

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Judiciary Committee
 2 Representative Spano offered the following:

Amendment (with title amendment)

Remove lines 240-1544 and insert:

16.56, Florida Statutes, is amended, and paragraph (b) of that subsection is republished, to read:

16.56 Office of Statewide Prosecution.—

(1) There is created in the Department of Legal Affairs an Office of Statewide Prosecution. The office shall be a separate "budget entity" as that term is defined in chapter 216. The office may:

(a) Investigate and prosecute the offenses of:

- 1. Bribery, burglary, criminal usury, extortion, gambling, kidnapping, larceny, murder, prostitution, perjury, robbery, carjacking, and home-invasion robbery;

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 7049 (2017)

Amendment No. 1

- 17 2. Any crime involving narcotic or other dangerous drugs;
18 3. Any violation of the Florida RICO (Racketeer Influenced
19 and Corrupt Organization) Act, including any offense listed in
20 the definition of racketeering activity in s. 895.02(8)(a),
21 providing such listed offense is investigated in connection with
22 a violation of s. 895.03 and is charged in a separate count of
23 an information or indictment containing a count charging a
24 violation of s. 895.03, the prosecution of which listed offense
25 may continue independently if the prosecution of the violation
26 of s. 895.03 is terminated for any reason;
27 4. Any violation of the Florida Anti-Fencing Act;
28 5. Any violation of the Florida Antitrust Act of 1980, as
29 amended;
30 6. Any crime involving, or resulting in, fraud or deceit
31 upon any person;
32 7. Any violation of s. 847.0135, relating to computer
33 pornography and child exploitation ~~prevention~~, or any offense
34 related to a violation of former s. 827.071, s. 847.003, s.
35 847.0135, or s. 847.0137 ~~any violation of chapter 827~~ where the
36 crime is facilitated by or connected to the use of the Internet
37 or any device capable of electronic data storage or
38 transmission;
39 8. Any violation of chapter 815;
40 9. Any criminal violation of part I of chapter 499;
41 10. Any violation of the Florida Motor Fuel Tax Relief Act

835589 - Amendment.docx

Published On: 4/12/2017 2:42:09 PM

Amendment No. 1

42 of 2004;

43 11. Any criminal violation of s. 409.920 or s. 409.9201;

44 12. Any crime involving voter registration, voting, or

45 candidate or issue petition activities;

46 13. Any criminal violation of the Florida Money Laundering

47 Act;

48 14. Any criminal violation of the Florida Securities and

49 Investor Protection Act; or

50 15. Any violation of chapter 787, as well as any and all

51 offenses related to a violation of chapter 787;

52

53 or any attempt, solicitation, or conspiracy to commit any of the

54 crimes specifically enumerated above. The office shall have such

55 power only when any such offense is occurring, or has occurred,

56 in two or more judicial circuits as part of a related

57 transaction, or when any such offense is connected with an

58 organized criminal conspiracy affecting two or more judicial

59 circuits. Informations or indictments charging such offenses

60 shall contain general allegations stating the judicial circuits

61 and counties in which crimes are alleged to have occurred or the

62 judicial circuits and counties in which crimes affecting such

63 circuits or counties are alleged to have been connected with an

64 organized criminal conspiracy.

65 (b) Investigate and prosecute any crime enumerated in

66 paragraph (a) facilitated by or connected to the use of the

Amendment No. 1

67 Internet. Any such crime is a crime occurring in every judicial
68 circuit within the state.

69 Section 2. Paragraph (c) of subsection (30) and paragraph
70 (g) of subsection (70) of section 39.01, Florida Statutes, are
71 amended to read:

72 39.01 Definitions.—When used in this chapter, unless the
73 context otherwise requires:

74 (30) "Harm" to a child's health or welfare can occur when
75 any person:

76 (c) Allows, encourages, or forces the sexual exploitation
77 of a child, which includes allowing, encouraging, or forcing a
78 child to:

- 79 1. Solicit for or engage in prostitution; or
80 2. Engage in a sexual performance, as defined by former s.
81 827.071 or s. 847.003 ~~chapter 827~~.

82 (70) "Sexual abuse of a child" for purposes of finding a
83 child to be dependent means one or more of the following acts:

84 (g) The sexual exploitation of a child, which includes the
85 act of a child offering to engage in or engaging in
86 prostitution, or the act of allowing, encouraging, or forcing a
87 child to:

- 88 1. Solicit for or engage in prostitution;
89 2. Engage in a sexual performance, as defined by former s.
90 827.071 or s. 847.003 ~~chapter 827~~; or
91 3. Participate in the trade of human trafficking as

Amendment No. 1

92 provided in s. 787.06(3)(g).

93 Section 3. Paragraph (b) of subsection (4) of section
94 39.0132, Florida Statutes, is amended to read:

95 39.0132 Oaths, records, and confidential information.—

96 (4)

97 (b) The department shall disclose to the school
98 superintendent the presence of a ~~any~~ child in the care and
99 custody or under the jurisdiction or supervision of the
100 department who has a known history of criminal sexual behavior
101 with other juveniles; is an alleged juvenile sex offender, as
102 defined in s. 39.01; or has pled guilty or nolo contendere to,
103 or has been found to have committed, a violation of chapter 794,
104 chapter 796, chapter 800, former s. 827.071, s. 847.003, ~~or~~ s.
105 847.0133, s. 847.0135(5), or s. 847.0137, regardless of
106 adjudication. An ~~Any~~ employee of a district school board who
107 knowingly and willfully discloses such information to an
108 unauthorized person commits a misdemeanor of the second degree,
109 punishable as provided in s. 775.082 or s. 775.083.

110 Section 4. Paragraph (a) of subsection (3) of section
111 39.0139, Florida Statutes, is amended to read:

112 39.0139 Visitation or other contact; restrictions.—

113 (3) PRESUMPTION OF DETRIMENT.—

114 (a) A rebuttable presumption of detriment to a child is
115 created when:

116 1. A court of competent jurisdiction has found probable

Amendment No. 1

117 | cause exists that a parent or caregiver has sexually abused a
118 | child as defined in s. 39.01;

119 | 2. A parent or caregiver has been found guilty of,
120 | regardless of adjudication, or has entered a plea of guilty or
121 | nolo contendere to, charges under the following statutes or
122 | substantially similar statutes of other jurisdictions:

123 | a. Section 787.04, relating to removing minors from the
124 | state or concealing minors contrary to court order;

125 | b. Section 794.011, relating to sexual battery;

126 | c. Section 798.02, relating to lewd and lascivious
127 | behavior;

128 | d. Chapter 800, relating to lewdness and indecent
129 | exposure;

130 | e. Section 826.04, relating to incest; ~~or~~

131 | f. Chapter 827, relating to the abuse of children; ~~or~~

132 | g. Section 847.003, relating to sexual performance by a
133 | child;

134 | h. Section 847.0135, excluding s. 847.0135(6), relating to
135 | computer pornography and child exploitation; or

136 | i. Section 847.0137, relating to child pornography; or

137 | 3. A court of competent jurisdiction has determined a
138 | parent or caregiver to be a sexual predator as defined in s.
139 | 775.21 or a parent or caregiver has received a substantially
140 | similar designation under laws of another jurisdiction.

141 | Section 5. Paragraph (b) of subsection (2) of section

Amendment No. 1

142 39.301, Florida Statutes, is amended to read:

143 39.301 Initiation of protective investigations.—

144 (2)

145 (b) As used in this subsection, the term "criminal
146 conduct" means:

147 1. A child is known or suspected to be the victim of child
148 abuse, as defined in s. 827.03, or of neglect of a child, as
149 defined in s. 827.03.

150 2. A child is known or suspected to have died as a result
151 of abuse or neglect.

152 3. A child is known or suspected to be the victim of
153 aggravated child abuse, as defined in s. 827.03.

154 4. A child is known or suspected to be the victim of
155 sexual battery, as defined in s. 847.001 ~~827.071~~, or of sexual
156 abuse, as defined in s. 39.01.

157 5. A child is known or suspected to be the victim of
158 institutional child abuse or neglect, as defined in s. 39.01,
159 and as provided for in s. 39.302(1).

160 6. A child is known or suspected to be a victim of human
161 trafficking, as provided in s. 787.06.

162 Section 6. Paragraph (a) of subsection (6) of section
163 39.509, Florida Statutes, is amended to read:

164 39.509 Grandparents rights.—Notwithstanding any other
165 provision of law, a maternal or paternal grandparent as well as
166 a stepgrandparent is entitled to reasonable visitation with his

Amendment No. 1

167 or her grandchild who has been adjudicated a dependent child and
168 taken from the physical custody of the parent unless the court
169 finds that such visitation is not in the best interest of the
170 child or that such visitation would interfere with the goals of
171 the case plan. Reasonable visitation may be unsupervised and,
172 where appropriate and feasible, may be frequent and continuing.
173 Any order for visitation or other contact must conform to the
174 provisions of s. 39.0139.

175 (6) In determining whether grandparental visitation is not
176 in the child's best interest, consideration may be given to the
177 following:

178 (a) The finding of guilt, regardless of adjudication, or
179 entry or plea of guilty or nolo contendere to charges under the
180 following statutes, or similar statutes of other jurisdictions:
181 s. 787.04, relating to removing minors from the state or
182 concealing minors contrary to court order; s. 794.011, relating
183 to sexual battery; s. 798.02, relating to lewd and lascivious
184 behavior; chapter 800, relating to lewdness and indecent
185 exposure; s. 826.04, relating to incest; ~~or~~ chapter 827,
186 relating to the abuse of children; s. 847.003, relating to
187 sexual performance by a child; s. 847.0135, excluding s.
188 847.0135(6), relating to computer pornography and child
189 exploitation; or s. 847.0137, relating to child pornography.

190 Section 7. Paragraphs (b) and (c) of subsection (2) of
191 section 90.404, Florida Statutes, are amended to read:

Amendment No. 1

192 90.404 Character evidence; when admissible.—

193 (2) OTHER CRIMES, WRONGS, OR ACTS.—

194 (b)1. In a criminal case in which the defendant is charged
195 with a crime involving child molestation, evidence of the
196 defendant's commission of other crimes, wrongs, or acts of child
197 molestation is admissible and may be considered for its bearing
198 on any matter to which it is relevant.

