

1 A bill to be entitled
2 An act relating to sexually explicit material;
3 amending s. 775.0847, F.S.; revising definitions;
4 defining the term "identifiable minor"; revising the
5 list of circumstances under which specified offenses
6 may be reclassified; amending s. 784.049, F.S.;
7 increasing the monetary damages an aggrieved person
8 may receive as a result of sexual cyberharassment;
9 amending s. 827.071, F.S.; revising and providing
10 definitions; conforming provisions to changes made by
11 the act; creating s. 836.13, F.S.; providing
12 definitions; prohibiting the willful and malicious
13 promotion of altered sexual depictions without
14 consent; providing criminal penalties; providing a
15 civil cause of action; providing applicability;
16 providing construction; creating s. 836.14, F.S.;
17 providing definitions; prohibiting a person from
18 obtaining, possessing, or promoting sexually explicit
19 images without consent and with specified intent;
20 providing criminal penalties; providing a civil cause
21 of action; providing applicability; providing
22 construction; amending s. 847.001, F.S.; revising
23 definitions; defining the terms "identifiable minor"
24 and "promote"; amending s. 847.011, F.S.; increasing a
25 penalty relating to child-like sex dolls; amending s.

26 847.0137, F.S.; deleting the definition of the term
 27 "minor"; redefining the term "transmit"; amending s.
 28 921.0022, F.S.; ranking offenses created by this act
 29 on the Criminal Punishment Code offense severity
 30 ranking chart; conforming provisions to changes made
 31 by the act; amending ss. 288.1254 and 847.0141, F.S.;
 32 conforming cross-references; providing an effective
 33 date.

34
 35 Be It Enacted by the Legislature of the State of Florida:

36
 37 Section 1. Section 775.0847, Florida Statutes, is amended
 38 to read:

39 775.0847 Possession or promotion of certain images of
 40 child pornography; reclassification.—

41 (1) For purposes of this section:

42 (a) "Child" or "minor" means any person, whose identity is
 43 known or unknown, younger ~~less~~ than 18 years of age.

44 (b) "Child pornography" means:

45 1. Any image depicting a minor engaged in sexual conduct;
 46 or

47 2. Any image that has been created, altered, adapted, or
 48 modified by electronic, mechanical, or other means, to portray
 49 an identifiable minor engaged in sexual conduct.

50 (c) "Identifiable minor" means a person:

51 1. Who was a minor at the time the image was created,
52 adapted, or modified, or whose image as a minor was used in the
53 creation, adaption, or modification of the image; and

54 2. Who is recognizable as an actual person by the person's
55 face, likeness, or other distinguishing characteristic, such as
56 a unique birthmark, or other recognizable feature.

57
58 The term may not be construed to require proof of the actual
59 identity of the identifiable minor.

60 (d)-(e) "Sadomasochistic abuse" means flagellation or
61 torture by or upon a person or the condition of being fettered,
62 bound, or otherwise physically restrained, for the purpose of
63 deriving sexual satisfaction, or satisfaction brought about as a
64 result of sadistic violence, from inflicting harm on another or
65 receiving such harm oneself.

66 (e)-(d) "Sexual battery" means oral, anal, or vaginal
67 penetration by, or union with, the sexual organ of another or
68 the anal or vaginal penetration of another by any other object;
69 however, sexual battery does not include an act done for a bona
70 fide medical purpose.

71 (f)-(e) "Sexual bestiality" means any sexual act, actual or
72 simulated, between a person and an animal involving the sex
73 organ of the one and the mouth, anus, or vagina of the other.

74 (g)-(f) "Sexual conduct" means actual or simulated sexual
75 intercourse, deviate sexual intercourse, sexual bestiality,

76 | masturbation, or sadomasochistic abuse; actual or simulated lewd
 77 | exhibition of the genitals; actual physical contact with a
 78 | person's clothed or unclothed genitals, pubic area, buttocks,
 79 | or, if such person is a female, breast with the intent to arouse
 80 | or gratify the sexual desire of either party; or any act or
 81 | conduct which constitutes sexual battery or simulates that
 82 | sexual battery is being or will be committed. A mother's
 83 | breastfeeding of her baby does not under any circumstance
 84 | constitute "sexual conduct."

85 | (2) A violation of s. 827.071, s. 847.0135, s. 847.0137,
 86 | or s. 847.0138 shall be reclassified to the next higher degree
 87 | as provided in subsection (3) if:

88 | (a) The offender possesses 10 or more images of any form
 89 | of child pornography regardless of content; and

90 | (b) The content of at least one image contains one or more
 91 | of the following:

- 92 | 1. A child who is younger than the age of 5.
- 93 | 2. Sadomasochistic abuse involving a child.
- 94 | 3. Sexual battery involving a child.
- 95 | 4. Sexual bestiality involving a child.

96 | 5. Any motion picture, film, video, or computer-generated
 97 | motion picture, film, or video ~~movie~~ involving a child,
 98 | regardless of length and regardless of whether the motion
 99 | picture, film, video, or computer-generated motion picture,
 100 | film, or video ~~movie~~ contains sound.

101 (3) (a) In the case of a felony of the third degree, the
 102 offense is reclassified to a felony of the second degree.

103 (b) In the case of a felony of the second degree, the
 104 offense is reclassified to a felony of the first degree.

