

SCHEDULE OF LESSER INCLUDED OFFENSES

COMMENT ON SCHEDULE OF LESSER INCLUDED OFFENSES

One of the difficult problems in instructing a criminal jury is to make certain that it is properly charged with respect to the degrees or categories of guilt that may be applicable to a given crime. The supreme court in *Brown v. State*, 206 So.2d 377 (Fla. 1968), described these categories as follows:

1. Crimes divisible into degrees
2. Attempts to commit offenses
3. Offenses necessarily included in the offense charged
4. Offenses which may or may not be included in the offense charged, depending on the accusatory pleading and the evidence.

Because it is often so difficult to determine these categories, the committee prepared a list of the offenses applicable to each of the crimes for which standard jury instructions had been drafted. At the same time, the committee recommended treating lesser degrees as category 3 or 4 offenses depending upon the offense and treating attempts as a category 4 offense, thereby eliminating the first two *Brown* categories as separate categories. In its opinion dated April 16, 1981, in which it approved the new standard jury instructions, the supreme court also approved the schedule of lesser included offenses and accepted the recommendation of the committee to consolidate the four *Brown* categories into two categories. The supreme court directed that the four categories should be renumbered and designated as follows:

1. Offenses necessarily included in the offense charged, which will include some lesser degrees of offenses.
2. Offenses which may or may not be included in the offense charged, depending on the accusatory pleading and the evidence, which will include all attempts and some lesser degrees of offenses.

The court also directed that the appropriate Florida Rules of Criminal Procedure be amended to accommodate these changes. The categories of the offenses which appear on the schedule of lesser included offenses have been renumbered and designated according to the supreme court mandate.

In determining the appropriate lesser offenses for inclusion in the table, the committee followed certain guidelines:

1. No offense is deemed to be a lesser offense if it carries the same penalty as the crime under consideration. See *Ray v. State*, 403 So.2d 956 (Fla. 1981); *State v. Carpenter*, 417 So.2d 986 (Fla. 1982).
2. If the definition of the crime includes the attempt or the endeavor to commit the crime, there can be no separate offense of an attempt to commit that crime, *e.g.*, uttering, forgery, grand theft second degree, delivery of controlled substance.
3. Certain crimes do not have attempts, *e.g.*, culpable negligence, extortion, perjury, corruption by threat against public servant, resisting officer with violence, and conspiracy.
4. Except as stated above, attempts to commit crimes generally are included unless the evidence conclusively shows that the charged crime was completed. In such case, attempt should not be instructed.
5. Some statutes provide that the penalty for certain crimes is enhanced if certain events occur during their commission. For example, under *F.S.* 810.02 burglary is a felony of the first degree if the burglar makes an assault or is armed with explosives or dangerous weapons. If these events do not occur but burglary is committed in a dwelling occupied by human beings, the offense is a felony of the

second degree. All other burglaries are felonies of the third degree. Thus, if a defendant is charged with first degree burglary by virtue of having made an assault during the course of the burglary, the jury should be permitted to return a verdict for simple third degree burglary without the enhancement of the assault. In practice, this is similar to the concept of lesser included offenses, but since statutes of this type are couched in terms of enhancement, the schedule does not carry the lower degrees of the offenses proscribed by those statutes as lesser included offenses.

6. Under *Knight v. State*, 338 So.2d 201 (Fla. 1976), felony murder is included within a single indictment count of premeditated murder. Therefore, first degree felony murder should be given if requested by the state and if supported by the evidence, although it is not a lesser included offense.

SCHEDULE OF LESSER INCLUDED OFFENSES

CAVEAT

August, 2007

The committee wishes to advise all who refer to this chart of Lesser Included Offenses by statute, that it is out of date. The chart has not been updated since the Court approved it in 1998 [723 So. 2d 123].

Sometime after 1998, the committee began to include the lesser included offenses in a table following the individual instruction. Since that time, amendments to an instruction's lesser included offenses have been updated in the table on the instruction page.

The committee is currently working on updating this chart. The corrections to the chart must be submitted to the Supreme Court for approval. Once approved, the new chart will be posted online and be updated each time an amended instruction is approved and the lesser included offenses have been changed.