199 2. For the purposes of this paragraph, the term "child
200 molestation" means conduct proscribed by s. 787.025(2)(c), s.
201 787.06(3)(g), former s. 787.06(3)(h), s. 794.011, excluding s.
202 794.011(10), s. 794.05, former s. 796.03, former s. 796.035, s.
203 800.04, former s. 827.071, s. 847.003, s. 847.0135(5), s.
204 847.0137(2), s. 847.0145, or s. 985.701(1) when committed
205 against a person 16 years of age or younger.

206 (c)1. In a criminal case in which the defendant is charged
207 with a sexual offense, evidence of the defendant's commission of
208 other crimes, wrongs, or acts involving a sexual offense is
209 admissible and may be considered for its bearing on any matter
210 to which it is relevant.

211 2. For the purposes of this paragraph, the term "sexual
212 offense" means conduct proscribed by s. 787.025(2)(c), s.
213 787.06(3)(b), (d), (f), or (g), former s. 787.06(3)(h), s.
214 794.011, excluding s. 794.011(10), s. 794.05, former s. 796.03,
215 former s. 796.035, s. 825.1025(2)(b), former s. 827.071, s.
216 847.003, s. 847.0135(5), s. 847.0137(2), s. 847.0145, or s.

835589 - Amendment.docx

Published On: 4/12/2017 2:42:09 PM

Amendment No. 1

217 985.701(1).

218 Section 8. Subsections (2), (3), and (5) of section 92.56,
219 Florida Statutes, are amended to read:

220 92.56 Judicial proceedings and court records involving
221 sexual offenses and human trafficking.-

222 (2) A defendant charged with a crime described in s.
223 787.06(3)(a)1., (c)1., or (e)1.; ~~s. 787.06(3)(b), (d), (f), or~~
224 (g); ~~chapter 794; or chapter 800; or~~ with child abuse ~~or~~
225 aggravated child abuse, ~~or sexual performance by a child as~~
226 described in chapter 827; with sexual performance by a child as
227 described in former s. 827.071; or with a sexual offense
228 described in chapter 847 may apply to the trial court for an
229 order of disclosure of information in court records held
230 confidential and exempt pursuant to s. 119.0714(1)(h) or
231 maintained as confidential and exempt pursuant to court order
232 under this section. Such identifying information concerning the
233 victim may be released to the defendant or his or her attorney
234 in order to prepare the defense. The confidential and exempt
235 status of this information may not be construed to prevent the
236 disclosure of the victim's identity to the defendant; however,
237 the defendant may not disclose the victim's identity to any
238 person other than the defendant's attorney or any other person
239 directly involved in the preparation of the defense. A willful
240 and knowing disclosure of the identity of the victim to any
241 other person by the defendant constitutes contempt.

835589 - Amendment.docx

Published On: 4/12/2017 2:42:09 PM

Amendment No. 1

242 (3) The state may use a pseudonym instead of the victim's
243 name to designate the victim of a crime described in s.
244 787.06(3)(a)1., (c)1., or (e)1.; ~~in s. 787.06(3)(b), (d), (f),~~
245 ~~or (g); ~~or in~~ chapter 794; or chapter 800; ~~or~~~~ of child abuse
246 ~~or~~ aggravated child abuse, ~~or sexual performance by a child as~~
247 ~~described in chapter 827; of sexual performance by a child as~~
248 ~~described in former s. 827.071; or of a sexual offense any~~
249 ~~crime involving the production, possession, or promotion of~~
250 ~~child pornography as described in chapter 847, in all court~~
251 records and records of court proceedings, both civil and
252 criminal.

253 (5) This section does not prohibit the publication or
254 broadcast of the substance of trial testimony in a prosecution
255 for an offense described in s. 787.06(3)(a)1., (c)1., or (e)1.; ~~in~~
256 s. 787.06(3)(b), (d), (f), or (g); ~~chapter 794; or chapter~~
257 ~~800; for, ~~or~~~~ a crime of child abuse ~~or~~ aggravated child abuse
258 ~~or sexual performance by a child, as described in chapter 827;~~
259 ~~for sexual performance by a child as described in former s.~~
260 ~~827.071; or for a sexual offense described in chapter 847, but~~
261 the publication or broadcast may not include an identifying
262 photograph, an identifiable voice, or the name or address of the
263 victim, unless the victim has consented in writing to the
264 publication and filed such consent with the court or unless the
265 court has declared such records not confidential and exempt as
266 provided for in subsection (1).

Amendment No. 1

267 Section 9. Subsection (1) of section 92.561, Florida
268 Statutes, is amended to read:

269 92.561 Prohibition on reproduction of child pornography.-

270 (1) In a criminal proceeding, any property or material
271 that portrays sexual performance by a child as defined in former
272 s. 827.071 or s. 847.003, or constitutes child pornography as
273 defined in s. 847.0137 ~~847.001~~, must remain secured or locked in
274 the care, custody, and control of a law enforcement agency, the
275 state attorney, or the court.

276 Section 10. Subsection (2) of section 92.565, Florida
277 Statutes, is amended to read:

278 92.565 Admissibility of confession in sexual abuse cases.-

279 (2) In any criminal action in which the defendant is
280 charged with a crime against a victim under s. 794.011; s.
281 794.05; s. 800.04; s. 826.04; s. 827.03, involving sexual abuse;
282 s. 827.04, involving sexual abuse; former s. 827.071; s.
283 847.003; ~~or~~ s. 847.0135(5); ~~;~~ or s. 847.0137(2), or any other
284 crime involving sexual abuse of another, or with any attempt,
285 solicitation, or conspiracy to commit any of these crimes, the
286 defendant's memorialized confession or admission is admissible
287 during trial without the state having to prove a corpus delicti
288 of the crime if the court finds in a hearing conducted outside
289 the presence of the jury that the state is unable to show the
290 existence of each element of the crime, and having so found,
291 further finds that the defendant's confession or admission is

Amendment No. 1

292 trustworthy. Factors which may be relevant in determining
293 whether the state is unable to show the existence of each
294 element of the crime include, but are not limited to, the fact
295 that, at the time the crime was committed, the victim was:

296 (a) Physically helpless, mentally incapacitated, or
297 mentally defective, as those terms are defined in s. 794.011;

298 (b) Physically incapacitated due to age, infirmity, or any
299 other cause; or

300 (c) Less than 12 years of age.

301 Section 11. Paragraphs (ll) and (qq) of subsection (2) of
302 section 435.04, Florida Statutes, are amended to read:

303 435.04 Level 2 screening standards.—

304 (2) The security background investigations under this
305 section must ensure that no persons subject to the provisions of
306 this section have been arrested for and are awaiting final
307 disposition of, have been found guilty of, regardless of
308 adjudication, or entered a plea of nolo contendere or guilty to,
309 or have been adjudicated delinquent and the record has not been
310 sealed or expunged for, any offense prohibited under any of the
311 following provisions of state law or similar law of another
312 jurisdiction:

313 (ll) Former s. Section 827.071, relating to sexual
314 performance by a child.

315 (qq) Chapter 847, relating to obscenity and child
316 exploitation ~~obscene literature~~.

Amendment No. 1

317 Section 12. Paragraph (c) of subsection (4) of section
318 435.07, Florida Statutes, is amended to read:

319 435.07 Exemptions from disqualification.—Unless otherwise
320 provided by law, the provisions of this section apply to
321 exemptions from disqualification for disqualifying offenses
322 revealed pursuant to background screenings required under this
323 chapter, regardless of whether those disqualifying offenses are
324 listed in this chapter or other laws.

325 (4)

326 (c) Disqualification from employment under this chapter
327 may not be removed from, and an exemption may not be granted to,
328 any current or prospective child care personnel, as defined in
329 s. 402.302(3), and such a person is disqualified from employment
330 as child care personnel, regardless of any previous exemptions
331 from disqualification, if the person has been registered as a
332 sex offender as described in 42 U.S.C. s. 9858f(c)(1)(C) or has
333 been arrested for and is awaiting final disposition of, has been
334 convicted or found guilty of, or entered a plea of guilty or
335 nolo contendere to, regardless of adjudication, or has been
336 adjudicated delinquent and the record has not been sealed or
337 expunged for, any offense prohibited under any of the following
338 provisions of state law or a similar law of another
339 jurisdiction:

340 1. A felony offense prohibited under any of the following
341 statutes:

Amendment No. 1

- 342 a. Chapter 741, relating to domestic violence.
- 343 b. Section 782.04, relating to murder.
- 344 c. Section 782.07, relating to manslaughter, aggravated
- 345 manslaughter of an elderly person or disabled adult, aggravated
- 346 manslaughter of a child, or aggravated manslaughter of an
- 347 officer, a firefighter, an emergency medical technician, or a
- 348 paramedic.
- 349 d. Section 784.021, relating to aggravated assault.
- 350 e. Section 784.045, relating to aggravated battery.
- 351 f. Section 787.01, relating to kidnapping.
- 352 g. Section 787.025, relating to luring or enticing a
- 353 child.
- 354 h. Section 787.04(2), relating to leading, taking,
- 355 enticing, or removing a minor beyond the state limits, or
- 356 concealing the location of a minor, with criminal intent pending
- 357 custody proceedings.
- 358 i. Section 787.04(3), relating to leading, taking,
- 359 enticing, or removing a minor beyond the state limits, or
- 360 concealing the location of a minor, with criminal intent pending
- 361 dependency proceedings or proceedings concerning alleged abuse
- 362 or neglect of a minor.
- 363 j. Section 794.011, relating to sexual battery.
- 364 k. Former s. 794.041, relating to sexual activity with or
- 365 solicitation of a child by a person in familial or custodial
- 366 authority.