105
 106 For purposes of sentencing under chapter 921 and determining
 107 incentive gain-time eligibility under chapter 944, a felony
 108 offense that is reclassified under this section is ranked one
 109 level above the ranking under s. 921.0022 or s. 921.0023 of the
 110 offense committed.

111 Section 2. Paragraph (b) of subsection (5) of section
 112 784.049, Florida Statutes, is amended to read:

113 784.049 Sexual cyberharassment.—

114 (5) An aggrieved person may initiate a civil action
 115 against a person who violates this section to obtain all
 116 appropriate relief in order to prevent or remedy a violation of
 117 this section, including the following:

118 (b) Monetary damages to include \$10,000 ~~\$5,000~~ or actual
 119 damages incurred as a result of a violation of this section,
 120 whichever is greater.

121 Section 3. Section 827.071, Florida Statutes, is amended
 122 to read:

123 827.071 Sexual performance by a child; child pornography;
 124 penalties.—

125 (1) As used in this section, the following definitions

126 shall apply:

127 (a) "Child" or "minor" means any person, whose identity is
 128 known or unknown, younger than 18 years of age.

129 (b) "Child pornography" means:

130 1. Any image depicting a minor engaged in sexual conduct;

131 or

132 2. Any image that has been created, altered, adapted, or
 133 modified by electronic, mechanical, or other means, to portray
 134 an identifiable minor engaged in sexual conduct.

135 (c)-(a) "Deviate sexual intercourse" means sexual conduct
 136 between persons not married to each other consisting of contact
 137 between the penis and the anus, the mouth and the penis, or the
 138 mouth and the vulva.

139 (d) "Identifiable minor" means a person:

140 1. Who was a minor at the time the image was created,
 141 adapted, or modified, or whose image as a minor was used in the
 142 creation, adaption, or modification of the image; and

143 2. Who is recognizable as an actual person by the person's
 144 face, likeness, or other distinguishing characteristic, such as
 145 a unique birthmark, or other recognizable feature.

146
 147 The term may not be construed to require proof of the actual
 148 identity of the identifiable minor.

149 (e)-(b) "Intentionally view" means to deliberately,
 150 purposefully, and voluntarily view. Proof of intentional viewing

151 requires establishing more than a single image, motion picture,
152 exhibition, show, ~~image~~, data, computer depiction,
153 representation, or other presentation over any period of time.

154 (f)~~(e)~~ "Performance" means any play, motion picture,
155 photograph, or dance or any other visual representation
156 exhibited before an audience.

157 (g)~~(d)~~ "Promote" means to procure, manufacture, issue,
158 sell, give, provide, lend, mail, deliver, transfer, transmit,
159 transmute, publish, distribute, circulate, disseminate, present,
160 exhibit, send, post, share, or advertise or to offer or agree to
161 do the same.

162 (h)~~(e)~~ "Sadomasochistic abuse" means flagellation or
163 torture by or upon a person, or the condition of being fettered,
164 bound, or otherwise physically restrained, for the purpose of
165 deriving sexual satisfaction from inflicting harm on another or
166 receiving such harm oneself.

167 (i)~~(f)~~ "Sexual battery" means oral, anal, or vaginal
168 penetration by, or union with, the sexual organ of another or
169 the anal or vaginal penetration of another by any other object;
170 however, "sexual battery" does not include an act done for a
171 bona fide medical purpose.

172 (j)~~(g)~~ "Sexual bestiality" means any sexual act between a
173 person and an animal involving the sex organ of the one and the
174 mouth, anus, or vagina of the other.

175 (k)~~(h)~~ "Sexual conduct" means actual or simulated sexual

176 intercourse, deviate sexual intercourse, sexual bestiality,
177 masturbation, or sadomasochistic abuse; actual or simulated lewd
178 exhibition of the genitals; actual physical contact with a
179 person's clothed or unclothed genitals, pubic area, buttocks,
180 or, if such person is a female, breast, with the intent to
181 arouse or gratify the sexual desire of either party; or any act
182 or conduct which constitutes sexual battery or simulates that
183 sexual battery is being or will be committed. A mother's
184 breastfeeding of her baby does not under any circumstance
185 constitute "sexual conduct."

186 (l)~~(i)~~ "Sexual performance" means any performance or part
187 thereof which includes sexual conduct by a child ~~of less than 18~~
188 ~~years of age.~~

189 (m)~~(j)~~ "Simulated" means the explicit depiction of conduct
190 set forth in paragraph (k) ~~(h)~~ which creates the appearance of
191 such conduct and which exhibits any uncovered portion of the
192 breasts, genitals, or buttocks.

193 (2) A person is guilty of the use of a child in a sexual
194 performance if, knowing the character and content thereof, he or
195 she employs, authorizes, or induces a child ~~less than 18 years~~
196 ~~of age~~ to engage in a sexual performance or, being a parent,
197 legal guardian, or custodian of such child, consents to the
198 participation by such child in a sexual performance. A person
199 who ~~whoever~~ violates this subsection commits ~~is guilty of~~ a
200 felony of the second degree, punishable as provided in s.

201 775.082, s. 775.083, or s. 775.084.

202 (3) A person is guilty of promoting a sexual performance
 203 by a child when, knowing the character and content thereof, he
 204 or she produces, directs, or promotes any performance which
 205 includes sexual conduct by a child ~~less than 18 years of age~~. A
 206 person who ~~Whoever~~ violates this subsection commits ~~is guilty of~~
 207 a felony of the second degree, punishable as provided in s.
 208 775.082, s. 775.083, or s. 775.084.