The committee recommends that you refer to the table of lessers included with each individual instruction and that you not rely on this chart until further notice.

**The Honorable Terry D. Terrell
First Judicial Circuit
Chair, Committee on Standard Jury Instructions
in Criminal Cases**

SCHEDULE OF LESSER INCLUDED OFFENSES

SECTION	CHARGED OFFENSES	CATEGORY 1	CATEGORY 2
316.193(1)	Driving under the influence	None	Attempt
316.193(2)(b)	Felony DUI — prior convictions	None	Attempt
316.193(3)(c)1	DUI with damage to property or person	DUI — 316.193(1)	None
316.193(3)(c)2	DUI with serious bodily injury	DUI — 316.193(1)	DUI — 316.193(3)(c)1
316.193(3)(c)3	DUI manslaughter	DUI — 316.193(1)	DUI serious bodily injury — 316.193(3)(c)2 DUI damage to person or property — 316.193(3)(c) Vehicular homicide — 782.071
550.361	Bookmaking on grounds of permit holder (adapted from former 849.24)	None	Attempt

SECTION	CHARGED OFFENSES	CATEGORY 1	CATEGORY 2
782.04(1)	First degree (premeditated) murder	Second degree (depraved mind) murder — 782.04(2) Manslaughter — 782.07	Second degree (felony) murder — 782.04(3) Third degree (felony) murder — 782.04(4) Vehicular homicide — 782.071 (Nonhomicide lessers) Attempt Culpable negligence — 784.05(2) Aggravated battery — 784.045 Aggravated assault — 784.021 Battery — 784.03 Assault — 784.011

782.04(1)	First degree (felony) murder	Second degree (depraved mind) murder — 782.04(2) Manslaughter — 782.07	Second degree — (felony) murder — 782.04(3) Third degree (felony) murder — 782.04(4) (Nonhomicide lessers) Aggravated battery — 784.045 Aggravated assault — 784.021 Battery — 784.03 Assault — 784.0111
782.04(1)(a) & 777.04	Attempted first degree (premeditated) murder	Attempt second degree (depraved mind) murder — 782.04(2) & 777.04 Attempt voluntary manslaughter — 782.07 & 777.04	Aggravated assault — 784.021 Aggravated battery — 784.045 Assault — 784.011 Battery — 784.03

SECTION	CHARGED OFFENSES	CATEGORY 1	CATEGORY 2
782.04(2)	Second degree (depraved mind) murder	Manslaughter — 782.07	Third degree (felony) murder — 782.04(4) Vehicular homicide — 782.071 (Nonhomicide lessers) Attempt Culpable
			negligence — 784.05(2) Aggravated battery — 784.045 Aggravated assault — 784.021 Battery — 784.03 Assault — 784.011
782.04(3)	Second degree (felony) murder	None	Third degree (felony) murder — 782.04(4)
782.051	Felony causing bodily injury	None	Felony causing bodily injury — 782.051(2) Felony causing bodily injury — 782.051(3)

782.04(4)	Third degree (felony) murder	None	Aggravated assault — 784.021 Battery — 784.03 Assault — 784.011
782.07	Manslaughter	None	Vehicular homicide — 782.071 (Nonhomicide lessers) Attempt Aggravated assault — 784.021 Battery — 784.03 Assault — 784.011 Culpable negligence — 784.05(1) Culpable negligence — 784.05(2)
782.071	Vehicular Homicide	Reckless driving — 316.192	Culpable negligence — 784.05(1) Culpable negligence — 784.05(2)
784.011	Assault	None	Attempt

784.021(1) (a)	Aggravated assault	Assault — 784.011	Attempt Improper exhibition of dangerous weapons or firearms — 790.10 Discharging firearms in public — 790.15
784.021(1) (b)	Aggravated assault	Assault — 784.011	Attempt