Amendment No. 1

- 367 1. Section 794.05, relating to unlawful sexual activity
368 with certain minors.
- 369 m. Section 794.08, relating to female genital mutilation.
- 370 n. Section 806.01, relating to arson.
- 371 o. Section 826.04, relating to incest.
- 372 p. Section 827.03, relating to child abuse, aggravated
373 child abuse, or neglect of a child.
- 374 q. Section 827.04, relating to contributing to the
375 delinquency or dependency of a child.
- 376 r. Former s. Section 827.071 or s. 847.003, relating to
377 sexual performance by a child.
- 378 s. Chapter 847, relating to obscenity and child
379 exploitation pornography.
- 380 t. Section 985.701, relating to sexual misconduct in
381 juvenile justice programs.
- 382 2. A misdemeanor offense prohibited under any of the
383 following statutes:
- 384 a. Section 784.03, relating to battery, if the victim of
385 the offense was a minor.
- 386 b. Section 787.025, relating to luring or enticing a
387 child.
- 388 c. Chapter 847, relating to obscenity and child
389 exploitation pornography.
- 390 3. A criminal act committed in another state or under
391 federal law which, if committed in this state, constitutes an

Amendment No. 1

392 offense prohibited under any statute listed in subparagraph 1.
393 or subparagraph 2.

394 Section 13. Paragraphs (o) and (q) of subsection (5) of
395 section 456.074, Florida Statutes, are amended, paragraphs (r)
396 and (s) of that subsection are redesignated as paragraphs (s)
397 and (t), respectively, and a new paragraph (r) is added to that
398 subsection, to read:

399 456.074 Certain health care practitioners; immediate
400 suspension of license.—

401 (5) The department shall issue an emergency order
402 suspending the license of a massage therapist or establishment
403 as defined in chapter 480 upon receipt of information that the
404 massage therapist, a person with an ownership interest in the
405 establishment, or, for a corporation that has more than \$250,000
406 of business assets in this state, the owner, officer, or
407 individual directly involved in the management of the
408 establishment has been convicted or found guilty of, or has
409 entered a plea of guilty or nolo contendere to, regardless of
410 adjudication, a violation of s. 796.07(2)(a) which is
411 reclassified under s. 796.07(7) or a felony offense under any of
412 the following provisions of state law or a similar provision in
413 another jurisdiction:

414 (o) Former s. Section 827.071 or s. 847.003, relating to
415 sexual performance by a child.

416 (q) Section 847.0135, relating to computer pornography and

Amendment No. 1

417 child exploitation.

418 (r) Section 847.0137, relating to child pornography.

419 Section 14. Paragraphs (o) and (q) of subsection (7) of
420 section 480.041, Florida Statutes, are amended, paragraphs (r)
421 and (s) of that subsection are redesignated as paragraphs (s)
422 and (t), respectively, and a new paragraph (r) is added to that
423 subsection, to read:

424 480.041 Massage therapists; qualifications; licensure;
425 endorsement.—

426 (7) The board shall deny an application for a new or
427 renewal license if an applicant has been convicted or found
428 guilty of, or enters a plea of guilty or nolo contendere to,
429 regardless of adjudication, a violation of s. 796.07(2)(a) which
430 is reclassified under s. 796.07(7) or a felony offense under any
431 of the following provisions of state law or a similar provision
432 in another jurisdiction:

433 (o) Former s. Section 827.071 or s. 847.003, relating to
434 sexual performance by a child.

435 (q) Section 847.0135, relating to computer pornography and
436 child exploitation.

437 (r) Section 847.0137, relating to child pornography.

438 Section 15. Paragraphs (o) and (q) of subsection (8) of
439 section 480.043, Florida Statutes, are amended, paragraphs (r)
440 and (s) of that subsection are redesignated as paragraphs (s)
441 and (t), respectively, and a new paragraph (r) is added to that

Amendment No. 1

442 subsection, to read:

443 480.043 Massage establishments; requisites; licensure;
444 inspection.—

445 (8) The department shall deny an application for a new or
446 renewal license if a person with an ownership interest in the
447 establishment or, for a corporation that has more than \$250,000
448 of business assets in this state, the owner, officer, or
449 individual directly involved in the management of the
450 establishment has been convicted or found guilty of, or entered
451 a plea of guilty or nolo contendere to, regardless of
452 adjudication, a violation of s. 796.07(2)(a) which is
453 reclassified under s. 796.07(7) or a felony offense under any of
454 the following provisions of state law or a similar provision in
455 another jurisdiction:

456 (o) Former s. Section 827.071 or s. 847.003, relating to
457 sexual performance by a child.

458 (q) Section 847.0135, relating to computer pornography and
459 child exploitation.

460 (r) Section 847.0137, relating to child pornography.

461 Section 16. Paragraph (b) of subsection (3) of section
462 743.067, Florida Statutes, is amended to read:

463 743.067 Unaccompanied homeless youths.—

464 (3) An unaccompanied homeless youth may:

465 (b) Notwithstanding s. 394.4625(1), consent to medical,
466 dental, psychological, substance abuse, and surgical diagnosis

Amendment No. 1

467 and treatment, including preventative care and care by a
468 facility licensed under chapter 394, chapter 395, or chapter 397
469 and any forensic medical examination for the purpose of
470 investigating any felony offense under chapter 784, chapter 787,
471 chapter 794, chapter 800, ~~or~~ chapter 827, s. 847.003, or s.
472 847.0137, for:

- 473 1. Himself or herself; or
474 2. His or her child, if the unaccompanied homeless youth
475 is unmarried, is the parent of the child, and has actual custody
476 of the child.

477 Section 17. Paragraph (a) of subsection (1) of section
478 772.102, Florida Statutes, is amended to read:

479 772.102 Definitions.—As used in this chapter, the term:

480 (1) "Criminal activity" means to commit, to attempt to
481 commit, to conspire to commit, or to solicit, coerce, or
482 intimidate another person to commit:

483 (a) Any crime that is chargeable by indictment or
484 information under the following provisions:

- 485 1. Section 210.18, relating to evasion of payment of
486 cigarette taxes.
487 2. Section 414.39, relating to public assistance fraud.
488 3. Section 440.105 or s. 440.106, relating to workers'
489 compensation.
490 4. Part IV of chapter 501, relating to telemarketing.
491 5. Chapter 517, relating to securities transactions.

Amendment No. 1

492 6. Section 550.235 or s. 550.3551, relating to dogracing
493 and horseracing.

494 7. Chapter 550, relating to jai alai frontons.

495 8. Chapter 552, relating to the manufacture, distribution,
496 and use of explosives.

497 9. Chapter 562, relating to beverage law enforcement.

498 10. Section 624.401, relating to transacting insurance
499 without a certificate of authority, s. 624.437(4)(c)1., relating
500 to operating an unauthorized multiple-employer welfare
501 arrangement, or s. 626.902(1)(b), relating to representing or
502 aiding an unauthorized insurer.

503 11. Chapter 687, relating to interest and usurious
504 practices.

505 12. Section 721.08, s. 721.09, or s. 721.13, relating to
506 real estate timeshare plans.

507 13. Chapter 782, relating to homicide.

508 14. Chapter 784, relating to assault and battery.

509 15. Chapter 787, relating to kidnapping or human
510 trafficking.

511 16. Chapter 790, relating to weapons and firearms.

512 17. Former s. 796.03, s. 796.04, s. 796.05, or s. 796.07,
513 relating to prostitution.

514 18. Chapter 806, relating to arson.

515 19. Section 810.02(2)(c), relating to specified burglary
516 of a dwelling or structure.

Amendment No. 1

517 20. Chapter 812, relating to theft, robbery, and related
518 crimes.

519 21. Chapter 815, relating to computer-related crimes.

520 22. Chapter 817, relating to fraudulent practices, false
521 pretenses, fraud generally, and credit card crimes.

522 23. Former s. Section 827.071, relating to commercial
523 sexual exploitation of children.

524 24. Chapter 831, relating to forgery and counterfeiting.

525 25. Chapter 832, relating to issuance of worthless checks
526 and drafts.

527 26. Section 836.05, relating to extortion.

528 27. Chapter 837, relating to perjury.

529 28. Chapter 838, relating to bribery and misuse of public
530 office.

531 29. Chapter 843, relating to obstruction of justice.

532 30. Section 847.003, relating to sexual performance by a
533 child.

534 ~~31.30.~~ Section 847.011, s. 847.012, s. 847.013, s. 847.06,
535 or s. 847.07, relating to obscene literature and profanity.

536 ~~32.31.~~ Section 849.09, s. 849.14, s. 849.15, s. 849.23, or
537 s. 849.25, relating to gambling.

538 ~~33.32.~~ Chapter 893, relating to drug abuse prevention and
539 control.

540 ~~34.33.~~ Section 914.22 or s. 914.23, relating to witnesses,
541 victims, or informants.

Amendment No. 1

542 ~~35.34.~~ Section 918.12 or s. 918.13, relating to tampering
543 with jurors and evidence.

544 Section 18. Paragraph (a) of subsection (9) of section
545 775.082, Florida Statutes, is amended to read:

546 775.082 Penalties; applicability of sentencing structures;
547 mandatory minimum sentences for certain reoffenders previously
548 released from prison.—

549 (9) (a) 1. "Prison releasee reoffender" means any defendant
550 who commits, or attempts to commit:

551 a. Treason;

552 b. Murder;

553 c. Manslaughter;

554 d. Sexual battery;

555 e. Carjacking;

556 f. Home-invasion robbery;

557 g. Robbery;

558 h. Arson;

559 i. Kidnapping;

560 j. Aggravated assault with a deadly weapon;

561 k. Aggravated battery;

562 l. Aggravated stalking;

563 m. Aircraft piracy;

564 n. Unlawful throwing, placing, or discharging of a
565 destructive device or bomb;

566 o. Any felony that involves the use or threat of physical

Amendment No. 1

567 force or violence against an individual;
568 p. Armed burglary;
569 q. Burglary of a dwelling or burglary of an occupied
570 structure; or
571 r. Any felony violation of s. 790.07, s. 800.04, s.
572 827.03, former s. 827.071, s. 847.003, ~~s. 847.0135(5)~~, or s.
573 847.0137(2);

574

575 within 3 years after being released from a state correctional
576 facility operated by the Department of Corrections or a private
577 vendor or within 3 years after being released from a
578 correctional institution of another state, the District of
579 Columbia, the United States, any possession or territory of the
580 United States, or any foreign jurisdiction, following
581 incarceration for an offense for which the sentence is
582 punishable by more than 1 year in this state.

