

2019160e1

1                   A bill to be entitled  
2           An act relating to prohibited acts in connection with  
3           obscene or lewd materials; amending s. 847.011, F.S.;  
4           prohibiting a person from knowingly selling, lending,  
5           giving away, distributing, transmitting, showing, or  
6           transmuting; offering to commit such actions; having  
7           in his or her possession, custody, or control with the  
8           intent to commit such actions; or advertising in any  
9           manner an obscene, child-like sex doll; providing  
10          criminal penalties; prohibiting a person from  
11          knowingly having in his or her possession, custody, or  
12          control an obscene, child-like sex doll without the  
13          intent to commit certain actions; providing criminal  
14          penalties; reenacting ss. 772.102(1)(a), 847.02,  
15          847.03, 847.09(2), 895.02(8)(a), 921.0022(3)(f),  
16          933.02, 933.03, and 943.325(2)(g), F.S., relating to  
17          the definition of the term "criminal activity," the  
18          confiscation of obscene material, an officer seizing  
19          obscene material, legislative intent, the definition  
20          of the term "racketeering activity," level 6 of the  
21          offense severity ranking chart, grounds for the  
22          issuance of a search warrant, destruction of obscene  
23          prints and literature, and the definition of the term  
24          "qualifying offender," respectively, to incorporate  
25          the amendment made to s. 847.011, F.S., in references  
26          thereto; providing an effective date.

27  
28   Be It Enacted by the Legislature of the State of Florida:  
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2019160e1

30 Section 1. Present subsections (5) through (10) of section  
31 847.011, Florida Statutes, are redesignated as subsections (6)  
32 through (11), respectively, and a new subsection (5) is added to  
33 that section, to read:

34 847.011 Prohibition of certain acts in connection with  
35 obscene, lewd, etc., materials; penalty.—

36 (5) (a) 1. A person may not knowingly sell, lend, give away,  
37 distribute, transmit, show, or transmute; offer to sell, lend,  
38 give away, distribute, transmit, show, or transmute; have in his  
39 or her possession, custody, or control with the intent to sell,  
40 lend, give away, distribute, transmit, show, or transmute; or  
41 advertise in any manner an obscene, child-like sex doll.

42 2.a. Except as provided in sub-subparagraph b., a person  
43 who violates this paragraph commits a felony of the third  
44 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
45 775.084.

46 b. A person who is convicted of violating this paragraph a  
47 second or subsequent time commits a felony of the second degree,  
48 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

49 (b) 1. Except as provided in subparagraph 2., a person who  
50 knowingly has in his or her possession, custody, or control an  
51 obscene, child-like sex doll commits a misdemeanor of the first  
52 degree, punishable as provided in s. 775.082 or s. 775.083.

53 2. A person who is convicted of violating this paragraph a  
54 second or subsequent time commits a felony of the third degree,  
55 punishable as provided in s. 775.082 or s. 775.083.

56 Section 2. For the purpose of incorporating the amendment  
57 made by this act to section 847.011, Florida Statutes, in a  
58 reference thereto, paragraph (a) of subsection (1) of section

2019160e1

59 772.102, Florida Statutes, is reenacted to read:

60 772.102 Definitions.—As used in this chapter, the term:

61 (1) "Criminal activity" means to commit, to attempt to  
62 commit, to conspire to commit, or to solicit, coerce, or  
63 intimidate another person to commit:

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

66 1. Section 210.18, relating to evasion of payment of  
67 cigarette taxes.

68 2. Section 414.39, relating to public assistance fraud.

69 3. Section 440.105 or s. 440.106, relating to workers'  
70 compensation.

71 4. Part IV of chapter 501, relating to telemarketing.

72 5. Chapter 517, relating to securities transactions.

73 6. Section 550.235 or s. 550.3551, relating to dogracing  
74 and horseracing.

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

76 8. Chapter 552, relating to the manufacture, distribution,  
77 and use of explosives.

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

79 10. Section 624.401, relating to transacting insurance  
80 without a certificate of authority, s. 624.437(4)(c)1., relating  
81 to operating an unauthorized multiple-employer welfare  
82 arrangement, or s. 626.902(1)(b), relating to representing or  
83 aiding an unauthorized insurer.

84 11. Chapter 687, relating to interest and usurious  
85 practices.

86 12. Section 721.08, s. 721.09, or s. 721.13, relating to  
87 real estate timeshare plans.