SECTION	CHARGED OFFENSES	CATEGORY 1	CATEGORY 2
784.03	Battery	None	Attempt
784.045(1)(a)1	Aggravated battery	Battery — 784.03	Attempt
784.045(1)(a)2	Aggravated battery	Battery — 784.03	Attempt Improper exhibition of dangerous weapons or firearms — 790.10
784.045(1)(b)	Aggravated battery	Battery — 784.03	Attempt
784.05(2)	Stalking	None	Attempt
784.048(3)	Aggravated stalking	Stalking — 784.048(2)	Attempt Assault — 784.011 Improper exhibition of dangerous weapon — 790.10
784.048(4)	Aggravated stalking	Stalking — 784.048(2)	Attempt Violation of injunction for protection against domestic violence — 741.31(4)
784.05(2)	Culpable negligence	Culpable negligence — 784.05(1)	None
784.07(2)	Assault of law enforcement officer	Assault — 784.011	Attempt

784.07(2)	Battery of law enforcement officer	Battery — 784.03	Attempt
784.07(2)(c)	Aggravated assault on law enforcement officer	Aggravated assault — 784.021 Assault on law enforcement officer — 784.07(2)(a) Assault — 784.011	Attempt Improper exhibition of dangerous weapons or firearms — 790.10 Discharging firearms in public — 790.15
784.07(2)(d)	Aggravated battery on law enforcement officer	Aggravated battery — 784.045 Battery on law enforcement officer — 784.07(2)(b) Battery — 784.03	Attempt Improper exhibition of dangerous weapons or firearms — 790.10 Discharging firearms in public — 790.15
784.08(2)(a)	Aggravated battery on person 65 years of age or older	Aggravated battery — 784.045 Battery on person 65 years of age or older — 784.08(2)(c) Battery — 784.03	Attempt Improper exhibition of dangerous weapons or firearms — 790.10 Discharging firearms in public — 790.15

SECTION	CHARGED OFFENSES	CATEGORY 1	CATEGORY 2
784.08(2)(b)	Aggravated assault on person 65 years of age or older	Aggravated assault — 784.021 Assault on person 65 years of age or older — 784.08(2)(d) Assault — 784.011	Attempt Improper exhibition of dangerous weapons or firearms — 790.10 Discharging firearms in public — 790.15
784.08(2)(c)	Battery on person 65 years of age or older	Battery — 784.03	Attempt
784.08(2)(d)	Assault on person 65 years of age or older	Assault — 784.011	Attempt
787.01	Kidnapping	False imprisonment — 787.02	Attempt Aggravated assault — 784.021(1)(b) Battery — 784.03(1)(a) Assault — 784.011
787.02	False imprisonment	None	Attempt Battery — 784.03(1)(a) Assault — 784.011

790.01(1)	Carrying concealed weapons	None	Attempt
790.01(2)	Carrying concealed firearms	None	Attempt
790.06	Carrying pistol or repeating rifle without first obtaining license	None	Attempt
790.07(1)	Persons engaged in criminal offense, having weapons	None	Attempt (may be applicable when concealed weapon is charged) Carrying concealed weapons — 790.01(1) Improper exhibition of dangerous weapons — 790.10
790.07(2)	Persons engaged in criminal offense, having weapons	None	Attempt (may be applicable when concealed firearm is charged) Carrying concealed firearm — 790.01(2) Improper exhibition of dangerous firearms — 790.10

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SECTION	CHARGED OFFENSES	CATEGORY 1	CATEGORY 2
790.10	Improper exhibition of weapon	None	Attempt Assault — 784.011
790.15	Discharging firearms in public	None	Attempt
790.161(1)	Possessing, throwing, making, placing, projecting, or discharging destructive device	None	None
790.161(2)	Possessing, throwing, making, placing, projecting, or discharging destructive device	Possessing, throwing, making, placing, projecting, or discharging destructive device — 790.161(1)	Aggravated assault — 784.021 Assault — 784.011
790.161(3)	Possessing, throwing, making, placing, projecting, or discharging destructive device	Possessing, throwing, making, placing, projecting, or discharging destructive device — 790.161(1)	Possessing, throwing, making, placing, projecting, or discharging destructive device — 790.161(2) Aggravated assault — 784.021 Assault — 784.011