583 2. "Prison releasee reoffender" also means any defendant
584 who commits or attempts to commit any offense listed in sub-
585 subparagraphs (a)1.a.-r. while the defendant was serving a
586 prison sentence or on escape status from a state correctional
587 facility operated by the Department of Corrections or a private
588 vendor or while the defendant was on escape status from a
589 correctional institution of another state, the District of
590 Columbia, the United States, any possession or territory of the
591 United States, or any foreign jurisdiction, following

835589 - Amendment.docx

Published On: 4/12/2017 2:42:09 PM

Amendment No. 1

592 incarceration for an offense for which the sentence is
593 punishable by more than 1 year in this state.

594 3. If the state attorney determines that a defendant is a
595 prison releasee reoffender as defined in subparagraph 1., the
596 state attorney may seek to have the court sentence the defendant
597 as a prison releasee reoffender. Upon proof from the state
598 attorney that establishes by a preponderance of the evidence
599 that a defendant is a prison releasee reoffender as defined in
600 this section, such defendant is not eligible for sentencing
601 under the sentencing guidelines and must be sentenced as
602 follows:

603 a. For a felony punishable by life, by a term of
604 imprisonment for life;

605 b. For a felony of the first degree, by a term of
606 imprisonment of 30 years;

607 c. For a felony of the second degree, by a term of
608 imprisonment of 15 years; and

609 d. For a felony of the third degree, by a term of
610 imprisonment of 5 years.

611 Section 19. Paragraphs (b) and (f) of subsection (1) and
612 subsection (2) of section 775.0847, Florida Statutes, are
613 amended, and paragraph (g) is added to that subsection, to read:

614 775.0847 Possession or promotion of certain visual
615 depictions ~~images~~ of child pornography; reclassification.-

616 (1) For purposes of this section:

Amendment No. 1

617 (b) "Child pornography" has the same meaning as provided
618 in s. 847.0137 ~~means any image depicting a minor engaged in~~
619 ~~sexual conduct.~~

620 (f) "Sexual conduct" means actual or simulated sexual
621 intercourse, deviate sexual intercourse, sexual bestiality,
622 masturbation, or sadomasochistic abuse; actual or simulated lewd
623 exhibition of the genitals; actual physical contact with a
624 person's clothed or unclothed genitals, pubic area, buttocks,
625 or, if such person is a female, breast with the intent to arouse
626 or gratify the sexual desire of either party; or any act or
627 conduct which constitutes sexual battery or simulates that
628 sexual battery is being or will be committed. A mother's
629 breastfeeding of her baby does not under any circumstance
630 constitute "sexual conduct."

631 (g) "Visual depiction" has the same meaning provided in s.
632 847.0137.

633 (2) A violation of former s. 827.071, s. 847.003, s.
634 847.0135, s. 847.0137, or s. 847.0138 shall be reclassified to
635 the next higher degree as provided in subsection (3) if:

636 (a) The offender possesses 10 or more visual depictions
637 ~~images~~ of any form of child pornography regardless of content;
638 and

639 (b) The content of at least one visual depiction ~~image~~
640 contains one or more of the following:

641 1. A child who is younger than the age of 5.

Amendment No. 1

- 642 2. Sadomasochistic abuse involving a child.
643 3. Sexual battery involving a child.
644 4. Sexual bestiality involving a child.
645 5. Any movie involving a child, regardless of length and
646 regardless of whether the movie contains sound.

647 Section 20. Paragraph (1) of subsection (1) of section
648 775.0877, Florida Statutes, is amended to read:

649 775.0877 Criminal transmission of HIV; procedures;
650 penalties.—

651 (1) In any case in which a person has been convicted of or
652 has pled nolo contendere or guilty to, regardless of whether
653 adjudication is withheld, any of the following offenses, or the
654 attempt thereof, which offense or attempted offense involves the
655 transmission of body fluids from one person to another:

656 (1) Former s. Section 827.071 or s. 847.003, relating to
657 sexual performance by a child ~~person less than 18 years of age~~;

658
659 the court shall order the offender to undergo HIV testing, to be
660 performed under the direction of the Department of Health in
661 accordance with s. 381.004, unless the offender has undergone
662 HIV testing voluntarily or pursuant to procedures established in
663 s. 381.004(2)(h)6. or s. 951.27, or any other applicable law or
664 rule providing for HIV testing of criminal offenders or inmates,
665 subsequent to her or his arrest for an offense enumerated in
666 paragraphs (a)-(n) for which she or he was convicted or to which

Amendment No. 1

667 she or he pled nolo contendere or guilty. The results of an HIV
668 test performed on an offender pursuant to this subsection are
669 not admissible in any criminal proceeding arising out of the
670 alleged offense.

671 Section 21. Paragraph (a) of subsection (4) and paragraph
672 (b) of subsection (10) of section 775.21, Florida Statutes, are
673 amended to read:

674 775.21 The Florida Sexual Predators Act.—

675 (4) SEXUAL PREDATOR CRITERIA.—

676 (a) For a current offense committed on or after October 1,
677 1993, upon conviction, an offender shall be designated as a
678 "sexual predator" under subsection (5), and subject to
679 registration under subsection (6) and community and public
680 notification under subsection (7) if:

681 1. The felony is:

682 a. A capital, life, or first degree felony violation, or
683 any attempt thereof, of s. 787.01 or s. 787.02, where the victim
684 is a minor, or s. 794.011, s. 800.04, or s. 847.0145, or a
685 violation of a similar law of another jurisdiction; or

686 b. Any felony violation, or any attempt thereof, of s.
687 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s.
688 787.025(2)(c), where the victim is a minor; s. 787.06(3)(b),
689 (d), (f), or (g); former s. 787.06(3)(h); s. 794.011, excluding
690 s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035;
691 s. 800.04; s. 810.145(8)(b); s. 825.1025; former s. 827.071; s.

Amendment No. 1

692 847.003; s. 847.0135, excluding s. 847.0135(6); s. 847.0137(2);
693 s. 847.0145; s. 895.03, if the court makes a written finding
694 that the racketeering activity involved at least one sexual
695 offense listed in this sub-subparagraph or at least one offense
696 listed in this sub-subparagraph with sexual intent or motive; s.
697 916.1075(2); or s. 985.701(1); or a violation of a similar law
698 of another jurisdiction, and the offender has previously been
699 convicted of or found to have committed, or has pled nolo
700 contendere or guilty to, regardless of adjudication, any
701 violation of s. 393.135(2); s. 394.4593(2); s. 787.01, s.
702 787.02, or s. 787.025(2)(c), where the victim is a minor; s.
703 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s.
704 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03;
705 former s. 796.035; s. 800.04; s. 825.1025; former s. 827.071; s.
706 847.003; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s.
707 847.0137(2); s. 847.0145; s. 895.03, if the court makes a
708 written finding that the racketeering activity involved at least
709 one sexual offense listed in this sub-subparagraph or at least
710 one offense listed in this sub-subparagraph with sexual intent
711 or motive; s. 916.1075(2); or s. 985.701(1); or a violation of a
712 similar law of another jurisdiction;

713 2. The offender has not received a pardon for any felony
714 or similar law of another jurisdiction that is necessary for the
715 operation of this paragraph; and

716 3. A conviction of a felony or similar law of another

Amendment No. 1

717 jurisdiction necessary to the operation of this paragraph has
718 not been set aside in any postconviction proceeding.

719 (10) PENALTIES.—

720 (b) A sexual predator who has been convicted of or found
721 to have committed, or has pled nolo contendere or guilty to,
722 regardless of adjudication, any violation, or attempted
723 violation, of s. 787.01, s. 787.02, or s. 787.025(2)(c), where
724 the victim is a minor; s. 794.011, excluding s. 794.011(10); s.
725 794.05; former s. 796.03; former s. 796.035; s. 800.04; former
726 s. 827.071; s. 847.003; s. 847.0133; s. 847.0135(5); s.
727 847.0137(2); s. 847.0145; or s. 985.701(1); or a violation of a
728 similar law of another jurisdiction when the victim of the
729 offense was a minor, and who works, whether for compensation or
730 as a volunteer, at any business, school, child care facility,
731 park, playground, or other place where children regularly
732 congregate, commits a felony of the third degree, punishable as
733 provided in s. 775.082, s. 775.083, or s. 775.084.

734 Section 22. Subsection (2) and paragraphs (a) and (c) of
735 subsection (3) of section 775.215, Florida Statutes, are amended
736 to read:

737 775.215 Residency restriction for persons convicted of
738 certain sex offenses.—

739 (2) (a) A person who has been convicted of a violation of
740 s. 794.011, s. 800.04, former s. 827.071, s. 847.003, s.
741 847.0135(5), s. 847.0137(2), or s. 847.0145, regardless of

Amendment No. 1

742 whether adjudication has been withheld, in which the victim of
743 the offense was less than 16 years of age, may not reside within
744 1,000 feet of any school, child care facility, park, or
745 playground. However, a person does not violate this subsection
746 and may not be forced to relocate if he or she is living in a
747 residence that meets the requirements of this subsection and a
748 school, child care facility, park, or playground is subsequently
749 established within 1,000 feet of his or her residence.

750 (b) A person who violates this subsection and whose
751 conviction under s. 794.011, s. 800.04, former s. 827.071, s.
752 847.003, s. 847.0135(5), s. 847.0137(2), or s. 847.0145 was
753 classified as a felony of the first degree or higher commits a
754 felony of the third degree, punishable as provided in s. 775.082
755 or s. 775.083. A person who violates this subsection and whose
756 conviction under s. 794.011, s. 800.04, former s. 827.071, s.
757 847.003, s. 847.0135(5), s. 847.0137(2), or s. 847.0145 was
758 classified as a felony of the second or third degree commits a
759 misdemeanor of the first degree, punishable as provided in s.
760 775.082 or s. 775.083.

761 (c) This subsection applies to any person convicted of a
762 violation of s. 794.011, s. 800.04, former s. 827.071, s.
763 847.003, s. 847.0135(5), s. 847.0137(2), or s. 847.0145 for
764 offenses that occur on or after October 1, 2004, excluding
765 persons who have been removed from the requirement to register
766 as a sexual offender or sexual predator pursuant to s.

Amendment No. 1

767 943.04354.