209 (4) It is unlawful for any person to possess with the
 210 intent to promote any photograph, motion picture, exhibition,
 211 show, representation, or other presentation which, in whole or
 212 in part, includes child pornography ~~any sexual conduct by a~~
 213 ~~child~~. The possession of three or more copies of such
 214 photograph, motion picture, representation, or presentation is
 215 prima facie evidence of an intent to promote. A person who
 216 ~~Whoever~~ violates this subsection commits ~~is guilty of~~ a felony
 217 of the second degree, punishable as provided in s. 775.082, s.
 218 775.083, or s. 775.084.

219 (5)(a) It is unlawful for any person to knowingly possess,
 220 control, or intentionally view a photograph, motion picture,
 221 exhibition, show, representation, image, data, computer
 222 depiction, or other presentation which, in whole or in part, he
 223 or she knows to include child pornography ~~any sexual conduct by~~
 224 ~~a child~~. The possession, control, or intentional viewing of each
 225 such photograph, motion picture, exhibition, show, image, data,

226 computer depiction, representation, or presentation is a
 227 separate offense. If such photograph, motion picture,
 228 exhibition, show, representation, image, data, computer
 229 depiction, or other presentation includes child pornography
 230 ~~sexual conduct by~~ more than one child, then each such child in
 231 each such photograph, motion picture, exhibition, show,
 232 representation, image, data, computer depiction, or other
 233 presentation that is knowingly possessed, controlled, or
 234 intentionally viewed is a separate offense. A person who
 235 violates this paragraph ~~subsection~~ commits a felony of the third
 236 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 237 775.084.

238 (b) Paragraph (a) ~~This subsection~~ does not apply to any
 239 material possessed, controlled, or intentionally viewed as part
 240 of a law enforcement investigation.

241 (6) Prosecution of a ~~any~~ person for an offense under this
 242 section does ~~shall~~ not prohibit prosecution of that person in
 243 this state for a violation of any other law of this state,
 244 including a law providing for greater penalties than prescribed
 245 in this section or any other crime punishing the sexual
 246 performance or the sexual exploitation of children.

247 Section 4. Section 836.13, Florida Statutes, is created to
 248 read:

249 836.13 Promotion of an altered sexual depiction;
 250 prohibited acts; penalties; applicability.-

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

252 (a) "Altered sexual depiction" means any visual depiction

253 that, as a result of any type of digital, electronic,

254 mechanical, or other modification, alteration, or adaptation,

255 depicts a realistic version of an identifiable person:

256 1. With the nude body parts of another person as the nude

257 body parts of the identifiable person;

258 2. With computer-generated nude body parts as the nude

259 body parts of the identifiable person; or

260 3. Engaging in sexual conduct as defined in s. 847.001 in

261 which the identifiable person did not engage.

262 (b) "Identifiable person" means a person who is

263 recognizable as an actual person by the person's face, likeness,

264 or other distinguishing characteristic, such as a unique

265 birthmark, or other recognizable feature.

266 (c) "Nude body parts" means the human male or female

267 genitals, pubic area, or buttocks with less than a fully opaque

268 covering; or the female breast with less than a fully opaque

269 covering of any portion thereof below the top of the nipple; or

270 the depiction of covered male genitals in a discernibly turgid

271 state. The term does not under any circumstances include a

272 mother breastfeeding her baby.

273 (d) "Promote" means to procure, manufacture, issue, sell,

274 give, provide, lend, mail, deliver, transfer, transmit,

275 transmute, publish, distribute, circulate, disseminate, present,

276 exhibit, send, post, share, or advertise or to offer or agree to
 277 do the same.

278 (e) "Visual depiction" includes, but is not limited to, a
 279 photograph, picture, image, motion picture, film, video, or
 280 other visual representation.

281 (2) A person who willfully and maliciously promotes an
 282 altered sexual depiction of an identifiable person, without the
 283 consent of the identifiable person, and who knows or reasonably
 284 should have known that such visual depiction was an altered
 285 sexual depiction, commits a felony of the third degree,
 286 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

287 (3) Every act, thing, or transaction prohibited by this
 288 section constitutes a separate offense and is punishable as
 289 such.

290 (4) The presence of a disclaimer within an altered sexual
 291 depiction which notifies a viewer that the person or persons
 292 depicted did not consent to or participate in the creation or
 293 promotion of the material, or that the person or persons
 294 depicted did not actually perform the actions portrayed, is not
 295 a defense and does not relieve a person of criminal liability
 296 under this section.

297 (5) An aggrieved person may initiate a civil action
 298 against a person who violates subsection (2) to obtain
 299 appropriate relief in order to prevent or remedy a violation of
 300 subsection (2), including all of the following:

301 (a) Injunctive relief.

302 (b) Monetary damages to include \$10,000 or actual damages
 303 incurred as a result of a violation of subsection (2), whichever
 304 is greater.

305 (c) Reasonable attorney fees and costs.