790.161(4)	Possessing, throwing, making, placing, projecting, or discharging destructive device	Possessing, throwing, making, placing, projecting, or discharging destructive device — 790.161(1) Possessing, throwing, making, placing, projecting, or discharging destructive device — 790.161(3)	Possessing, throwing, making, placing, projecting, or discharging destructive device — 790.161(2) Aggravated assault — 784.021 Assault — 784.011
790.162	Threat to throw, project, place, or discharge any destructive device	None	Attempt Assault — 784.011
790.163	False reports of bombing	None	None
790.164	False reports of bombing or arson or other violence to property owned by the State	None	Attempt False reports of bombing — 790.163

790.17	Furnishing weapons to minors under 18 years of age, etc.	None	Attempt

SECTION	CHARGED OFFENSES	CATEGORY 1	CATEGORY 2
790.18	Selling arms to minors by dealers	None	Attempt
790.19	Shooting or throwing missiles in dwelling	None	Attempt Discharging firearm in public — 790.15
790.221	Possession of forbidden firearms	None	Attempt
790.23	Felons; possession of firearms unlawful; exception; penalty	None	Attempt (may be applicable when concealed weapon is charged) Carrying concealed firearm — 790.01(2) Carrying concealed weapon — 790.01(1)
794.011(2)(a)–(b)	Sexual battery — victim under 12	Battery — 784.03	Sexual battery — 794.011(5) Attempt Assault — 784.011 Aggravated assault — 784.021(1)(a) Aggravated battery — 784.045(1)(a)

794.011(3)	Sexual battery — victim over 12 — weapon or force	Sexual battery — 794.011(5) Battery — 784.03	Sexual battery — 794.011(2)(b) Attempt Aggravated battery — 784.045(1)(a) Aggravated assault — 784.021(1)(a) Assault — 784.011 Sexual battery — 794.011(4)
794.011(4)	Sexual battery — victim over 12 — special circumstances	Sexual battery — 794.011(5) Battery — 784.03	Attempt Aggravated assault — 784.021(1)(a) Assault — 784.011

794.011(5)	Sexual battery — victim over 12 — without force	Battery — 784.03	Attempt Assault — 784.011
800.02	Unnatural and lascivious act	None	Attempt
800.03	Exposure of sexual organs	None	Unnatural and lascivious act — 800.02

SECTION	CHARGED OFFENSES	CATEGORY 1	CATEGORY 2
800.04	Lewd, lascivious, or indecent assault or act upon or in presence of child	None	Attempt Assault — 784.011 Battery — 784.03 Unnatural and lascivious act — 800.02
806.01(1)	Arson	None	Arson — 806.01(2) Attempt Criminal mischief — 806.13(1)(b)1 Criminal mischief — 806.13(1)(b)2 Criminal mischief — 806.13(1)(b)3 Criminal mischief — 806.13(2)
806.111	Arson — Fire bomb	None	Attempt
806.13(1)(b)1	Criminal mischief	None	Attempt
806.13(1)(b)2	Criminal mischief	Criminal mischief — 806.13(1)(b)1	Attempt

806.13(1)(b)3	Criminal mischief	Criminal mischief — 806.13(1)(b)1 Criminal mischief — 806.13(1)(b)2	Attempt
810.02(2)	Burglary with assault or battery or while armed	Burglary — 810.02(4)	Aggravated battery — 784.045 Battery — 784.03 Aggravated assault — 784.021 Assault — 784.011 Attempt Burglary — 810.02(3) Trespass — 810.08(2)(a) Trespass — 810.08(2)(c)

810.02(3)	Burglary of dwelling; Burglary of structure or conveyance with human being inside	Burglary — 810.02(4)	Attempt Burglary — 810.02(3) Trespass — 810.08(2)(a) Trespass — 810.08(2)(b)
810.02(4)	Burglary	None	Attempt Trespass — 810.08(2)(a)
810.06	Possession of burglary tools	None	None
810.08	Trespass in structure or conveyance	None	Attempt (except refuse to depart)