768 (3) (a) A person who has been convicted of an offense in
769 another jurisdiction that is similar to a violation of s.
770 794.011, s. 800.04, former s. 827.071, s. 847.003, s.
771 847.0135(5), s. 847.0137(2), or s. 847.0145, regardless of
772 whether adjudication has been withheld, in which the victim of
773 the offense was less than 16 years of age, may not reside within
774 1,000 feet of any school, child care facility, park, or
775 playground. However, a person does not violate this subsection
776 and may not be forced to relocate if he or she is living in a
777 residence that meets the requirements of this subsection and a
778 school, child care facility, park, or playground is subsequently
779 established within 1,000 feet of his or her residence.

780 (c) This subsection applies to any person convicted of an
781 offense in another jurisdiction that is similar to a violation
782 of s. 794.011, s. 800.04, former s. 827.071, s. 847.003, s.
783 847.0135(5), s. 847.0137(2), or s. 847.0145 if such offense
784 occurred on or after May 26, 2010, excluding persons who have
785 been removed from the requirement to register as a sexual
786 offender or sexual predator pursuant to s. 943.04354.

787 Section 23. Paragraph (c) of subsection (1) of section
788 784.046, Florida Statutes, is amended to read:

789 784.046 Action by victim of repeat violence, sexual
790 violence, or dating violence for protective injunction; dating
791 violence investigations, notice to victims, and reporting;

Amendment No. 1

792 pretrial release violations; public records exemption.—

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

794 (c) "Sexual violence" means any one incident of:

795 1. Sexual battery, as defined in chapter 794;

796 2. A lewd or lascivious act, as defined in chapter 800,
797 committed upon or in the presence of a person younger than 16
798 years of age;

799 3. Luring or enticing a child, as described in chapter
800 787;

801 4. Sexual performance by a child, as described in former
802 s. 827.071 or s. 847.003 ~~chapter 827~~; or

803 5. Any other forcible felony wherein a sexual act is
804 committed or attempted,

805

806 regardless of whether criminal charges based on the incident
807 were filed, reduced, or dismissed by the state attorney.

808 Section 24. Subsection (2) of section 794.0115, Florida
809 Statutes, is amended to read:

810 794.0115 Dangerous sexual felony offender; mandatory
811 sentencing.—

812 (2) Any person who is convicted of a violation of s.
813 787.025(2)(c); s. 794.011(2), (3), (4), (5), or (8); s.
814 800.04(4) or (5); s. 825.1025(2) or (3); former s. 827.071(2),
815 (3), or (4); s. 847.003; s. 847.0137(2)(a); or s. 847.0145; or
816 of any similar offense under a former designation, which offense

Amendment No. 1

817 the person committed when he or she was 18 years of age or
818 older, and the person:

819 (a) Caused serious personal injury to the victim as a
820 result of the commission of the offense;

821 (b) Used or threatened to use a deadly weapon during the
822 commission of the offense;

823 (c) Victimized more than one person during the course of
824 the criminal episode applicable to the offense;

825 (d) Committed the offense while under the jurisdiction of
826 a court for a felony offense under the laws of this state, for
827 an offense that is a felony in another jurisdiction, or for an
828 offense that would be a felony if that offense were committed in
829 this state; or

830 (e) Has previously been convicted of a violation of s.
831 787.025(2)(c); s. 794.011(2), (3), (4), (5), or (8); s.
832 800.04(4) or (5); s. 825.1025(2) or (3); former s. 827.071(2),
833 (3), or (4); s. 847.003; s. 847.0137(2)(a); or s. 847.0145; of
834 any offense under a former statutory designation which is
835 similar in elements to an offense described in this paragraph;
836 or of any offense that is a felony in another jurisdiction, or
837 would be a felony if that offense were committed in this state,
838 and which is similar in elements to an offense described in this
839 paragraph,

840
841 is a dangerous sexual felony offender, who must be sentenced to

Amendment No. 1

842 a mandatory minimum term of 25 years imprisonment up to, and
843 including, life imprisonment. If the offense described in this
844 subsection was committed on or after October 1, 2014, a person
845 who qualifies as a dangerous sexual felony offender pursuant to
846 this subsection must be sentenced to a mandatory minimum term of
847 50 years imprisonment up to, and including, life imprisonment.

848 Section 25. Subsection (1) of section 794.024, Florida
849 Statutes, is amended to read:

850 794.024 Unlawful to disclose identifying information.—

851 (1) A public employee or officer who has access to the
852 photograph, name, or address of a person who is alleged to be
853 the victim of an offense described in this chapter, chapter 800,
854 s. 827.03, s. 827.04, or former ~~or~~ s. 827.071, or of a sexual
855 offense described in chapter 847 may not willfully and knowingly
856 disclose it to a person who is not assisting in the
857 investigation or prosecution of the alleged offense or to any
858 person other than the defendant, the defendant's attorney, a
859 person specified in an order entered by the court having
860 jurisdiction of the alleged offense, or organizations authorized
861 to receive such information made exempt by s. 119.071(2)(h), or
862 to a rape crisis center or sexual assault counselor, as defined
863 in s. 90.5035(1)(b), who will be offering services to the
864 victim.

865 Section 26. Subsection (1) of section 794.056, Florida
866 Statutes, is amended to read:

Amendment No. 1

867 794.056 Rape Crisis Program Trust Fund.—

868 (1) The Rape Crisis Program Trust Fund is created within
869 the Department of Health for the purpose of providing funds for
870 rape crisis centers in this state. Trust fund moneys shall be
871 used exclusively for the purpose of providing services for
872 victims of sexual assault. Funds credited to the trust fund
873 consist of those funds collected as an additional court
874 assessment in each case in which a defendant pleads guilty or
875 nolo contendere to, or is found guilty of, regardless of
876 adjudication, an offense provided in s. 775.21(6) and (10)(a),
877 (b), and (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s.
878 784.045; s. 784.048; s. 784.07; s. 784.08; s. 784.081; s.
879 784.082; s. 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); s.
880 787.025; s. 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08;
881 former s. 796.03; former s. 796.035; s. 796.04; s. 796.05; s.
882 796.06; s. 796.07(2)(a)-(d) and (i); s. 800.03; s. 800.04; s.
883 810.14; s. 810.145; s. 812.135; s. 817.025; s. 825.102; s.
884 825.1025; former s. 827.071; s. 836.10; s. 847.003; s. 847.0133;
885 s. 847.0135(2); s. 847.0137; s. 847.0145; s. 943.0435(4)(c),
886 (7), (8), (9)(a), (13), and (14)(c); or s. 985.701(1). Funds
887 credited to the trust fund also shall include revenues provided
888 by law, moneys appropriated by the Legislature, and grants from
889 public or private entities.

890 Section 27. Section 794.10, Florida Statutes, is created
891 to read:

Amendment No. 1

892 794.10 Investigative subpoenas in certain cases involving
893 child victims.-

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

895 (a) "Child" means a person who is less than 18 years of
896 age.

897 (b) "Child sexual offender" means a person who is required
898 to register as a sexual predator under s. 775.21 or as a sexual
899 offender under s. 943.0435 if at least one of the offenses that
900 qualified the person for such registration requirement involved
901 a victim who was a child at the time of the offense.

902 (c) "Criminal justice agency" means a law enforcement agency,
903 court, or prosecutor in this state.

904 (d) "Sexual exploitation or abuse of a child" means a
905 criminal offense based on any conduct described in s. 39.01(70).

906 (2) (a) AUTHORIZATION.-In any investigation of:

907 1. An offense involving the sexual exploitation or abuse
908 of a child;

909 2. A sexual offense allegedly committed by a child sexual
910 offender who has not registered as required under s. 775.21 or
911 s. 943.0435; or

912 3. An offense under chapter 847 involving a child victim
913 which is not otherwise included in subparagraph 1. or
914 subparagraph 2.,

915
916 a criminal justice agency may issue in writing and cause to be

Amendment No. 1

917 served a subpoena requiring the production of any record,
918 object, or other information or testimony described in paragraph
919 (b).

920 (b) A subpoena issued under this section may require:

921 1. The production of any record, object, or other
922 information relevant to the investigation.

923 2. Testimony by the custodian of the record, object, or
924 other information concerning its production and authenticity.

925 (3) CONTENTS OF SUBPOENAS.—A subpoena issued under this
926 section shall describe any record, object, or other information
927 required to be produced and prescribe a reasonable return date
928 within which the record, object, or other information can be
929 assembled and made available.

930 (4) WITNESS EXPENSES.—Witnesses subpoenaed under this
931 section shall be reimbursed for fees and mileage at the same
932 rate at which witnesses in the courts of this state are
933 reimbursed.

934 (5) PETITIONS BEFORE RETURN DATE.—At any time before the
935 return date specified in the subpoena, the recipient of the
936 subpoena may, in the circuit court of the county in which the
937 recipient conducts business or resides, petition for an order
938 modifying or setting aside the subpoena or the requirement for
939 nondisclosure of certain information under subsection (6).

940 (6) NONDISCLOSURE.—

941 (a)1. If a subpoena issued under this section is

Amendment No. 1

942 accompanied by a written certification under subparagraph 2. and
943 notice under paragraph (c), the recipient of the subpoena, and a
944 person to whom information is disclosed under subparagraph
945 (b)1., shall not disclose, for a period of 180 days, to any
946 person the existence or contents of the subpoena.

947 2. The requirement in subparagraph 1. applies if the
948 criminal justice agency that issued the subpoena certifies in
949 writing that the disclosure may result in one or more of the
950 following circumstances:

- 951 a. Endangering a person's life or physical safety;
- 952 b. Encouraging a person's flight from prosecution;
- 953 c. Destruction of or tampering with evidence;
- 954 d. Intimidation of potential witnesses; or
- 955 e. Otherwise seriously jeopardizing an investigation or
956 unduly delaying a trial.

957 (b)1. A recipient of a subpoena may disclose information
958 subject to the nondisclosure requirement in subparagraph (a)1.
959 to:

- 960 a. A person to whom disclosure is necessary in order to
961 comply with the subpoena;
- 962 b. An attorney in order to obtain legal advice or
963 assistance regarding the subpoena; or
- 964 c. Any other person as authorized by the criminal justice
965 agency that issued the subpoena.

