

CS/SB 1222 – Theft

This bill amends multiple statutes, beginning with s. 812.014, F.S. First, it decreases the monetary threshold for taking property from a dwelling or the unenclosed curtilage of a dwelling from \$100 or more, but less than \$750 to \$40 or more, but less than \$750. It then adds a **Level 4, 3rd degree felony** for when the value of the property stolen from a dwelling or the unenclosed curtilage of a dwelling is \$750 or more. Furthermore, it adds a **Level 5, 2nd degree felony** for when “the property stolen is taken from more than 20 dwellings...or from the unenclosed curtilage of more than 20 dwellings...or any combination thereof.” It also adds a **1st degree misdemeanor** for petit theft when the property stolen is valued at less than \$40 and is taken from a dwelling...or from the unenclosed curtilage of a dwelling” and a **Level 2, 3rd degree felony** when this act occurs and a person “has previously been convicted of any theft.” This then becomes a **Level 4, 3rd degree felony** when “a person...has previously been convicted two or more times of any theft.”

This bill also amends s. 812.015(8), F.S. and s. 812.015(9), F.S., increasing the period for aggregating the value of retail theft or numbers of retail thefts/items/locations from acts committed over a 30-day period to acts committed over a 45-day period. This impacts the Level 5, 3rd degree felonies under s. 812.015(8), F.S. and the Level 6, 2nd degree felonies under s. 812.015(9), F.S., as well as the Level 1, 3rd degree felony under s. 812.015(8), F.S. and Level 4, 2nd degree felony under s. 812.015(9), F.S. for conspiring to commit such acts. For s. 812.015(8), F.S., it also adds to the multiple acts of retail theft the following **Level 5, 3rd degree felony**: “Acts in concert with five or more other persons within one or more establishments for the purpose of overwhelming the response of a merchant, a merchant’s employee, or a law enforcement officer in order to carry out the offense or avoid detection or apprehension for the offense.” For s. 812.015(9), F.S., it also adds to the multiple acts of retail theft the following **Level 6, 2nd degree felony**: “Acts in concert with five or more other persons within one or more establishments for the purpose of overwhelming the response of a merchant, a merchant’s employee, or a law enforcement officer in order to carry out the offense or avoid detection or apprehension for the offense and, in the course of organizing or committing the offense, solicits the participation of another person in the offense through the use of a social media platform.” Finally, this bill adds s. 812.015(11), F.S., increasing the felony to a **Level 8, 1st degree felony** “if he or she violates subsection (8) or subsection (9) and...has two or more previous convictions of violations of either or both of those subsections...or...possesses a firearm during the commission of such offense.”

Per FDLE, in FY 22-23, for petit theft as a 2nd degree misdemeanor, there were 11,313 arrests, 4,186 guilty/convicted, and 1,494 adjudications withheld. It is not known how many of these offenses would be impacted by decreasing the threshold value of the property stolen from a dwelling or the unenclosed curtilage of a dwelling. Additionally, it is not known how many of these offenses were after a prior theft conviction, or second or more, which could increase them to felonies when under \$40. With this act now becoming a Level 4, 3rd degree felony for when the value of the property is at least

\$750, it could increase prison admissions for offenders currently committing grand theft with the value at least \$750, but less than \$10,000, before the felony level and degrees are once again the same (\$10,000 or more, but less than \$20,000). Per DOC, in FY 22-23, there were 432 new commitments for property stolen valued at \$750 or more, but less than \$10,000. It is not known how many of these new commitments fit this criteria, nor is it known how many additional offenders would be impacted. Furthermore, for \$20,000 or more, there were 92 new commitments, with these felonies actually having greater levels and degrees than the new dwelling/unenclosed curtilage of a dwelling felony, and could potentially have a downward pull on admissions. Finally, it is not known how many of these offenses involved 20 or more dwellings or unenclosed curtilage of dwellings.

Per FDLE, since October, 2022, when these subsections were added, there have been 70 arrests for violations of s. 812.015(8)(f), F.S. and s. 812.015(9)(d), F.S., which aggregate retail theft by number of thefts/items/locations, 3 guilty/convictions, and 2 adjudications withheld.

Per DOC, in FY 22-23, there were 14 new commitments to prison under s. 812.015(8), F.S. and 16 new commitments to prison under s. 812.015(9), F.S. There were 2 new commitments for a 2nd conviction. All of these involved monetary thresholds, rather than the recently added number of thefts/items/locations.

It is not known how many additional offenders would be impacted by expanding the 30-day time period to 45-days. It is also not known how many of the current arrests and admissions involved five or more other persons within one or more establishments for the purposes of overwhelming the response of a merchant/law enforcement officer, or how many additional offenders would be included under this new language. Furthermore, it is not known how many involved the possession of a firearm.

In FY 22-23, the incarceration rate for a Level 2, 3rd degree felony was 10.1%, while it was 20.5% for a Level 4, 3rd degree felony and 18.1% for a Level 5, 3rd degree felony. It was 36.9% for a Level 5, 2nd degree felony and 40.0% for a Level 6, 2nd degree felony. It was 69.8% for a Level 8, 1st degree felony.

CONFERENCE ADOPTED ESTIMATE: Positive Significant

Requested by: Senate