000.
301	827.03(2)(c)	3rd	Abuse of a child.
302	827.03(2)(d)	3rd	Neglect of a child.
303	827.071(2) & (3)	2nd	Use or induce a child in a sexual performance, or promote or direct such performance.
304	836.05	2nd	Threats; extortion.
305	836.10	2nd	Written threats to kill, do bodily injury, or conduct a mass shooting or an act of terrorism.
306	843.12	3rd	Aids or assists person to escape.
307	847.011	3rd	Distributing, offering to distribute, or possessing with

intent to distribute obscene materials depicting minors.

308

847.012 3rd Knowingly using a minor in the production of materials harmful to minors.

309

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

310

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

311

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.

312

944.40 2nd Escapes.

313

944.46 3rd Harboring, concealing, aiding

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escaped prisoners.

314

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

315

951.22(1)(i)            3rd    Firearm or weapon introduced  
into county detention facility.

316

317

Section 4. This act shall take effect October 1, 2020.