966 2. A recipient of a subpoena who discloses to a person

Amendment No. 1

967 described in subparagraph 1. information subject to the
968 nondisclosure requirement shall notify such person of the
969 nondisclosure requirement by providing the person with a copy of
970 the subpoena. A person to whom information is disclosed under
971 subparagraph 1. is subject to the nondisclosure requirement in
972 subparagraph (a)1.

973 3. At the request of the criminal justice agency that
974 issued the subpoena, a recipient of a subpoena who discloses or
975 intends to disclose to a person described in sub-subparagraph
976 1.a. or sub-subparagraph 1.b. information subject to the
977 nondisclosure requirement shall provide to the criminal justice
978 agency the identity of the person to whom such disclosure was or
979 will be made.

980 (c)1. The nondisclosure requirement imposed under
981 paragraph (a) is subject to judicial review under subsection
982 (13).

983 2. A subpoena issued under this section, in connection
984 with which a nondisclosure requirement under paragraph (a) is
985 imposed, shall include:

986 a. Notice of the nondisclosure requirement and the
987 availability of judicial review.

988 b. Notice that a violation of the nondisclosure
989 requirement is subject to the penalties provided in paragraph
990 (11) (b) .

991 (d) The nondisclosure requirement in paragraph (a) may be

Amendment No. 1

992 extended under subsection (13).

993 (7) EXCEPTIONS TO PRODUCTION.—A subpoena issued under this
994 section shall not require the production of anything that is
995 protected from production under the standards applicable to a
996 subpoena duces tecum issued by a court of this state.

997 (8) RETURN OF RECORDS AND OBJECTS.—If a case or proceeding
998 resulting from the production of any record, object, or other
999 information under this section does not arise within a
1000 reasonable period of time after such production, the criminal
1001 justice agency to which it was delivered shall, upon written
1002 demand made by the person producing it, return the record,
1003 object, or other information to such person, unless the record
1004 was a copy and not an original.

1005 (9) TIME OF PRODUCTION.—A subpoena issued under this
1006 section may require production of any record, object, or other
1007 information as soon as possible, but the recipient of the
1008 subpoena must have at least 24 hours after he or she is served
1009 to produce the record, object, or other information.

1010 (10) SERVICE.—A subpoena issued under this section may be
1011 served as provided in chapter 48.

1012 (11) ENFORCEMENT.—

1013 (a) If a recipient of a subpoena under this section
1014 refuses to comply with the subpoena, the criminal justice agency
1015 may invoke the aid of any circuit court described in subsection
1016 (5) or of the circuit court of the county in which the

Amendment No. 1

1017 authorized investigation is being conducted. Such court may
1018 issue an order requiring the recipient of a subpoena to appear
1019 before the criminal justice agency that issued the subpoena to
1020 produce any record, object, or other information or to testify
1021 concerning the production and authenticity of the record,
1022 object, or other information. Any failure to comply with an
1023 order under this paragraph may be punished by the court as a
1024 contempt of court. All process in any such case may be served in
1025 any county in which such person may be found.

1026 (b) A recipient of a subpoena, or a person to whom
1027 information is disclosed under subparagraph(6) (b)1., who
1028 knowingly violates:

1029 1. A nondisclosure requirement imposed under paragraph (6) (a)
1030 commits a noncriminal violation punishable as provided in s.
1031 775.083. Each person to whom a disclosure is made in violation
1032 of this subparagraph constitutes a separate violation subject to
1033 a separate fine.

1034 2. A nondisclosure requirement ordered by the court under this
1035 section may be held in contempt of court.

1036 (12) IMMUNITY.—Notwithstanding any other law, any person,
1037 including any officer, agent, or employee, receiving a subpoena
1038 under this section who complies in good faith with the subpoena
1039 and produces or discloses any record, object, or other
1040 information sought is not liable in any court in this state to
1041 any customer or other person for such production or disclosure.

Amendment No. 1

(13) JUDICIAL REVIEW OF NONDISCLOSURE REQUIREMENT.—

(a)1.a. If a recipient of a subpoena under this section, or a person to whom information is disclosed under subparagraph (6) (b)1., wishes to have a court review a nondisclosure requirement under subsection (6), such recipient or person may notify the criminal justice agency issuing the subpoena or file a petition for judicial review in the circuit court described in subsection (5).

b. Within 30 days after the date on which the criminal justice agency receives the notification under sub-subparagraph a., the criminal justice agency shall apply for an order prohibiting the disclosure of the existence or contents of the subpoena. An application under this sub-subparagraph may be filed in the circuit court described in subsection (5) or in the circuit court of the county in which the authorized investigation is being conducted.

c. The nondisclosure requirement shall remain in effect during the pendency of proceedings relating to the requirement.

d. A circuit court that receives a petition under sub-subparagraph a. or an application under sub-subparagraph b. shall rule on such petition or application as expeditiously as possible.

2. An application for a nondisclosure order or extension thereof or a response to a petition filed under this paragraph must include a certification from the criminal justice agency

Amendment No. 1

1067 that issued the subpoena indicating that the disclosure of such
1068 information may result in one or more of the circumstances
1069 described in subparagraph (6) (a)2.

1070 3. A circuit court shall issue a nondisclosure order or
1071 extension thereof under this paragraph if it determines that
1072 there is reason to believe that disclosure of such information
1073 may result in one or more of the circumstances described in
1074 subparagraph (6) (a)2.

1075 4. Upon a showing that any of the circumstances described
1076 in subparagraph (6) (a)2. continue to exist, a circuit court may
1077 issue an ex parte order extending a nondisclosure order imposed
1078 under this section for an additional 180 days. There is no limit
1079 on the number of nondisclosure extensions that may be granted
1080 under this subparagraph.

1081 (b) In all proceedings under this subsection, subject to
1082 any right to an open hearing in a contempt proceeding, a circuit
1083 court must close any hearing to the extent necessary to prevent
1084 the unauthorized disclosure of a request for records, objects,
1085 or other information made to any person under this section.
1086 Petitions, filings, records, orders, certifications, and
1087 subpoenas must also be kept under seal to the extent and as long
1088 as necessary to prevent the unauthorized disclosure of any
1089 information under this section.

1090 Section 28. Section 796.001, Florida Statutes, is amended
1091 to read:

Amendment No. 1

1092 796.001 Offenses by adults involving minors; intent.—It is
1093 the intent of the Legislature that adults who involve minors in
1094 any behavior prohibited under this chapter be prosecuted under
1095 other laws of this state, such as, but not limited to, s.
1096 787.06, chapter 794, chapter 800, s. 810.145, former s. 827.071
1097 ~~chapter 827~~, and chapter 847. The Legislature finds that
1098 prosecution of such adults under this chapter is inappropriate
1099 since a minor is unable to consent to such behavior.

1100 Section 29. Section 827.071, Florida Statutes, is
1101 repealed.

1102 Section 30. Subsections (3), (8), and (16) of section
1103 847.001, Florida Statutes, are amended to read:

1104 847.001 Definitions.—As used in this chapter, the term:

1105 (3) "Child pornography" has the same meaning as provided
1106 in s. 847.0137 ~~means any image depicting a minor engaged in~~
1107 ~~sexual conduct.~~

1108 (8) "Minor" or "child" means a ~~any~~ person under the age of
1109 18 years.

1110 (16) "Sexual conduct" means actual or simulated sexual
1111 intercourse, deviate sexual intercourse, sexual bestiality,
1112 masturbation, or sadomasochistic abuse; actual or simulated lewd
1113 exhibition of the genitals; actual physical contact with a
1114 person's clothed or unclothed genitals, pubic area, buttocks,
1115 or, if such person is a female, breast with the intent to arouse
1116 or gratify the sexual desire of either party; or any act or

Amendment No. 1

1117 | conduct which constitutes sexual battery or simulates that
1118 | sexual battery is being or will be committed. A mother's
1119 | breastfeeding of her baby does not under any circumstance
1120 | constitute "sexual conduct."

1121 | Section 31. Section 847.003, Florida Statutes, is created
1122 | to read:

1123 | 847.003 Sexual performance by a child; penalties.—

1124 | (1) As used in this section, the term:

1125 | (a) "Performance" means a play, motion picture,
1126 | photograph, or dance or other visual representation exhibited
1127 | before an audience.

1128 | (b) "Promote" means to procure, manufacture, issue, sell,
1129 | give, provide, lend, mail, deliver, transfer, transmute,
1130 | publish, distribute, circulate, disseminate, present, exhibit,
1131 | or advertise or to offer or agree to do the same.

1132 | (c) "Sexual performance" means a performance or part
1133 | thereof which includes sexual conduct by a child.

1134 | (2) A person who, knowing the character and content
1135 | thereof, employs, authorizes, or induces a child to engage in a
1136 | sexual performance or, being a parent, legal guardian, or
1137 | custodian of such child, consents to the participation by such
1138 | child in a sexual performance commits the offense of use of a
1139 | child in a sexual performance, a felony of the second degree,
1140 | punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1141 | (3) A person who, knowing the character and content

Amendment No. 1

1142 thereof, produces, directs, or promotes a performance that
1143 includes sexual conduct by a child commits the offense of
1144 promoting a sexual performance by a child, a felony of the
1145 second degree, punishable as provided in s. 775.082, s. 775.083,
1146 or s. 775.084.

1147 Section 32. Subsections (2), (3), and (4) of section
1148 847.0135, Florida Statutes, are amended to read:

1149 847.0135 Computer pornography; child exploitation
1150 ~~prohibited computer usage; traveling to meet minor; penalties.-~~

1151 (2) COMPUTER PORNOGRAPHY.—A person who:

1152 (a) Knowingly compiles, enters into, or transmits by use
1153 of computer;

1154 (b) Makes, prints, publishes, or reproduces by other
1155 computerized means;

1156 (c) Knowingly causes or allows to be entered into or
1157 transmitted by use of computer; or

1158 (d) Buys, sells, receives, exchanges, or disseminates,
1159

1160 a any notice, statement, or advertisement of a any minor's name,
1161 telephone number, place of residence, physical characteristics,
1162 or other descriptive or identifying information for purposes of
1163 facilitating, encouraging, offering, or soliciting sexual
1164 conduct of or with a any minor, or the visual depiction of such
1165 conduct, commits a felony of the third degree, punishable as
1166 provided in s. 775.082, s. 775.083, or s. 775.084. The fact that

Amendment No. 1

1167 an undercover operative or law enforcement officer was involved
1168 in the detection and investigation of an offense under this
1169 section shall not constitute a defense to a prosecution under
1170 this section.