306 (6) The criminal and civil penalties of this section do
 307 not apply to:

308 (a) A provider of an interactive computer service as
 309 defined in 47 U.S.C. s. 230(f), an information service as
 310 defined in 47 U.S.C. s. 153, or a communications service as
 311 defined in s. 202.11, which provides the transmission, storage,
 312 or caching of:

313 1. Electronic communications or messages of others;

314 2. Another related telecommunications or commercial mobile
 315 radio service; or

316 3. Content provided by another person;

317 (b) A law enforcement officer, as defined in s. 943.10(1),
 318 or any local, state, federal, or military law enforcement agency
 319 that promotes an altered sexual depiction in connection with the
 320 performance of his or her duties as a law enforcement officer or
 321 the duties of the law enforcement agency;

322 (c) A person reporting unlawful activity; or

323 (d) A person participating in a hearing, trial, or other
 324 legal proceeding.

325 (7) A violation of this section is committed within this

326 state if any conduct that is an element of the offense, or any
 327 harm to the depicted person resulting from the offense, occurs
 328 within this state.

329 Section 5. Section 836.14, Florida Statutes, is created to
 330 read:

331 836.14 Unlawfully obtaining, possessing, or promoting a
 332 sexually explicit image.—

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

334 (a) "Identifiable person" has the same meaning as in s.
 335 836.13.

336 (b) "Obtain" means to appropriate to one's own use or to
 337 the use of any other person not entitled thereto.

338 (c) "Promote" means to procure, manufacture, issue, sell,
 339 give, provide, lend, mail, deliver, transfer, transmit,
 340 transmute, publish, distribute, circulate, disseminate, present,
 341 exhibit, send, post, share, or advertise or to offer or agree to
 342 do the same.

343 (d) "Sexually explicit image" means any image depicting
 344 nudity as defined in s. 847.001 or a person engaging in sexual
 345 conduct as defined in s. 847.001.

346 (2) A person who willfully obtains with the intent to
 347 promote a sexually explicit image of an identifiable person
 348 without the identifiable person's authorization commits a felony
 349 of the third degree, punishable as provided in s. 775.082, s.
 350 775.083, or s. 775.084.

351 (3) A person who possesses a sexually explicit image of an
 352 identifiable person with the intent to promote such image for
 353 the purpose of pecuniary or any other financial gain without the
 354 identifiable person's authorization commits a felony of the
 355 third degree, punishable as provided in s. 775.082, s. 775.083,
 356 or s. 775.084.

357 (4) A person who promotes a sexually explicit image of an
 358 identifiable person for the purpose of pecuniary or any other
 359 financial gain without the identifiable person's authorization
 360 commits a felony of the second degree, punishable as provided in
 361 s. 775.082, s. 775.083, or s. 775.084.

362 (5) Every act, thing, or transaction prohibited by this
 363 section constitutes a separate offense and is punishable as
 364 such.

365 (6) An aggrieved person may initiate a civil action
 366 against a person who violates this section to obtain all
 367 appropriate relief in order to prevent or remedy a violation of
 368 this section, including the following:

369 (a) Injunctive relief.

370 (b) Monetary damages to include \$10,000 or actual damages
 371 incurred as a result of a violation of this section, whichever
 372 is greater.

373 (c) Reasonable attorney fees and costs.

374 (7) The criminal and civil penalties of this section do
 375 not apply to:

376 (a) A provider of an interactive computer service as
 377 defined in 47 U.S.C. s. 230(f), an information service as
 378 defined in 47 U.S.C. s. 153, or a communications service as
 379 defined in s. 202.11, which provides the transmission, storage,
 380 or caching of: electronic communications or messages of others;
 381 another related telecommunications or commercial mobile radio
 382 service; or content provided by another person;

383 (b) A law enforcement officer, as defined in s. 943.10(1),
 384 or any local, state, federal, or military law enforcement agency
 385 that promotes a sexually explicit image in connection with the
 386 performance of his or her duties as a law enforcement officer or
 387 the duties of the law enforcement agency;

388 (c) A person reporting unlawful activity;

389 (d) A person participating in a hearing, trial, or other
 390 legal proceeding; or

391 (e) A person promoting a sexually explicit image that
 392 resulted from the voluntary exposure of the person depicted in a
 393 public or commercial setting.

394 (8) A violation of this section is committed within this
 395 state if any conduct that is an element of the offense, or any
 396 harm to the depicted individual resulting from the offense,
 397 occurs within this state.

398 Section 6. Present subsections (7) through (11) and (12)
 399 through (20) of section 847.001, Florida Statutes, are
 400 renumbered as subsections (8) through (12) and (14) through

401 (22), respectively, subsection (3) and present subsections (8),
 402 (16), and (19) of that section, are amended, and new subsections
 403 (7) and (13) are added to that section, to read:

404 847.001 Definitions.—As used in this chapter, the term:

405 (3) "Child pornography" means:

406 (a) Any image depicting a minor engaged in sexual conduct;
 407 or

408 (b) Any image that has been created, altered, adapted, or
 409 modified by electronic, mechanical, or other means, to portray
 410 an identifiable minor engaged in sexual conduct.

411 (7) "Identifiable minor" means a person:

412 (a) Who was a minor at the time the image was created,
 413 adapted, or modified, or whose image as a minor was used in the
 414 creation, adaption, or modification of the image; and

415 (b) Who is recognizable as an actual person by the
 416 person's face, likeness, or other distinguishing characteristic,
 417 such as a unique birthmark, or other recognizable feature.

418
 419 The term may not be construed to require proof of the actual
 420 identity of the identifiable minor.

