

By the Committee on Criminal Justice; and Senator Book

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

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30 enforcement officers to arrest certain persons without
31 a warrant; authorizing a search warrant to be issued
32 for further investigation upon proper affidavits being
33 made; amending 847.0137, F.S.; deleting the definition
34 of the term "minor"; redefining the term "transmit";
35 conforming provisions to changes made by the act;
36 amending s. 921.0022, F.S.; ranking offenses created
37 by this act for purposes of the severity ranking chart
38 of the Criminal Punishment Code; conforming provisions
39 to changes made by the act; amending s. 960.03, F.S.;
40 replacing the term "child pornography" with the term
41 "child sexual abuse material"; conforming provisions
42 to changes made by the act; amending ss. 288.1254 and
43 847.0141, F.S.; conforming cross-references; amending
44 ss. 39.0138, 92.56, 92.561, 435.07, 456.074, 847.002,
45 847.01357, 847.0139, 948.06, and 960.197, F.S.;
46 conforming provisions to changes made by the act;
47 providing an effective date.

48
49 Be It Enacted by the Legislature of the State of Florida:

50
51 Section 1. Section 775.0847, Florida Statutes, is amended
52 to read:

53 775.0847 Possession or promotion of certain child sexual
54 abuse material ~~images of child pornography~~; reclassification.-

55 (1) For purposes of this section:

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

58 (b) "Child sexual abuse material" ~~"Child pornography"~~

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59 means:

60 1. Any image depicting a minor engaged in sexual conduct;
61 or

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

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

66 1. Who was a minor at the time the image was created,
67 adapted, or modified, or whose image as a minor was used in the
68 creating, adapting, or modifying of the image; and

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

72
73 The term may not be construed to require proof of the actual
74 identity of the identifiable minor.

75 (d) ~~(e)~~ "Sadomasochistic abuse" means flagellation or
76 torture by or upon a person or the condition of being fettered,
77 bound, or otherwise physically restrained, for the purpose of
78 deriving sexual satisfaction, or satisfaction brought about as a
79 result of sadistic violence, from inflicting harm on another or
80 receiving such harm oneself.

81 (e) ~~(d)~~ "Sexual battery" means oral, anal, or vaginal
82 penetration by, or union with, the sexual organ of another or
83 the anal or vaginal penetration of another by any other object;
84 however, sexual battery does not include an act done for a bona
85 fide medical purpose.

86 (f) ~~(e)~~ "Sexual bestiality" means any sexual act, actual or
87 simulated, between a person and an animal involving the sex

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88 organ of the one and the mouth, anus, or vagina of the other.

89 (g)~~(f)~~ "Sexual conduct" means actual or simulated sexual
90 intercourse, deviate sexual intercourse, sexual bestiality,
91 masturbation, or sadomasochistic abuse; actual or simulated lewd
92 exhibition of the genitals; actual physical contact with a
93 person's clothed or unclothed genitals, pubic area, buttocks,
94 or, if such person is a female, breast with the intent to arouse
95 or gratify the sexual desire of either party; or any act or
96 conduct which constitutes sexual battery or simulates that
97 sexual battery is being or will be committed. A mother's
98 breastfeeding of her baby does not under any circumstance
99 constitute "sexual conduct."

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

103 (a) The offender possesses 10 or more images of any form of
104 child sexual abuse material ~~child pornography~~ regardless of
105 content; and

106 (b) The content of at least one image contains one or more
107 of the following:

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

109 2. Sadomasochistic abuse involving a child.

110 3. Sexual battery involving a child.

111 4. Sexual bestiality involving a child.

112 5. Any motion picture, film, video, or computer-generated
113 motion picture, film, or video ~~movie~~ involving a child,
114 regardless of length and regardless of whether the motion
115 picture, film, video, or computer-generated motion picture,
116 film, or video ~~movie~~ contains sound.

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

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

121
122 For purposes of sentencing under chapter 921 and determining
123 incentive gain-time eligibility under chapter 944, a felony
124 offense that is reclassified under this section is ranked one
125 level above the ranking under s. 921.0022 or s. 921.0023 of the
126 offense committed.

127 Section 2. Paragraph (b) of subsection (5) of section
128 784.049, Florida Statutes, is amended to read:

129 784.049 Sexual cyberharassment.—

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

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

137 Section 3. Section 827.071, Florida Statutes, is amended to
138 read:

139 827.071 Sexual performance by a child; child sexual abuse
140 material; penalties.—

141 (1) As used in this section, the following definitions
142 shall apply:

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

145 (b) "Child sexual abuse material" means:

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146 1. Any image depicting a minor engaged in sexual conduct;
147 or

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

151 (c)~~(a)~~ "Deviate sexual intercourse" means sexual conduct
152 between persons not married to each other consisting of contact
153 between the penis and the anus, the mouth and the penis, or the
154 mouth and the vulva.