2019160e1

- 88 13. Chapter 782, relating to homicide.
- 89 14. Chapter 784, relating to assault and battery.
- 90 15. Chapter 787, relating to kidnapping or human  
91 trafficking.
- 92 16. Chapter 790, relating to weapons and firearms.
- 93 17. Former s. 796.03, s. 796.04, s. 796.05, or s. 796.07,  
94 relating to prostitution.
- 95 18. Chapter 806, relating to arson.
- 96 19. Section 810.02(2)(c), relating to specified burglary of  
97 a dwelling or structure.
- 98 20. Chapter 812, relating to theft, robbery, and related  
99 crimes.
- 100 21. Chapter 815, relating to computer-related crimes.
- 101 22. Chapter 817, relating to fraudulent practices, false  
102 pretenses, fraud generally, and credit card crimes.
- 103 23. Section 827.071, relating to commercial sexual  
104 exploitation of children.
- 105 24. Chapter 831, relating to forgery and counterfeiting.
- 106 25. Chapter 832, relating to issuance of worthless checks  
107 and drafts.
- 108 26. Section 836.05, relating to extortion.
- 109 27. Chapter 837, relating to perjury.
- 110 28. Chapter 838, relating to bribery and misuse of public  
111 office.
- 112 29. Chapter 843, relating to obstruction of justice.
- 113 30. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or  
114 s. 847.07, relating to obscene literature and profanity.
- 115 31. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s.  
116 849.25, relating to gambling.

2019160e1

117 32. Chapter 893, relating to drug abuse prevention and  
118 control.

119 33. Section 914.22 or s. 914.23, relating to witnesses,  
120 victims, or informants.

121 34. Section 918.12 or s. 918.13, relating to tampering with  
122 jurors and evidence.

123 Section 3. For the purpose of incorporating the amendment  
124 made by this act to section 847.011, Florida Statutes, in a  
125 reference thereto, section 847.02, Florida Statutes, is  
126 reenacted to read:

127 847.02 Confiscation of obscene material.—Whenever anyone is  
128 convicted under s. 847.011, the court in awarding sentence shall  
129 make an order confiscating said obscene material and authorize  
130 the sheriff of the county in which the material is held to  
131 destroy the same. The sheriff shall file with the court a  
132 certificate of his or her compliance.

133 Section 4. For the purpose of incorporating the amendment  
134 made by this act to section 847.011, Florida Statutes, in a  
135 reference thereto, section 847.03, Florida Statutes, is  
136 reenacted to read:

137 847.03 Officer to seize obscene material.—Whenever any  
138 officer arrests any person charged with any offense under s.  
139 847.011, the officer shall seize said obscene material and take  
140 the same into his or her custody to await the sentence of the  
141 court upon the trial of the offender.

142 Section 5. For the purpose of incorporating the amendment  
143 made by this act to section 847.011, Florida Statutes, in a  
144 reference thereto, subsection (2) of section 847.09, Florida  
145 Statutes, is reenacted to read:

2019160e1

146 847.09 Legislative intent.—

147 (2) Nothing in ss. 847.07-847.09 shall be construed to  
148 repeal or in any way supersede the provisions of s. 847.011, s.  
149 847.012, or s. 847.013.

150 Section 6. For the purpose of incorporating the amendment  
151 made by this act to section 847.011, Florida Statutes, in a  
152 reference thereto, paragraph (a) of subsection (8) of section  
153 895.02, Florida Statutes, is reenacted to read:

154 895.02 Definitions.—As used in ss. 895.01-895.08, the term:

155 (8) "Racketeering activity" means to commit, to attempt to  
156 commit, to conspire to commit, or to solicit, coerce, or  
157 intimidate another person to commit:

158 (a) Any crime that is chargeable by petition, indictment,  
159 or information under the following provisions of the Florida  
160 Statutes:

161 1. Section 210.18, relating to evasion of payment of  
162 cigarette taxes.

163 2. Section 316.1935, relating to fleeing or attempting to  
164 elude a law enforcement officer and aggravated fleeing or  
165 eluding.

166 3. Section 403.727(3)(b), relating to environmental  
167 control.

168 4. Section 409.920 or s. 409.9201, relating to Medicaid  
169 fraud.

170 5. Section 414.39, relating to public assistance fraud.

171 6. Section 440.105 or s. 440.106, relating to workers'  
172 compensation.