SECTION	CHARGED OFFENSES	CATEGORY 1	CATEGORY 2
810.09	Trespass on property other than structure or conveyance	None	Attempt
812.014(2)(a)	Grand theft — first degree (property valued at \$100,000 or more)	Grand theft — second degree — 812.014(2)(b) Grand theft — third degree — 812.014(2)(c) (1), (2), (3) Petit theft — first degree 812.014(2)(e) Petit theft — second degree — 812.014(3)(a)	Trade secrets — 812.081
812.014(2)(b)	Grand theft — second degree (property valued at \$20,000 or more but less than \$100,000)	Grand theft — third degree — 812.014(2)(c) (1), (2), (3) Petit theft — first degree 812.014(2)(e) Petit theft — second degree 812.014(3)(a)	Trade secrets — 812.081
812.014(2)(c)	Grand theft — third degree	Petit theft — first degree — 812.014(2)(e) Petit theft — second degree 812.014(3)(a)	Trade secrets — 812.081 Trespass to conveyance — 812.014(2)(c)(6)

812.014(2)(d)	Grand theft — third degree	None	Petit theft — second degree — 812.014(3)(a)
812.014(2)(e)	Petit theft — first degree	None	Petit theft — second degree — 812.014(3)(a)

812.014(3)(b)	Petit theft	None	None
812.014(3)(a)	Petit theft — second degree	None	None
812.014(3)(c)	Felony petit theft	None	Petit theft — first degree — 812.014(2)(e) Petit theft — 812.014(3)(b) Petit theft — second degree — 812.014(3)(a)
812.016	Possession of altered property	None	Attempt
812.019(1)	Dealing in stolen property — trafficking	None	Grand theft — third degree — 812.014(2)(c) Petit theft — 812.014(2)(e) Petit theft — 812.014(3)(a)

SECTION	CHARGED OFFENSES	CATEGORY 1	CATEGORY 2
812.019(2)	Dealing in stolen property — managing and trafficking	Dealing in stolen property — 812.019(1)	None
812.13(2)(a)	Robbery with a firearm or deadly weapon	Robbery with a weapon — 812.13(2)(b) Robbery — 812.13(2)(c) Petit theft — 812.014(3)(a)	Attempt Grand theft 1st degree — 812.014(2)(a) Grand theft 2d degree — 812.014(2)(b) Grand theft 3d degree — 812.014(2)(c) Petit theft — 812.014(2)(e) Battery — 784.03 Aggravated battery — 784.045 Assault — 784.011 Aggravated assault — 784.021 Display of firearm — 790.07 Resisting a Merchant — 812.015(6)

812.13(2)(b)	Robbery with a weapon	Robbery — 812.13(2)(c) Petit theft — 812.014(3)(a)	Attempt Grand theft 1st degree — 812.014(2)(a) Grand theft 2d degree — 812.014(2)(b) Grand theft 3d degree — 812.014(2)(c) Petit theft — 812.014(2)(e) Battery — 784.03 Aggravated battery — 784.045 Assault — 784.011 Display of weapon — 790.07(1) Resisting a merchant — 812.015(6)
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SECTION	CHARGED OFFENSES	CATEGORY 1	CATEGORY 2
812.13(2)(c) 812.013(2) (b)	Robbery	Petit theft — 812.014(3) (a)	Attempt Grand theft 1st degree — 812.014(2)(a) Grand theft 2d degree — 812.014(2)(b) Grand theft 3d degree — 812.014(2)(c) Petit theft — 812.014(2)(e) Battery — 784.03 Assault — 784.011 Aggravated assault — 784.021 Resisting a merchant — 812.015(6)
812.133	Carjacking	Robbery – 812.13(2)(c) Grand Theft – 812.014(2)(c)6 Petit Theft – 812.014(3) (a)	Attempt Grand Theft – first degree – 812.814(2)(a) Grand Theft – second degree – 812.014(2)(b) Grand Theft – third degree – 812.014(2)(c) Petit Theft – first degree – 812.014(2)(e) Battery – 784.03 Assault – 784.011 Aggravated Assault – 784.021
812.135	Home invasion robbery	Robbery — 812.13(2)(c) Petit theft — 812.014(3) (a)	Petit theft — 812.014(2)(e)
817.233	Burning to defraud insurer	None	None
817.563	Sale of substance in place of a controlled substance	None	Attempt
826.04	Incest	None	Attempt
827.03(1)(a)	Aggravated child abuse	None	Attempt Child abuse — 827.04(1) Battery — 784.03; only under certain circumstances see <i>Kama v. State</i> , 507 So.2d 154 (Fla. 1st DCA 1987).