421 (9)-(8) "Minor" or "child" means any person, whose identity
 422 is known or unknown, younger than under the age of 18 years of
 423 age.

424 (13) "Promote" means to procure, manufacture, issue, sell,
 425 give, provide, lend, mail, deliver, transfer, transmit,

426 transmute, publish, distribute, circulate, disseminate, present,
 427 exhibit, send, post, share, or advertise or to offer or agree to
 428 do the same.

429 (18)~~(16)~~ "Sexual conduct" means actual or simulated sexual
 430 intercourse, deviate sexual intercourse, sexual bestiality,
 431 masturbation, or sadomasochistic abuse; actual or simulated lewd
 432 exhibition of the genitals; actual physical contact with a
 433 person's clothed or unclothed genitals, pubic area, buttocks,
 434 or, if such person is a female, breast with the intent to arouse
 435 or gratify the sexual desire of either party; or any act or
 436 conduct which constitutes sexual battery or simulates that
 437 sexual battery is being or will be committed. A mother's
 438 breastfeeding of her baby does not under any circumstance
 439 constitute "sexual conduct."

440 (21)~~(19)~~ "Simulated" means the explicit depiction of
 441 conduct described in subsection (18) ~~(16)~~ which creates the
 442 appearance of such conduct and which exhibits any uncovered
 443 portion of the breasts, genitals, or buttocks.

444 Section 7. Subsection (5) of section 847.011, Florida
 445 Statutes, is amended to read:

446 847.011 Prohibition of certain acts in connection with
 447 obscene, lewd, etc., materials; penalty.—

448 (5)(a)1. A person may not knowingly sell, lend, give away,
 449 distribute, transmit, show, or transmute; offer to sell, lend,
 450 give away, distribute, transmit, show, or transmute; have in his

451 or her possession, custody, or control with the intent to sell,
 452 lend, give away, distribute, transmit, show, or transmute; or
 453 advertise in any manner an obscene, child-like sex doll.

454 2.a. Except as provided in sub-subparagraph b., a person
 455 who violates this paragraph commits a felony of the third
 456 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 457 775.084.

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

461 ~~(b)1. Except as provided in subparagraph 2.,~~ A person who
 462 knowingly has in his or her possession, custody, or control an
 463 obscene, child-like sex doll commits a felony ~~misdemeanor~~ of the
 464 third ~~first~~ degree, punishable as provided in s. 775.082, ~~or~~ s.
 465 775.083, or 775.084.

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

469 Section 8. Subsection (1) of section 847.0137, Florida
 470 Statutes, is amended to read:

471 847.0137 Transmission of pornography by electronic device
 472 or equipment prohibited; penalties.—

473 (1) As used in this section, the term ~~For purposes of this~~
 474 ~~section:~~

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

476 ~~(b)~~ "Transmit" means the act of sending and causing to be
 477 delivered, including the act of providing access for receiving
 478 and causing to be delivered, any image, information, or data
 479 ~~from one or more persons or places to one or more other persons~~
 480 ~~or places~~ over or through any medium, including the Internet or
 481 an interconnected network, by use of any electronic equipment or
 482 other device.

483
 484 The provisions of this section do not apply to subscription-
 485 based transmissions such as list servers.

486 Section 9. Paragraphs (c), (d), and (e) of subsection (3)
 487 of section 921.0022, Florida Statutes, are amended to read:

488 921.0022 Criminal Punishment Code; offense severity
 489 ranking chart.—

490 (3) OFFENSE SEVERITY RANKING CHART
 491 (c) LEVEL 3

492

Florida Statute	Felony Degree	Description
119.10(2)(b)	3rd	Unlawful use of confidential information from police reports.
316.066	3rd	Unlawfully obtaining or using

493
 494

495	(3) (b) - (d)		confidential crash reports.
496	316.193 (2) (b)	3rd	Felony DUI, 3rd conviction.
497	316.1935 (2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.
498	319.30 (4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
499	319.33 (1) (a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
500	319.33 (1) (c)	3rd	Procure or pass title on stolen vehicle.
501	319.33 (4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.

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502	327.35(2)(b)	3rd	Felony BUI.
503	328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
504	328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
505	376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
506	379.2431 (1)(e)5.	3rd	Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.

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	379.2431 (1) (e) 6.	3rd	Possessing any marine turtle species or hatchling, or parts thereof, or the nest of any marine turtle species described in the Marine Turtle Protection Act.
507	379.2431 (1) (e) 7.	3rd	Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.
508	400.9935 (4) (a) or (b)	3rd	Operating a clinic, or offering services requiring licensure, without a license.
509	400.9935 (4) (e)	3rd	Filing a false license application or other required information or failing to report information.
510	440.1051 (3)	3rd	False report of workers' compensation fraud or retaliation for making such a report.

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511	501.001 (2) (b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
512	624.401 (4) (a)	3rd	Transacting insurance without a certificate of authority.
513	624.401 (4) (b) 1.	3rd	Transacting insurance without a certificate of authority; premium collected less than \$20,000.
514	626.902 (1) (a) & (b)	3rd	Representing an unauthorized insurer.
515	697.08	3rd	Equity skimming.
516	790.15 (3)	3rd	Person directs another to discharge firearm from a vehicle.
517	806.10 (1)	3rd	Maliciously injure, destroy, or interfere with vehicles or

equipment used in firefighting.

518

806.10(2) 3rd Interferes with or assaults
firefighter in performance of
duty.