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

156 1. Who was a minor at the time the image was created,
157 adapted, or modified, or whose image as a minor was used in the
158 creating, adapting, or modifying of the image; and

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

162

163 The term may not be construed to require proof of the actual
164 identity of the identifiable minor.

165 (e)~~(b)~~ "Intentionally view" means to deliberately,
166 purposefully, and voluntarily view. Proof of intentional viewing
167 requires establishing more than a single image, motion picture,
168 exhibition, show, image, data, computer depiction,
169 representation, or other presentation over any period of time.

170 (f)~~(c)~~ "Performance" means any play, motion picture,
171 photograph, or dance or any other visual representation
172 exhibited before an audience.

173 (g)~~(d)~~ "Promote" means to procure, manufacture, issue,
174 sell, give, provide, lend, mail, deliver, transfer, transmit,

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175 transmute, publish, distribute, circulate, disseminate, present,
176 exhibit, send, post, share, or advertise or to offer or agree to
177 do the same.

178 (h)~~(e)~~ "Sodomasochistic abuse" means flagellation or
179 torture by or upon a person, or the condition of being fettered,
180 bound, or otherwise physically restrained, for the purpose of
181 deriving sexual satisfaction from inflicting harm on another or
182 receiving such harm oneself.

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

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

191 (k)~~(h)~~ "Sexual conduct" means actual or simulated sexual
192 intercourse, deviate sexual intercourse, sexual bestiality,
193 masturbation, or sodomasochistic abuse; actual or simulated lewd
194 exhibition of the genitals; actual physical contact with a
195 person's clothed or unclothed genitals, pubic area, buttocks,
196 or, if such person is a female, breast, with the intent to
197 arouse or gratify the sexual desire of either party; or any act
198 or conduct which constitutes sexual battery or simulates that
199 sexual battery is being or will be committed. A mother's
200 breastfeeding of her baby does not under any circumstance
201 constitute "sexual conduct."

202 (l)~~(i)~~ "Sexual performance" means any performance or part
203 thereof which includes sexual conduct by a child ~~of less than 18~~

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204 ~~years of age.~~

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

209 (2) A person is guilty of the use of a child in a sexual
210 performance if, knowing the character and content thereof, he or
211 she employs, authorizes, or induces a child ~~less than 18 years~~
212 ~~of age~~ to engage in a sexual performance or, being a parent,
213 legal guardian, or custodian of such child, consents to the
214 participation by such child in a sexual performance. A person
215 who ~~Whoever~~ violates this subsection commits ~~is guilty of~~ a
216 felony of the second degree, punishable as provided in s.
217 775.082, s. 775.083, or s. 775.084.

218 (3) A person is guilty of promoting a sexual performance by
219 a child when, knowing the character and content thereof, he or
220 she produces, directs, or promotes any performance which
221 includes sexual conduct by a child ~~less than 18 years of age~~. A
222 person who ~~Whoever~~ violates this subsection commits ~~is guilty of~~
223 a felony of the second degree, punishable as provided in s.
224 775.082, s. 775.083, or s. 775.084.

225 (4) It is unlawful for any person to possess with the
226 intent to promote any photograph, motion picture, exhibition,
227 show, representation, or other presentation which, in whole or
228 in part, includes child sexual abuse material ~~any sexual conduct~~
229 ~~by a child~~. The possession of three or more copies of such
230 photograph, motion picture, representation, or presentation is
231 prima facie evidence of an intent to promote. A person who
232 ~~Whoever~~ violates this subsection commits ~~is guilty of~~ a felony

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233 of the second degree, punishable as provided in s. 775.082, s.
234 775.083, or s. 775.084.

235 (5) (a) It is unlawful for any person to knowingly possess,
236 control, or intentionally view a photograph, motion picture,
237 exhibition, show, representation, image, data, computer
238 depiction, or other presentation which, in whole or in part, he
239 or she knows to include child sexual abuse material ~~any sexual~~
240 ~~conduct by a child~~. The possession, control, or intentional
241 viewing of each such photograph, motion picture, exhibition,
242 show, image, data, computer depiction, representation, or
243 presentation is a separate offense. If such photograph, motion
244 picture, exhibition, show, representation, image, data, computer
245 depiction, or other presentation includes child sexual abuse
246 material depicting ~~sexual conduct by~~ more than one child, then
247 each such child in each such photograph, motion picture,
248 exhibition, show, representation, image, data, computer
249 depiction, or other presentation that is knowingly possessed,
250 controlled, or intentionally viewed is a separate offense. A
251 person who violates this paragraph ~~subsection~~ commits a felony
252 of the third degree, punishable as provided in s. 775.082, s.
253 775.083, or s. 775.084.