827.03(1)(b) 827.03(1)(c) 827.03(1)(d)	Aggravated child abuse	None	Attempt Child abuse — 827.04(1) Battery — 784.03; only under certain circumstances see <i>Kama v. State</i> , 507 So.2d 154 (Fla. 1st DCA 1987)
827.04(3)	Contributing to child delinquency or dependency or to child in need of services	None	Attempt
827.071(2)	Sexual performance by a child	None	Attempt Sexual performance by a child — 827.071(5)
827.071(3)	Sexual performance by a child	None	Attempt Sexual performance by a child — 827.071(5)
827.071(4)	Sexual performance by a child	Sexual performance by a child — 827.071(5)	Attempt

SECTION	CHARGED OFFENSES	CATEGORY 1	CATEGORY 2
827.071(5)	Sexual performance by a child	None	Attempt
831.01	Forgery	None	Attempt
831.02	Uttering forged instrument	None	None
832.04	Stopping payment; purchase of farm or grove products	None	Attempt, except when uttering is charged — 832.04 under \$150
832.041	Stopping payment with intent to defraud	None	Attempt, except when uttering is charged 832.04 if farm or grove product 832.041 under \$150 Worthless check — 832.05(2) (first degree misdemeanor)
832.05(2)	Worthless checks	None	Attempt, except when uttering is charged 832.05(2) under \$150
832.05(4)	Obtaining property by worthless checks	Worthless check — 832.05(2)	Attempt

837.012	Perjury not in official proceeding	None	None
837.02	Perjury in official proceeding	None	None
837.021	Perjury by contradictory statements	None	None
837.05	False reports to law enforcement authorities	None	None
837.06	False official statements	None	None
838.015(1)	Bribery of public servant	None	Attempt if only "give" is charged

SECTION	CHARGED OFFENSES	CATEGORY 1	CATEGORY 2
838.015	Bribery	None	Attempt if only "accept" is charged
838.016(1)	Bribery by a public servant	None	Attempt if only "give" or "accept" is charged
838.016	Unlawful compensation for official behavior	None	Attempt if only "give" or "accept" is charged
838.021	Corruption by threat against public servant	None	Attempt if only harm is charged
838.12(1)	Bribery in athletic contests	None	Attempt only if give is charged
838.12(2)	Bribery in athletic contests	None	Attempt only if accept is charged
843.01	Resisting officer with violence	None	Resisting officer without violence — 843.02
843.02	Resisting officer without violence	None	Attempt

849.01	Keeping gambling house	None	Lottery — 849.09(1)(f) Lottery — 849.09(1)(k) Lottery — 849.11
849.01 (849.02)	Maintaining a gambling establishment	None	Lottery — 849.09(1)(f) Lottery — 849.09(1)(k) Lottery — 849.11
849.01 (849.02)	Permitting gambling	None	Lottery — 849.09(1)(f) Lottery — 849.09(1)(k) Lottery — 849.11
849.02	Agents, servants, etc., of keeper of gambling house	None	Lottery — 849.09(1)(f) Lottery — 849.09(1)(k)
849.02	Renting house for gambling purposes	None	None
849.03	Renting space for gambling	None	None
849.04	Permitting minors and persons under guardianship to gamble	None	Permitting gambling on billiard or pool table by holder of license — 849.07 Playing at games of chance by lot — 849.11

SECTION	CHARGED OFFENSES	CATEGORY 1	CATEGORY 2
849.08	Gambling	None	None
849.09(1)(a)	Lottery	None	Lottery — 849.09(1)(f) Lottery — 849.09(1)(g) Lottery — 849.09(1)(h) Lottery — 849.09(1)(i) Lottery — 849.09(1)(j) Lottery — 849.09(1)(k) Playing at game of chance by lot — 849.11 Gambling devices, etc. — 849.231
849.09(1)(b)	Lottery	None	Lottery — 849.09(1)(f) Lottery — 849.09(1)(g) Lottery — 849.09(1)(h) Lottery — 849.09(1)(i) Lottery — 849.09(1)(j) Lottery — 849.09(1)(k) Gambling devices, etc. — 849.231