519

810.09(2)(c) 3rd Trespass on property other than
structure or conveyance armed
with firearm or dangerous
weapon.

520

812.014(2)(c)2. 3rd Grand theft; \$5,000 or more but
less than \$10,000.

521

812.0145(2)(c) 3rd Theft from person 65 years of
age or older; \$300 or more but
less than \$10,000.

522

812.015(8)(b) 3rd Retail theft with intent to
sell; conspires with others.

523

812.081(2) 3rd Theft of a trade secret.

524

815.04(5)(b) 2nd Computer offense devised to
defraud or obtain property.

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525	817.034 (4) (a) 3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000.
526	817.233	3rd	Burning to defraud insurer.
527	817.234 (8) (b) & (c)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.
528	817.234 (11) (a)	3rd	Insurance fraud; property value less than \$20,000.
529	817.236	3rd	Filing a false motor vehicle insurance application.
530	817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
531	817.413 (2)	3rd	Sale of used goods of \$1,000 or more as new.

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532	817.49(2)(b)1.	3rd	Willful making of a false report of a crime causing great bodily harm, permanent disfigurement, or permanent disability.
533	831.28(2)(a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument with intent to defraud.
534	831.29	2nd	Possession of instruments for counterfeiting driver licenses or identification cards.
535	<u>836.13(2)</u>	<u>3rd</u>	<u>Promoting an altered sexual depiction.</u>
	838.021(3)(b)	3rd	Threatens unlawful harm to public servant.
536	843.19	2nd	Injure, disable, or kill police, fire, or SAR canine or

police horse.

537

860.15(3) 3rd Overcharging for repairs and parts.

538

870.01(2) 3rd Riot.

539

870.01(4) 3rd Inciting a riot.

540

893.13(1)(a)2. 3rd Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs).

541

893.13(1)(d)2. 2nd Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs within 1,000 feet of university.

542

893.13(1)(f)2. 2nd Sell, manufacture, or deliver

s. 893.03(1)(c), (2)(c)1.,
 (2)(c)2., (2)(c)3., (2)(c)6.,
 (2)(c)7., (2)(c)8., (2)(c)9.,
 (2)(c)10., (3), or (4) drugs
 within 1,000 feet of public
 housing facility.

543

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

544

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

545

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

546

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

547

548 893.13(7)(a)10. 3rd Affix false or forged label to
package of controlled
substance.

549 893.13(7)(a)11. 3rd Furnish false or fraudulent
material information on any
document or record required by
chapter 893.

550 893.13(8)(a)1. 3rd Knowingly assist a patient,
other person, or owner of an
animal in obtaining a
controlled substance through
deceptive, untrue, or
fraudulent representations in
or related to the
practitioner's practice.

551 893.13(8)(a)2. 3rd Employ a trick or scheme in the
practitioner's practice to
assist a patient, other person,
or owner of an animal in
obtaining a controlled
substance.

552	893.13(8)(a)3.	3rd	Knowingly write a prescription for a controlled substance for a fictitious person.
553	893.13(8)(a)4.	3rd	Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.
554	918.13(1)(a)	3rd	Alter, destroy, or conceal investigation evidence.
555	944.47 (1)(a)1. & 2.	3rd	Introduce contraband to correctional facility.
556	944.47(1)(c)	2nd	Possess contraband while upon the grounds of a correctional institution.
	985.721	3rd	Escapes from a juvenile facility (secure detention or residential commitment

facility).

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(d) LEVEL 4

Florida Statute	Felony Degree	Description
316.1935(3)(a)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
499.0051(1)	3rd	Failure to maintain or deliver transaction history, transaction information, or transaction statements.
499.0051(5)	2nd	Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.
517.07(1)	3rd	Failure to register securities.

565	517.12(1)	3rd	Failure of dealer, associated person, or issuer of securities to register.
566	784.07(2)(b)	3rd	Battery of law enforcement officer, firefighter, etc.
567	784.074(1)(c)	3rd	Battery of sexually violent predators facility staff.
568	784.075	3rd	Battery on detention or commitment facility staff.
569	784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.
570	784.08(2)(c)	3rd	Battery on a person 65 years of age or older.
571	784.081(3)	3rd	Battery on specified official or employee.
	784.082(3)	3rd	Battery by detained person on visitor or other detainee.

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572	784.083 (3)	3rd	Battery on code inspector.
573	784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.
574	787.03 (1)	3rd	Interference with custody; wrongly takes minor from appointed guardian.
575	787.04 (2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.
576	787.04 (3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.
577	787.07	3rd	Human smuggling.
578			

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579	790.115 (1)	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.
580	790.115 (2) (b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
581	790.115 (2) (c)	3rd	Possessing firearm on school property.
582	800.04 (7) (c)	3rd	Lewd or lascivious exhibition; offender less than 18 years.
583	806.135	2nd	Destroying or demolishing a memorial or historic property.
584	810.02 (4) (a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
	810.02 (4) (b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault

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or battery.