173 7. Section 443.071(4), relating to creation of a fictitious  
174 employer scheme to commit reemployment assistance fraud.

2019160e1

- 175           8. Section 465.0161, relating to distribution of medicinal  
176 drugs without a permit as an Internet pharmacy.
- 177           9. Section 499.0051, relating to crimes involving  
178 contraband, adulterated, or misbranded drugs.
- 179           10. Part IV of chapter 501, relating to telemarketing.
- 180           11. Chapter 517, relating to sale of securities and  
181 investor protection.
- 182           12. Section 550.235 or s. 550.3551, relating to dogracing  
183 and horseracing.
- 184           13. Chapter 550, relating to jai alai frontons.
- 185           14. Section 551.109, relating to slot machine gaming.
- 186           15. Chapter 552, relating to the manufacture, distribution,  
187 and use of explosives.
- 188           16. Chapter 560, relating to money transmitters, if the  
189 violation is punishable as a felony.
- 190           17. Chapter 562, relating to beverage law enforcement.
- 191           18. Section 624.401, relating to transacting insurance  
192 without a certificate of authority, s. 624.437(4)(c)1., relating  
193 to operating an unauthorized multiple-employer welfare  
194 arrangement, or s. 626.902(1)(b), relating to representing or  
195 aiding an unauthorized insurer.
- 196           19. Section 655.50, relating to reports of currency  
197 transactions, when such violation is punishable as a felony.
- 198           20. Chapter 687, relating to interest and usurious  
199 practices.
- 200           21. Section 721.08, s. 721.09, or s. 721.13, relating to  
201 real estate timeshare plans.
- 202           22. Section 775.13(5)(b), relating to registration of  
203 persons found to have committed any offense for the purpose of

2019160e1

204 benefiting, promoting, or furthering the interests of a criminal  
205 gang.

206 23. Section 777.03, relating to commission of crimes by  
207 accessories after the fact.

208 24. Chapter 782, relating to homicide.

209 25. Chapter 784, relating to assault and battery.

210 26. Chapter 787, relating to kidnapping or human  
211 trafficking.

212 27. Chapter 790, relating to weapons and firearms.

213 28. Chapter 794, relating to sexual battery, but only if  
214 such crime was committed with the intent to benefit, promote, or  
215 further the interests of a criminal gang, or for the purpose of  
216 increasing a criminal gang member's own standing or position  
217 within a criminal gang.

218 29. Former s. 796.03, former s. 796.035, s. 796.04, s.  
219 796.05, or s. 796.07, relating to prostitution.

220 30. Chapter 806, relating to arson and criminal mischief.

221 31. Chapter 810, relating to burglary and trespass.

222 32. Chapter 812, relating to theft, robbery, and related  
223 crimes.

224 33. Chapter 815, relating to computer-related crimes.

225 34. Chapter 817, relating to fraudulent practices, false  
226 pretenses, fraud generally, credit card crimes, and patient  
227 brokering.

228 35. Chapter 825, relating to abuse, neglect, or  
229 exploitation of an elderly person or disabled adult.

230 36. Section 827.071, relating to commercial sexual  
231 exploitation of children.

232 37. Section 828.122, relating to fighting or baiting

2019160e1

233 animals.

234 38. Chapter 831, relating to forgery and counterfeiting.

235 39. Chapter 832, relating to issuance of worthless checks  
236 and drafts.

237 40. Section 836.05, relating to extortion.

238 41. Chapter 837, relating to perjury.

239 42. Chapter 838, relating to bribery and misuse of public  
240 office.

241 43. Chapter 843, relating to obstruction of justice.

242 44. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or  
243 s. 847.07, relating to obscene literature and profanity.

244 45. Chapter 849, relating to gambling, lottery, gambling or  
245 gaming devices, slot machines, or any of the provisions within  
246 that chapter.

247 46. Chapter 874, relating to criminal gangs.

248 47. Chapter 893, relating to drug abuse prevention and  
249 control.

250 48. Chapter 896, relating to offenses related to financial  
251 transactions.

252 49. Sections 914.22 and 914.23, relating to tampering with  
253 or harassing a witness, victim, or informant, and retaliation  
254 against a witness, victim, or informant.

255 50. Sections 918.12 and 918.13, relating to tampering with  
256 jurors and evidence.