849.09(1)(c)	Lottery	None	Lottery — 849.09(1)(f) Lottery — 849.09(1)(g) Lottery — 849.09(1)(h) Lottery — 849.09(1)(i) Lottery — 849.09(1)(j) Lottery — 849.09(1)(k) Gambling devices, etc. — 849.231
849.09(1)(d)	Lottery	None	Lottery — 849.09(1)(f) Lottery — 849.09(1)(g) Lottery — 849.09(1)(h) Lottery — 849.09(1)(i) Lottery — 849.09(1)(j) Lottery — 849.09(1)(k) Playing at games of chance by lot — 849.11 Gambling devices, etc. — 849.231
849.09(1)(g)	Lottery	None	None
849.09(1)(h)	Lottery	None	None
849.09(1)(k)	Lottery	None	None

SECTION	CHARGED OFFENSES	CATEGORY 1	CATEGORY 2
849.14	Betting	None	None
849.25(1) and (2)	Bookmaking	None	Attempt
893.13(1)(a)	Sale, manufacture, delivery or possession with intent to sell, manufacture or deliver controlled substance	None	Attempt, except when delivery is charged 893.13(3) if delivery of cannabis is charged; 893.13(6)(b) if possession of cannabis is charged; 893.13(6)(a) — if possession is charged and offense would be a second degree felony under 893.13(1)(a)1
893.13(1)(b)	Sale or delivery or possession of more than 10 grams of controlled substance	Sale or delivery of controlled substance — 893.13(1)(a)	Attempt, except when delivery is charged 893.13(6)(a) if possession is charged

893.13(1)(c)	Sale, manufacture, delivery, etc. near public or private elementary, middle or secondary school	Sale, manufacture, delivery, etc. — 893.13(1)(a)	Attempt, except when delivery is charged 893.13(6)(a) if possession is charged and the offense would be a second degree felony under 893.13(1)(a)1 893.13(6)(b) if possession of cannabis is charged 893.13(3) if delivery of cannabis is charged
893.13(1)(d)	Sale, manufacture, delivery, etc. near a college, university, other post-secondary educational institution or public park	Sale, manufacture, delivery, etc. — 893.13(1)(a)	Attempt, except when delivery is charged 893.13(6)(a) if possession is charged and the offense would be a second degree felony under 893.13(1)(a)1; 893.13(6)(b) if possession of cannabis is charged; 893.13(3) if delivery of cannabis is charged

SECTION	CHARGED OFFENSES	CATEGORY 1	CATEGORY 2
893.13(2)(a)	Purchase or possession with intent to purchase controlled substance	None	Attempt; 893.13(6)(a) if possession is charged and the offense would be a second degree felony under 893.13(2)(a)1 893.13(6)(b) if possession of cannabis is charged
893.13(2)(b)	Purchase in excess of 10 grams of a controlled substance	893.13(2)(a) purchase of less than 10 grams	Attempt
893.13(3)	Delivery without consideration not more than 20 grams of cannabis	None	None
893.13(4)	Delivery of controlled substance to person under 18 years old, etc.	None	893.13(1)(a); 893.13(3) if delivery of cannabis is charged
893.13(5)	Bringing controlled substance into state	None	Attempt 893.13(6)(a); 893.13(3) if delivery of cannabis charged; 893.13(6)(b) if possession of cannabis charged

893.13(6)(a)	Possession of controlled substance	None	Attempt; 893.13(3) if delivery of cannabis charged; 893.13(6)(b) if possession of cannabis charged
893.13(6)(b)	Possession of not more than 20 grams of cannabis	None	Attempt
893.13(6)(c)	Possession in excess of 10 grams of controlled substance	Possession of less than 10 grams 893.13(6)(a)	Attempt 893.13(6)(b) if possession of cannabis charged
893.13(7)(a)1, 2, 3, 4, 5, 6, 7, 8, 10 and 11	Distribute or dispense a controlled substance, etc.	None	Attempt
893.13(7)(a)9	Obtaining controlled substances by fraud	None	None