1171 (3) CERTAIN USES OF COMPUTER SERVICES OR DEVICES
1172 PROHIBITED.—~~A~~ ~~Any~~ person who knowingly uses a computer online
1173 service, Internet service, local bulletin board service, or ~~any~~
1174 other device capable of electronic data storage or transmission
1175 to:

1176 (a) Seduce, solicit, lure, or entice, or attempt to
1177 seduce, solicit, lure, or entice, a child or another person
1178 believed by the person to be a child, to commit an ~~any~~ illegal
1179 act described in chapter 794, chapter 800, former s. 827.071 ~~or~~
1180 ~~chapter 827,~~ s. 847.003, or s. 847.0137, or to otherwise engage
1181 in ~~any~~ unlawful sexual conduct with a child or with another
1182 person believed by the person to be a child; or

1183 (b) Solicit, lure, or entice, or attempt to solicit, lure,
1184 or entice a parent, legal guardian, or custodian of a child or a
1185 person believed to be a parent, legal guardian, or custodian of
1186 a child to consent to the participation of such child in an ~~any~~
1187 act described in chapter 794, chapter 800, former s. 827.071 ~~or~~
1188 ~~chapter 827,~~ s. 847.003, or s. 847.0137, or to otherwise engage
1189 in ~~any~~ sexual conduct,

1190
1191 commits a felony of the third degree, punishable as provided in

Amendment No. 1

1192 s. 775.082, s. 775.083, or s. 775.084. ~~A Any~~ person who, in
1193 violating this subsection, misrepresents his or her age, commits
1194 a felony of the second degree, punishable as provided in s.
1195 775.082, s. 775.083, or s. 775.084. Each separate use of a
1196 computer online service, Internet service, local bulletin board
1197 service, or ~~any~~ other device capable of electronic data storage
1198 or transmission wherein an offense described in this section is
1199 committed may be charged as a separate offense.

1200 (4) TRAVELING TO MEET A MINOR.—~~A Any~~ person who travels
1201 any distance either within this state, to this state, or from
1202 this state by any means, who attempts to do so, or who causes
1203 another to do so or to attempt to do so for the purpose of
1204 engaging in an any illegal act described in chapter 794, chapter
1205 800, former s. 827.071 or chapter 827, s. 847.003, or s.
1206 847.0137, or to otherwise engage in other unlawful sexual
1207 conduct with a child or with another person believed by the
1208 person to be a child after using a computer online service,
1209 Internet service, local bulletin board service, or ~~any~~ other
1210 device capable of electronic data storage or transmission to:

1211 (a) Seduce, solicit, lure, or entice or attempt to seduce,
1212 solicit, lure, or entice a child or another person believed by
1213 the person to be a child, to engage in an any illegal act
1214 described in chapter 794, chapter 800, former s. 827.071 or
1215 chapter 827, s. 847.003, or s. 847.0137, or to otherwise engage
1216 in other unlawful sexual conduct with a child; or

Amendment No. 1

1217 (b) Solicit, lure, or entice or attempt to solicit, lure,
1218 or entice a parent, legal guardian, or custodian of a child or a
1219 person believed to be a parent, legal guardian, or custodian of
1220 a child to consent to the participation of such child in an ~~any~~
1221 act described in chapter 794, chapter 800, former s. 827.071 ~~or~~
1222 ~~chapter 827,~~ s. 847.003, or s. 847.0137, or to otherwise engage
1223 in ~~any~~ sexual conduct,
1224

1225 commits a felony of the second degree, punishable as provided in
1226 s. 775.082, s. 775.083, or s. 775.084.

1227 Section 33. Subsection (1) of section 847.01357, Florida
1228 Statutes, is amended to read:

1229 847.01357 Exploited children's civil remedy.—

1230 (1) A ~~Any~~ person who, while under the age of 18, was a
1231 victim of a sexual abuse crime listed in chapter 794, chapter
1232 800, former s. 827.071 ~~chapter 827,~~ or chapter 847, where any
1233 portion of such abuse was used in the production of child
1234 pornography, and who suffers personal or psychological injury as
1235 a result of the production, promotion, or possession of such
1236 images or movies, may bring an action in an appropriate state
1237 court against the producer, promoter, or possessor of such
1238 images or movies, regardless of whether the victim is now an
1239 adult. In any action brought under this section, a prevailing
1240 plaintiff shall recover the actual damages such person sustained
1241 and the cost of the suit, including reasonable attorney

Amendment No. 1

1242 ~~attorney's~~ fees. A ~~Any~~ victim who is awarded damages under this
1243 section shall be deemed to have sustained damages of at least
1244 \$150,000.

1245 Section 34. Section 847.0137, Florida Statutes, is amended
1246 to read:

1247 847.0137 Child pornography; Transmission of pornography by
1248 ~~electronic device or equipment prohibited acts; penalties.-~~

1249 (1) For purposes of this section, the term:

1250 (a) ~~"Minor" means any person less than 18 years of age.~~

1251 "Child pornography" means a visual depiction of sexual conduct,
1252 in which:

1253 1. The production of such visual depiction involves the
1254 use of a minor engaging in sexual conduct; or

1255 2. Such visual depiction has been created, adapted, or
1256 modified to appear that an identifiable minor is engaging in
1257 sexual conduct.

1258 (b) "Identifiable minor" means a person who is
1259 recognizable as an actual person by the person's face, likeness,
1260 or other distinguishing characteristic, such as a unique
1261 birthmark, or other recognizable feature and:

1262 1. Who was a minor at the time the visual depiction was
1263 created, adapted, or modified; or

1264 2. Whose image as a minor was used in creating, adapting,
1265 or modifying the visual depiction.

1266

835589 - Amendment.docx

Published On: 4/12/2017 2:42:09 PM

Amendment No. 1

1267 This paragraph does not require proof of the actual identity of
1268 the identifiable minor.

1269 (c) "Intentionally view" means to deliberately,
1270 purposefully, and voluntarily view. Proof of intentional viewing
1271 requires establishing that a person deliberately, purposefully,
1272 and voluntarily viewed more than one visual depiction over any
1273 period of time.

1274 (d) "Promote" means to procure, manufacture, issue, sell,
1275 give, provide, lend, mail, deliver, transfer, transmute,
1276 publish, distribute, circulate, disseminate, present, exhibit,
1277 or advertise or to offer or agree to do the same.

1278 (e) ~~(b)~~ "Transmit" means the act of sending and causing to
1279 be delivered, including the act of providing access for
1280 receiving and causing to be delivered, a visual depiction any
1281 image, information, or data ~~from one or more persons or places~~
1282 ~~to one or more other persons or places~~ over or through any
1283 medium, including the Internet or an interconnected network, by
1284 use of ~~any~~ electronic equipment or other device.

1285 (f) "Visual depiction" includes, but is not limited to, a
1286 photograph, picture, image, motion picture, film, video,
1287 representation, or computer or computer-generated image or
1288 picture, whether made or produced by electronic, mechanical, or
1289 other means. The term also includes undeveloped film and
1290 videotape, data stored on computer disk or by electronic means
1291 which is capable of conversion into a visual image, and data

Amendment No. 1

1292 that is capable of conversion into a visual image that has been
1293 transmitted by any means, whether stored in a permanent or
1294 nonpermanent format.

1295 (2) (a) It is unlawful for a person to possess, with the
1296 intent to promote, child pornography. The possession of three or
1297 more visual depictions of child pornography is prima facie
1298 evidence of an intent to promote. A person who violates this
1299 paragraph commits a felony of the second degree, punishable as
1300 provided in s. 775.082, s. 775.083, or s. 775.084.

1301 (b) It is unlawful for a person to knowingly possess,
1302 control, or intentionally view child pornography. The
1303 possession, control, or intentional viewing of each visual
1304 depiction of child pornography is a separate offense. If the
1305 visual depiction includes sexual conduct by more than one minor,
1306 each minor in each visual depiction that is knowingly possessed,
1307 controlled, or intentionally viewed is a separate offense. A
1308 person who violates this paragraph commits a felony of the third
1309 degree, punishable as provided in s. 775.082, s. 775.083, or s.
1310 775.084.

1311 (c) This subsection does not apply to child pornography
1312 possessed, controlled, or intentionally viewed as part of a law
1313 enforcement investigation.

1314 (d) Prosecution of a person for an offense under this
1315 subsection does not prohibit prosecution of that person in this
1316 state for a violation of any law of this state, including a law

Amendment No. 1

1317 providing for greater penalties than prescribed in this section
1318 or for any other crime punishing the sexual performance or
1319 sexual

1320
1321
1322 -----
1323 **T I T L E A M E N D M E N T**

1324 Remove lines 9-211 and insert:

1325 of Children and Families which require the department to provide
1326 notice to the school superintendent; conforming provisions to
1327 changes made by the act; amending s. 39.0139, F.S.; revising the
1328 type of offenses that create a rebuttable presumption of
1329 detriment for judicial determinations related to contact between
1330 a parent or caregiver and certain child victims; conforming
1331 provisions to changes made by the act; amending s. 39.301, F.S.;
1332 conforming provisions to changes made by the act; amending s.
1333 39.509, F.S.; revising the offenses that may be considered in
1334 determining whether grandparental visitation is in the child's
1335 best interest; conforming provisions to changes made by the act;
1336 amending s. 90.404, F.S.; conforming provisions to changes made
1337 by the act; amending s. 92.56, F.S.; revising the offenses for
1338 which a criminal defendant may seek an order of disclosure for
1339 certain confidential and exempt court records, for which the
1340 state may use a pseudonym instead of the victim's name, and for
1341 which a publication or broadcast of trial testimony may not