257 Section 7. For the purpose of incorporating the amendment  
258 made by this act to section 847.011, Florida Statutes, in a  
259 reference thereto, paragraph (f) of subsection (3) of section  
260 921.0022, Florida Statutes, is reenacted to read:

261 921.0022 Criminal Punishment Code; offense severity ranking

2019160e1

262	chart.—		
263	(3) OFFENSE SEVERITY RANKING CHART		
264	(f) LEVEL 6		
265			
	Florida	Felony	
	Statute	Degree	Description
266	316.027 (2) (b)	2nd	Leaving the scene of a crash involving serious bodily injury.
267	316.193 (2) (b)	3rd	Felony DUI, 4th or subsequent conviction.
268	400.9935 (4) (c)	2nd	Operating a clinic, or offering services requiring licensure, without a license.
269	499.0051 (2)	2nd	Knowing forgery of transaction history, transaction information, or transaction statement.
270	499.0051 (3)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.

2019160e1

271	499.0051 (4)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.
272	775.0875 (1)	3rd	Taking firearm from law enforcement officer.
273	784.021 (1) (a)	3rd	Aggravated assault; deadly weapon without intent to kill.
274	784.021 (1) (b)	3rd	Aggravated assault; intent to commit felony.
275	784.041	3rd	Felony battery; domestic battery by strangulation.
276	784.048 (3)	3rd	Aggravated stalking; credible threat.
277	784.048 (5)	3rd	Aggravated stalking of person under 16.
278	784.07 (2) (c)	2nd	Aggravated assault on law enforcement officer.
279	784.074 (1) (b)	2nd	Aggravated assault on

2019160e1

280	784.08 (2) (b)	2nd	sexually violent predators facility staff. Aggravated assault on a person 65 years of age or older.
281	784.081 (2)	2nd	Aggravated assault on specified official or employee.
282	784.082 (2)	2nd	Aggravated assault by detained person on visitor or other detainee.
283	784.083 (2)	2nd	Aggravated assault on code inspector.
284	787.02 (2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
285	790.115 (2) (d)	2nd	Discharging firearm or weapon on school property.
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2019160e1

287	790.161 (2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property.
288	790.164 (1)	2nd	False report concerning bomb, explosive, weapon of mass destruction, act of arson or violence to state property, or use of firearms in violent manner.
289	790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.
290	794.011 (8) (a)	3rd	Solicitation of minor to participate in sexual activity by custodial adult.
291	794.05 (1)	2nd	Unlawful sexual activity with specified minor.
	800.04 (5) (d)	3rd	Lewd or lascivious molestation; victim 12 years of age or older

2019160e1

			but less than 16 years of age; offender less than 18 years.
292	800.04 (6) (b)	2nd	Lewd or lascivious conduct; offender 18 years of age or older.
293	806.031 (2)	2nd	Arson resulting in great bodily harm to firefighter or any other person.
294	810.02 (3) (c)	2nd	Burglary of occupied structure; unarmed; no assault or battery.
295	810.145 (8) (b)	2nd	Video voyeurism; certain minor victims; 2nd or subsequent offense.
296	812.014 (2) (b) 1.	2nd	Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree.
297	812.014 (6)	2nd	Theft; property stolen \$3,000 or more; coordination of others.

2019160e1

298	812.015 (9) (a)	2nd	Retail theft; property stolen \$300 or more; second or subsequent conviction.
299	812.015 (9) (b)	2nd	Retail theft; property stolen \$3,000 or more; coordination of others.
300	812.13 (2) (c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).
301	817.4821 (5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.
302	817.505 (4) (b)	2nd	Patient brokering; 10 or more patients.
303	825.102 (1)	3rd	Abuse of an elderly person or disabled adult.
304	825.102 (3) (c)	3rd	Neglect of an elderly person or disabled adult.

2019160e1

305	825.1025 (3)	3rd	Lewd or lascivious molestation of an elderly person or disabled adult.
306	825.103 (3) (c)	3rd	Exploiting an elderly person or disabled adult and property is valued at less than \$10,000.
307	827.03 (2) (c)	3rd	Abuse of a child.
308	827.03 (2) (d)	3rd	Neglect of a child.
309	827.071 (2) & (3)	2nd	Use or induce a child in a sexual performance, or promote or direct such performance.
310	836.05	2nd	Threats; extortion.
311	836.10	2nd	Written threats to kill, do bodily injury, or conduct a mass shooting or an act of terrorism.
312	843.12	3rd	Aids or assists person to escape.