SECTION	CHARGED OFFENSES	CATEGORY 1	CATEGORY 2
893.135(1)(a)	Trafficking in cannabis	Trafficking offenses requiring lower quantities of cannabis — 893.135(1)(a)1 and 2	Attempt (but not conspiracy), except when delivery is charged 893.13(1)(a) if sale, manufacture or delivery is charged 893.13(2)(a) — if purchase is charged Bringing cannabis into state — 893.13(5) Possession of cannabis — 893.13(6)(a)– 893.13(6)(b) if less than 20 grams of cannabis Delivery of less than 20 grams of cannabis — 893.13(3)

893.135(1)(b)1&2	Trafficking in cocaine	Trafficking offenses requiring lower quantities of cocaine 893.135(1)(b)1	Attempt (but not conspiracy), except when delivery is charged; 893.13(1)(a) if sale, manufacture or delivery is charged; 893.13(2)(a) if purchase is charged; Bringing cocaine into state 893.13(5); Possession of cocaine 893.13(6)(a).
893.135(1)(c)1&2	Trafficking in illegal drugs	Trafficking offenses requiring lower quantities of illegal drugs — 893.135(1)(c)1	Attempt (but not conspiracy), except when delivery is charged; 893.13(1)(a) if sale, manufacture or delivery is charged; 893.13(2)(a) if purchase is charged; Bringing same illegal drug as charged into state — 893.13(5) Possession of same illegal drug — 893.13(6)(a).

SECTION	CHARGED OFFENSES	CATEGORY 1	CATEGORY 2
893.135(1)(d)1	Trafficking in phencyclidine	Trafficking offenses requiring lower quantities of phencyclidine — 893.135(1)(d)1.a and b	Attempt (but not conspiracy), except when delivery is charged 893.13(1)(a) if sale, manufacture or delivery is charged 893.13(2)(a) — if purchase is charged Bringing phencyclidine into state — 893.13(5); Possession of phencyclidine — 893.13(6)(a)
893.135(1)(e)1	Trafficking in methaqualone	Trafficking offenses requiring lower quantities of methaqualone — 893.135(1)(e)1.a and b.	Attempt (but not conspiracy), except when delivery is charged 893.13(1)(a) if sale, manufacture or delivery is charged; 893.13(2)(a) — if purchase is charged Bringing methaqualone into state — 893.13(5) Possession of methaqualone — 893.13(6)(a)

893.135(1)(f)1	Trafficking in amphetamine	Trafficking offenses requiring lower quantities of amphetamine — 893.135(1)(f)1.a & b	Attempt (but not conspiracy), except when delivery is charged 893.13(1)(a) — if sale, manufacture or delivery is charged; 893.13(2)(a) — if purchase is charged; Bringing amphetamine into state — 893.13(5); Possession of amphetamine — 893.13(6)(a)
893.147(1)	Possession of drug paraphernalia	None	Attempt
893.147(2)	Delivery, possession with intent to deliver, or manufacture with intent to deliver drug paraphernalia	None	Attempt, except when delivery is charged

SECTION	CHARGED OFFENSES	CATEGORY 1	CATEGORY 2
893.147(3)	Delivery of drug paraphernalia to a minor	None	None
893.147(4)	Advertisement of drug paraphernalia	None	None
893.149	Unlawful possession, etc., of listed chemical	None	Attempt
895.03(1)	RICO — Use or investment of proceeds from pattern of racketeering activity	None	None
895.03(1)	RICO — Use or investment of proceeds from collection of unlawful debt	None	None
895.03(2)	RICO — Acquisition or maintenance through pattern of racketeering activity	None	None

893.03(2)	RICO — Acquisition or maintenance through collection of unlawful debt	None	None
895.03(3)	RICO — Conduct or participation in an enterprise through collection of unlawful debt	None	None
895.03(3)	RICO — Conduct or participation in an enterprise through a pattern of racketeering activity	None	None
895.03(4)	Conspiracy to engage in pattern of racketeering activity	None	None

SECTION	CHARGED OFFENSES	CATEGORY 1	CATEGORY 2
944.40	Escape	None	None
944.47	Contraband in state correctional institution	None	Possession of less than 20 grams cannabis — 893.13(6)(b)
951.22	Contraband in county detention facilities	None	Possession of less than 20 grams cannabis — 893.13(6)(b)