585			
	810.06	3rd	Burglary; possession of tools.
586			
	810.08(2)(c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
587			
	812.014(2)(c)3.	3rd	Grand theft, 3rd degree \$10,000 or more but less than \$20,000.
588			
	812.014 (2)(c)4.-10.	3rd	Grand theft, 3rd degree; specified items.
589			
	812.0195(2)	3rd	Dealing in stolen property by use of the Internet; property stolen \$300 or more.
590			
	817.505(4)(a)	3rd	Patient brokering.
591			
	817.563(1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.
592			

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593	817.568 (2) (a)	3rd	Fraudulent use of personal identification information.
594	817.625 (2) (a)	3rd	Fraudulent use of scanning device, skimming device, or reencoder.
595	817.625 (2) (c)	3rd	Possess, sell, or deliver skimming device.
596	828.125 (1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.
	<u>836.14 (2)</u>	<u>3rd</u>	<u>Obtaining with intent to promote a sexually explicit image without authorization.</u>
	<u>836.14 (3)</u>	<u>3rd</u>	<u>Unlawfully possessing a sexually explicit image with intent to promote for pecuniary or any other financial gain.</u>
	837.02 (1)	3rd	Perjury in official

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proceedings.

597

837.021 (1) 3rd Make contradictory statements
in official proceedings.

598

838.022 3rd Official misconduct.

599

839.13(2) (a) 3rd Falsifying records of an
individual in the care and
custody of a state agency.

600

839.13(2) (c) 3rd Falsifying records of the
Department of Children and
Families.

601

843.021 3rd Possession of a concealed
handcuff key by a person in
custody.

602

843.025 3rd Deprive law enforcement,
correctional, or correctional
probation officer of means of
protection or communication.

603

843.15(1) (a) 3rd Failure to appear while on bail

for felony (bond estreature or
bond jumping).

604

847.0135(5)(c) 3rd Lewd or lascivious exhibition
using computer; offender less
than 18 years.

605

870.01(3) 2nd Aggravated rioting.

606

870.01(5) 2nd Aggravated inciting a riot.

607

874.05(1)(a) 3rd Encouraging or recruiting
another to join a criminal
gang.

608

893.13(2)(a)1. 2nd Purchase of cocaine (or other
s. 893.03(1)(a), (b), or (d),
(2)(a), (2)(b), or (2)(c)5.
drugs).

609

914.14(2) 3rd Witnesses accepting bribes.

610

914.22(1) 3rd Force, threaten, etc., witness,
victim, or informant.

611

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612	914.23(2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.
613	916.1085 (2) (c) 1.	3rd	Introduction of specified contraband into certain DCF facilities.
614	918.12	3rd	Tampering with jurors.
615	934.215	3rd	Use of two-way communications device to facilitate commission of a crime.
616	944.47(1) (a) 6.	3rd	Introduction of contraband (cellular telephone or other portable communication device) into correctional institution.
	951.22(1) (h) , (j) & (k)	3rd	Intoxicating drug, instrumentality or other device to aid escape, or cellular telephone or other portable communication device introduced into county detention facility.

617			
618	(e)	LEVEL 5	
619			
	Florida	Felony	Description
	Statute	Degree	
620	316.027 (2) (a)	3rd	Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.
621	316.1935(4) (a)	2nd	Aggravated fleeing or eluding.
622	316.80 (2)	2nd	Unlawful conveyance of fuel; obtaining fuel fraudulently.
623	322.34 (6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
624	327.30 (5)	3rd	Vessel accidents involving personal injury; leaving scene.
625	379.365 (2) (c) 1.	3rd	Violation of rules relating to:

willful molestation of stone crab traps, lines, or buoys; illegal bartering, trading, or sale, conspiring or aiding in such barter, trade, or sale, or supplying, agreeing to supply, aiding in supplying, or giving away stone crab trap tags or certificates; making, altering, forging, counterfeiting, or reproducing stone crab trap tags; possession of forged, counterfeit, or imitation stone crab trap tags; and engaging in the commercial harvest of stone crabs while license is suspended or revoked.

626

379.367 (4) 3rd Willful molestation of a commercial harvester's spiny lobster trap, line, or buoy.

627

379.407 (5) (b) 3. 3rd Possession of 100 or more undersized spiny lobsters.

628

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629	381.0041(11)(b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
630	440.10(1)(g)	2nd	Failure to obtain workers' compensation coverage.
631	440.105(5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
632	440.381(2)	3rd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
633	624.401(4)(b)2.	2nd	Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.
634	626.902(1)(c)	2nd	Representing an unauthorized insurer; repeat offender.
	790.01(2)	3rd	Carrying a concealed firearm.

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635	790.162	2nd	Threat to throw or discharge destructive device.
636	790.163 (1)	2nd	False report of bomb, explosive, weapon of mass destruction, or use of firearms in violent manner.
637	790.221 (1)	2nd	Possession of short-barreled shotgun or machine gun.
638	790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
639	796.05 (1)	2nd	Live on earnings of a prostitute; 1st offense.
640	800.04 (6) (c)	3rd	Lewd or lascivious conduct; offender less than 18 years of age.
641	800.04 (7) (b)	2nd	Lewd or lascivious exhibition; offender 18 years of age or

older.

642

806.111(1) 3rd Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.

643

812.0145(2)(b) 2nd Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.

644

812.015 3rd Retail theft; property stolen (8)(a) & (c) - is valued at \$750 or more and (e) one or more specified acts.

645

812.019(1) 2nd Stolen property; dealing in or trafficking in.

646

812.081(3) 2nd Trafficking in trade secrets.

647

812.131(2)(b) 3rd Robbery by sudden snatching.

648

812.16(2) 3rd Owning, operating, or conducting a chop shop.