Amendment No. 1

1342 include certain victim identifying information; conforming
1343 provisions to changes made by the act; amending ss. 92.561,
1344 92.565, and 435.04, F.S.; conforming provisions to changes made
1345 by the act; amending s. 435.07, F.S.; revising the offenses that
1346 disqualify certain child care personnel from specified
1347 employment; conforming provisions to changes made by the act;
1348 amending s. 456.074, F.S.; revising the offenses for which the
1349 licenses of massage therapists and massage establishments must
1350 be suspended; conforming provisions to changes made by the act;
1351 amending ss. 480.041 and 480.043, F.S.; revising the offenses
1352 for which applications for licensure as a massage therapist or
1353 massage establishment must be denied; conforming provisions to
1354 changes made by the act; amending s. 743.067, F.S.; revising the
1355 offenses for which an unaccompanied homeless youth may consent
1356 to specified treatment, care, and examination; conforming
1357 provisions to changes made by the act; amending ss. 772.102 and
1358 775.082, F.S.; conforming provisions to changes made by the act;
1359 amending s. 775.0847, F.S.; revising definitions; conforming
1360 provisions to changes made by the act; amending ss. 775.0877,
1361 775.21, 775.215, 784.046, and 794.0115, F.S.; conforming
1362 provisions to changes made by the act; amending s. 794.024,
1363 F.S.; revising the offenses for which certain victim information
1364 may not be disclosed by public employees or officers; providing
1365 penalties; conforming provisions to changes made by the act;
1366 amending s. 794.056, F.S.; conforming provisions to changes made

Amendment No. 1

1367 by the act; creating s. 794.10, F.S.; providing definitions;
1368 authorizing subpoenas in certain investigations of sexual
1369 offenses involving child victims and specifying requirements
1370 therefor; providing for specified reimbursement of witnesses;
1371 authorizing certain motions; requiring nondisclosure of the
1372 existence or contents of the subpoenas in certain circumstances;
1373 providing exceptions to such nondisclosure requirement;
1374 requiring certain notice to be provided in a subpoena that
1375 contains a nondisclosure requirement; exempting certain records,
1376 objects, and other information from production; providing for
1377 the return of records, objects, and other information produced;
1378 specifying time periods within which records, objects, and other
1379 information must be returned; providing for service and
1380 enforcement of the subpoenas; providing penalties for a
1381 violation of the subpoena or nondisclosure requirement;
1382 providing immunity for certain persons complying with the
1383 subpoenas in certain circumstances; providing for judicial
1384 review and extension of such nondisclosure requirement and
1385 specifying requirements therefor; amending s. 796.001, F.S.;
1386 conforming provisions to changes made by the act; repealing s.
1387 827.071, F.S., relating to sexual performance by a child;
1388 amending s. 847.001, F.S.; revising definitions; creating s.
1389 847.003, F.S.; providing definitions; prohibiting a person from
1390 using a child in a sexual performance or promoting a sexual
1391 performance by a child; providing penalties; amending s.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 7049 (2017)

Amendment No. 1

1392 847.0135, F.S.; providing for separate offenses of computer
1393 pornography and child exploitation under certain circumstances;
1394 conforming provisions to changes made by the act; amending s.
1395 847.01357, F.S.; conforming provisions to changes made by the
1396 act; amending s. 847.0137, F.S.; revising and providing
1397 definitions; prohibiting a person from possessing, with the
1398 intent to promote, child pornography; prohibiting a person from
1399 knowingly possessing, controlling, or intentionally viewing
1400 child pornography; providing penalties; providing application
1401 and construction; providing for separate offenses of
1402 transmission of child pornography under certain circumstances;
1403 amending ss. 856.022, 895.02, 905.34, and 934.07, F.S.;
1404 conforming provisions to changes made by the act; amending s.
1405 938.085, F.S.; revising the offenses for which a surcharge to be
1406 deposited into the Rape Crisis Program Trust Fund shall be
1407 imposed; conforming provisions to changes made by the act;
1408 amending s. 938.10, F.S.; revising the offenses for which an
1409 additional court cost shall be imposed; conforming provisions to
1410 changes made by the act; amending ss. 943.0435, 943.04354,
1411 943.0585, 943.059, 944.606, 944.607, and 947.1405, F.S.;
1412 conforming provisions to changes made by the act; amending s.
1413 948.013, F.S.; revising the list of offenses that make an
1414 offender ineligible for placement on administrative probation
1415 during specified time periods; amending ss. 948.03, and 948.04,
1416 F.S.; conforming provisions to changes made by the act; amending

835589 - Amendment.docx

Published On: 4/12/2017 2:42:09 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 7049 (2017)

Amendment No. 1

1417 s. 948.06, F.S.; revising the offenses that constitute a
1418 qualifying offense for purposes relating to a violation of
1419 probation or community control; conforming provisions to changes
1420 made by the act; amending ss. 948.062, 948.101, 948.30, 948.32,
1421 960.03, and 960.197, F.S.; conforming provisions to changes made
1422 by the act; amending s. 985.04, F.S.; revising the types of
1423 offenses committed by a child in certain custody or supervision
1424 of the Department of Juvenile Justice which require the
1425 department to provide notice to the school superintendent;
1426 conforming provisions to changes made by the act; amending ss.
1427 985.475 and 1012.315, F.S.; conforming provisions to changes
1428 made by the act; amending s. 921.0022, F.S.; ranking the offense
1429 of solicitation of a child via a computer service while
1430 misrepresenting one's age on the offense severity ranking chart;
1431 conforming provisions to changes made by the act; providing a
1432 directive to the Division of Law Revision and Information;
1433 reenacting ss. 39.402(9)(a), 39.506(6), 39.509(6)(b),
1434 39.521(3)(d), 39.524(1), 39.806(1)(d) and (n), 63.089(4)(b),
1435 63.092(3), 68.07(3)(i) and (6), 92.55(1)(b), 92.605(1)(b),
1436 322.141(3), 381.004(2)(h), 384.29(1)(c) and (3), 390.01114(2)(b)
1437 and (e), 393.067(4)(h), (7), and (9), 394.495(4)(p),
1438 394.9125(2)(a), 397.4872(2)(a) and (c), 409.1678(1)(c) and
1439 (6)(a) and (b), 435.07(4)(b), 655.50(3)(g), 741.313(1)(e),
1440 775.084(4)(j), 775.0862(2), 775.13(4)(e) and (f), 775.21(3)(b),
1441 (5)(d), (6)(f), and (10)(c), 775.24(2), 775.25, 775.261(3)(b),

835589 - Amendment.docx

Published On: 4/12/2017 2:42:09 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 7049 (2017)

Amendment No. 1

1442 784.049(2)(d), 794.011(2)(a), (3), (4), and (5), 794.03,
1443 794.075(1), 847.002(1)(b), (2), and (3), 847.012(3)(b),
1444 847.01357(3), 847.0138(2) and (3), 896.101(2)(g) and (10),
1445 903.0351(1)(b) and (c), 903.046(2)(m), 905.34(3),
1446 921.0022(3)(g), 921.141(6)(o), 921.187(1)(n), 943.0435(3),
1447 (4)(a), and (5), 943.0436(2), 943.325(2)(g), 944.11(2),
1448 944.607(4)(a) and (9), 944.608(7), 944.609(4), 944.70(1),
1449 947.13(1)(f), 947.1405(2)(c) and (12), 947.141(1), (2), and (7),
1450 948.06(8)(b) and (d), 948.063, 948.064(4), 948.08(7)(a),
1451 948.12(3), 948.30(3)(b) and (4), 948.31, 951.27, 960.003(2)(a)
1452 and (b) and (3)(a), 960.065(5), 984.03(2), 985.0301(5)(c),
1453 985.04(6)(b), 985.441(1)(c), 985.4815(9), and 1012.467(2)(g),
1454 F.S., relating to placement in a shelter, arraignment hearings,
1455 grandparents rights, disposition hearings, safe-harbor
1456 placement, grounds for termination of parental rights,
1457 proceedings to terminate parental rights pending adoption,
1458 report to the court of intended placement by an adoption entity,
1459 change of name, proceedings involving certain victims or
1460 witnesses, production of certain records, color or markings of
1461 certain licenses or identification cards, HIV testing,
1462 confidentiality, the Parental Notice of Abortion Act, facility
1463 licensure, the child and adolescent mental health system of
1464 care, authority of a State Attorney to refer a person for civil
1465 commitment, exemption from disqualification, specialized
1466 residential options for children who are victims of sexual

835589 - Amendment.docx

Published On: 4/12/2017 2:42:09 PM

Amendment No. 1

1467 exploitation, exemptions from disqualification, Florida Control
1468 of Money Laundering and Terrorist Financing in Financial
1469 Institutions Act, unlawful action against employees seeking
1470 protection, violent career criminals, habitual felony offenders,
1471 and habitual violent felony offenders, sexual offenses against
1472 students by authority figures, registration of convicted felons,
1473 the Florida Sexual Predators Act, duty of the court to uphold
1474 laws governing sexual predators and sexual offenders,
1475 prosecutions for acts or omissions, career offender
1476 registration, sexual cyberharassment, sexual battery, publishing
1477 or broadcasting information identifying sexual offense victims,
1478 sexual predators and erectile dysfunction drugs, child
1479 pornography prosecutions, sale or distribution of harmful
1480 materials to minors or using minors in production, civil
1481 remedies for exploited children, transmission of material
1482 harmful to minors to a minor by electronic devices, the Florida
1483 Money Laundering Act, restrictions on pretrial release pending
1484 probation-violation hearings or community-control-violation
1485 hearings, purposes of and criteria for bail determination, the
1486 powers and duties of a statewide grand jury, the offense
1487 severity ranking chart of the Criminal Punishment Code, sentence
1488 of death or life imprisonment for capital felonies, disposition
1489 and sentencing alternatives, sexual offenders required to
1490 register with the Department of Law Enforcement, duty of the
1491 court to uphold laws governing sexual predators and sexual

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 7049 (2017)

Amendment No. 1

1492 offenders, DNA database, regulation by the Department of
1493 Corrections of the admission of books, notification to the
1494 Department of Law Enforcement of information on sexual
1495 offenders, notification to the Department of Law Enforcement
1496 concerning career offenders, career offenders and notification
1497 upon release, conditions for release from incarceration, powers
1498 and duties of the Florida Commission on Offender Review,
1499 conditional release