2019160e1

313	847.011	3rd	Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors.
314	847.012	3rd	Knowingly using a minor in the production of materials harmful to minors.
315	847.0135 (2)	3rd	Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.
316	914.23	2nd	Retaliation against a witness, victim, or informant, with bodily injury.
317	944.35 (3) (a) 2.	3rd	Committing malicious battery upon or inflicting cruel or inhuman treatment on an inmate or offender on

2019160e1

community supervision,  
 resulting in great  
 bodily harm.

318

944.40 2nd Escapes.

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944.46 3rd Harboring, concealing,  
 aiding escaped  
 prisoners.

320

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

321

951.22 (1) 3rd Intoxicating drug,  
 firearm, or weapon  
 introduced into county  
 facility.

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323 Section 8. For the purpose of incorporating the amendment  
 324 made by this act to section 847.011, Florida Statutes, in a  
 325 reference thereto, section 933.02, Florida Statutes, is  
 326 reenacted to read:

327 933.02 Grounds for issuance of search warrant.—Upon proper  
 328 affidavits being made, a search warrant may be issued under the  
 329 provisions of this chapter upon any of the following grounds:

330 (1) When the property shall have been stolen or embezzled

2019160e1

331 in violation of law;

332 (2) When any property shall have been used:

333 (a) As a means to commit any crime;

334 (b) In connection with gambling, gambling implements and  
335 appliances; or

336 (c) In violation of s. 847.011 or other laws in reference  
337 to obscene prints and literature;

338 (3) When any property constitutes evidence relevant to  
339 proving that a felony has been committed;

340 (4) When any property is being held or possessed:

341 (a) In violation of any of the laws prohibiting the  
342 manufacture, sale, and transportation of intoxicating liquors;

343 (b) In violation of the fish and game laws;

344 (c) In violation of the laws relative to food and drug; or

345 (d) In violation of the laws relative to citrus disease  
346 pursuant to s. 581.184; or

347 (5) When the laws in relation to cruelty to animals, as  
348 provided in chapter 828, have been or are violated in any  
349 particular building or place.

350

351 This section also applies to any papers or documents used as a  
352 means of or in aid of the commission of any offense against the  
353 laws of the state.

354 Section 9. For the purpose of incorporating the amendment  
355 made by this act to section 847.011, Florida Statutes, in a  
356 reference thereto, section 933.03, Florida Statutes, is  
357 reenacted to read:

358 933.03 Destruction of obscene prints and literature.—All  
359 obscene prints and literature, or other things mentioned in s.

2019160e1

360 847.011 found by an officer in executing a search warrant, or  
361 produced or brought into court, shall be safely kept so long as  
362 is necessary for the purpose of being used as evidence in any  
363 case, and as soon as may be afterwards, shall be destroyed by  
364 order of the court before whom the case is brought.

365 Section 10. For the purpose of incorporating the amendment  
366 made by this act to section 847.011, Florida Statutes, in a  
367 reference thereto, paragraph (g) of subsection (2) of section  
368 943.325, Florida Statutes, is reenacted to read:

369 943.325 DNA database.—

370 (2) DEFINITIONS.—As used in this section, the term:

371 (g) "Qualifying offender" means any person, including  
372 juveniles and adults, who is:

373 1.a. Committed to a county jail;

374 b. Committed to or under the supervision of the Department  
375 of Corrections, including persons incarcerated in a private  
376 correctional institution operated under contract pursuant to s.  
377 944.105;

378 c. Committed to or under the supervision of the Department  
379 of Juvenile Justice;

380 d. Transferred to this state under the Interstate Compact  
381 on Juveniles, part XIII of chapter 985; or

382 e. Accepted under Article IV of the Interstate Corrections  
383 Compact, part III of chapter 941; and who is:

384 2.a. Convicted of any felony offense or attempted felony  
385 offense in this state or of a similar offense in another  
386 jurisdiction;

387 b. Convicted of a misdemeanor violation of s. 784.048, s.  
388 810.14, s. 847.011, s. 847.013, s. 847.0135, or s. 877.26, or an

2019160e1

389 offense that was found, pursuant to s. 874.04, to have been  
390 committed for the purpose of benefiting, promoting, or  
391 furthering the interests of a criminal gang as defined in s.  
392 874.03; or

393 c. Arrested for any felony offense or attempted felony  
394 offense in this state.

395 Section 11. This act shall take effect October 1, 2019.