649

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650	817.034 (4) (a) 2.	2nd	Communications fraud, value \$20,000 to \$50,000.
651	817.234 (11) (b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
652	817.2341 (1), (2) (a) & (3) (a)	3rd	Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.
653	817.568 (2) (b)	2nd	Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, \$5,000 or more or use of personal identification information of 10 or more persons.
	817.611 (2) (a)	2nd	Traffic in or possess 5 to 14

counterfeit credit cards or
related documents.

654

817.625 (2) (b) 2nd Second or subsequent fraudulent
use of scanning device,
skimming device, or reencoder.

655

825.1025 (4) 3rd Lewd or lascivious exhibition
in the presence of an elderly
person or disabled adult.

656

827.071 (4) 2nd Possess with intent to promote
any photographic material,
motion picture, etc., which
includes ~~sexual conduct by a~~
child pornography.

657

827.071 (5) 3rd Possess, control, or
intentionally view any
photographic material, motion
picture, etc., which includes
~~sexual conduct by a~~ child
pornography.

658

828.12 (2) 3rd Tortures any animal with intent

to inflict intense pain,
serious physical injury, or
death.

659

836.14(4) 2nd Unlawfully promoting a sexually
explicit image for pecuniary or
any other financial gain.

660

839.13(2)(b) 2nd Falsifying records of an
individual in the care and
custody of a state agency
involving great bodily harm or
death.

661

843.01 3rd Resist officer with violence to
person; resist arrest with
violence.

662

847.0135(5)(b) 2nd Lewd or lascivious exhibition
using computer; offender 18
years or older.

663

847.0137 3rd Transmission of pornography by
(2) & (3) electronic device or equipment.

664

665	847.0138 (2) & (3)	3rd	Transmission of material harmful to minors to a minor by electronic device or equipment.
666	874.05(1) (b)	2nd	Encouraging or recruiting another to join a criminal gang; second or subsequent offense.
667	874.05(2) (a)	2nd	Encouraging or recruiting person under 13 years of age to join a criminal gang.
668	893.13(1) (a) 1.	2nd	Sell, manufacture, or deliver cocaine (or other s. 893.03(1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c) 5. drugs).
668	893.13(1) (c) 2.	2nd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 6., (2) (c) 7., (2) (c) 8., (2) (c) 9., (2) (c) 10., (3), or (4) drugs)

within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.

669

893.13(1) (d) 1. 1st Sell, manufacture, or deliver cocaine (or other s. 893.03(1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c) 5. drugs) within 1,000 feet of university.

670

893.13(1) (e) 2. 2nd Sell, manufacture, or deliver cannabis or other drug prohibited under s. 893.03(1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 6., (2) (c) 7., (2) (c) 8., (2) (c) 9., (2) (c) 10., (3), or (4) within 1,000 feet of property used for religious services or a specified business site.

671

893.13(1)(f)1. 1st Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), or (2)(a), (2)(b), or (2)(c)5. drugs) within 1,000 feet of public housing facility.

672

893.13(4)(b) 2nd Use or hire of minor; deliver to minor other controlled substance.

673

893.1351(1) 3rd Ownership, lease, or rental for trafficking in or manufacturing of controlled substance.

674

675 Section 10. Paragraph (j) of subsection (1) of section
676 288.1254, Florida Statutes, is amended to read:

677 288.1254 Entertainment industry financial incentive
678 program.—

679 (1) DEFINITIONS.—As used in this section, the term:

680 (j) "Qualified production" means a production in this
681 state meeting the requirements of this section. The term does
682 not include a production:

683 1. In which, for the first 2 years of the incentive
684 program, less than 50 percent, and thereafter, less than 60

685 percent, of the positions that make up its production cast and
686 below-the-line production crew, or, in the case of digital media
687 projects, less than 75 percent of such positions, are filled by
688 legal residents of this state, whose residency is demonstrated
689 by a valid Florida driver license or other state-issued
690 identification confirming residency, or students enrolled full-
691 time in a film-and-entertainment-related course of study at an
692 institution of higher education in this state; or

693 2. That contains obscene content as defined in s. 847.001
694 ~~s. 847.001(10)~~.

695 Section 11. Subsection (1) of section 847.0141, Florida
696 Statutes, is amended to read:

697 847.0141 Sexting; prohibited acts; penalties.—

698 (1) A minor commits the offense of sexting if he or she
699 knowingly:

700 (a) Uses a computer, or any other device capable of
701 electronic data transmission or distribution, to transmit or
702 distribute to another minor any photograph or video of any
703 person which depicts nudity, as defined in s. 847.001 ~~s.~~
704 ~~847.001(9)~~, and is harmful to minors, as defined in s. 847.001
705 ~~s. 847.001(6)~~.

706 (b) Possesses a photograph or video of any person that was
707 transmitted or distributed by another minor which depicts
708 nudity, as defined in s. 847.001 ~~s. 847.001(9)~~, and is harmful
709 to minors, as defined in s. 847.001 ~~s. 847.001(6)~~. A minor does

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710 | not violate this paragraph if all of the following apply:
711 | 1. The minor did not solicit the photograph or video.
712 | 2. The minor took reasonable steps to report the
713 | photograph or video to the minor's legal guardian or to a school
714 | or law enforcement official.
715 | 3. The minor did not transmit or distribute the photograph
716 | or video to a third party.
717 | Section 12. This act shall take effect October 1, 2022.