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

257 (6) Prosecution of a ~~any~~ person for an offense under this
258 section does ~~shall~~ not prohibit prosecution of that person in
259 this state for a violation of any other law of this state,
260 including a law providing for greater penalties than prescribed
261 in this section or any other crime punishing the sexual

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262 performance or the sexual exploitation of children.

263 Section 4. Section 836.13, Florida Statutes, is created to
264 read:

265 836.13 Promotion of an altered sexual depiction; prohibited
266 acts; penalties; applicability.-

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

268 (a) "Altered sexual depiction" means any visual depiction
269 that, as a result of any type of digital, electronic,
270 mechanical, or other modification, alteration, or adaptation,
271 depicts a realistic version of an identifiable person:

272 1. With the nude body parts of another person as the nude
273 body parts of the identifiable person;

274 2. With computer-generated nude body parts as the nude body
275 parts of the identifiable person; or

276 3. Engaging in sexual conduct as defined in s. 847.001 in
277 which the identifiable person did not engage.

278 (b) "Identifiable person" means a person who is
279 recognizable as an actual person by the person's face, likeness,
280 or other distinguishing characteristic, such as a unique
281 birthmark, or other recognizable feature.

282 (c) "Nude body parts" means the human male or female
283 genitals, pubic area, or buttocks with less than fully opaque
284 covering; or the female breast with less than a fully opaque
285 covering of any portion thereof below the top of the nipple; or
286 the depiction of covered male genitals in a discernibly turgid
287 state. The term does not under any circumstances include a
288 mother breastfeeding her baby.

289 (d) "Promote" means to procure, manufacture, issue, sell,
290 give, provide, lend, mail, deliver, transfer, transmit,

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291 transmute, publish, distribute, circulate, disseminate, present,
292 exhibit, send, post, share, or advertise or to offer or agree to
293 do the same.

294 (e) "Visual depiction" includes, but is not limited to, a
295 photograph, picture, image, motion picture, film, video, or
296 representation, regardless of whether such photograph, picture,
297 image, motion picture, film, video, or representation was made,
298 modified, altered, adapted, or produced by digital, electronic,
299 mechanical, or other means.

300 (2) A person who willfully and maliciously promotes any
301 altered sexual depiction of an identifiable person, without the
302 consent of the identifiable person, and who knows or reasonably
303 should have known that such visual depiction was an altered
304 sexual depiction, commits a felony of the third degree,
305 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

306 (3) Every act, thing, or transaction prohibited by this
307 section constitutes a separate offense and is punishable as
308 such.

309 (4) The presence of a disclaimer within an altered sexual
310 depiction which notifies a viewer that the person or persons
311 depicted did not consent to or participate in the creation or
312 promotion of the material, or that the person or persons
313 depicted did not actually perform the actions portrayed, is not
314 a defense and does not relieve a person of criminal liability
315 under this section.

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

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- 320 (a) Injunctive relief.
- 321 (b) Monetary damages to include \$10,000 or actual damages
322 incurred as a result of a violation of subsection (2), whichever
323 is greater.
- 324 (c) Reasonable attorney fees and costs.
- 325 (6) The criminal and civil penalties of this section do not
326 apply to:
- 327 (a) A provider of an interactive computer service as
328 defined in 47 U.S.C. s. 230(f), of an information service as
329 defined in 47 U.S.C. s. 153, or of a communications service as
330 defined in s. 202.11 which provides the transmission, storage,
331 or caching of electronic communications or messages of others;
332 another related telecommunications or commercial mobile radio
333 service; or content provided by another person;
- 334 (b) A law enforcement officer, as defined in s. 943.10, or
335 any local, state, federal, or military law enforcement agency
336 that promotes an altered sexual depiction in connection with the
337 performance of his or her duties as a law enforcement officer or
338 the duties of the law enforcement agency;
- 339 (c) A person reporting unlawful activity; or
- 340 (d) A person participating in a hearing, trial, or other
341 legal proceeding.
- 342 (7) A violation of this section is committed within this
343 state if any conduct that is an element of the offense, or any
344 harm to the depicted person resulting from the offense, occurs
345 within this state.
- 346 Section 5. Section 836.14, Florida Statutes, is created to
347 read:
- 348 836.14 Unlawfully obtaining, possessing, or promoting a

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349 sexually explicit image.—

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

351 (a) "Identifiable person" has the same meaning as in s.
352 836.13.

353 (b) "Promote" has the same meaning as in s. 836.13.

354 (c) "Sexually explicit image" means any image depicting
355 nudity as defined in s. 847.001 or a person engaging in sexual
356 conduct as defined in s. 847.001.

357 (2) A person who knowingly and unlawfully obtains a
358 sexually explicit image of an identifiable person with the
359 intent to promote such image commits a felony of the third
360 degree, punishable as provided in s. 775.082, s. 775.083, or s.
361 775.084.

362 (3) A person who willfully possesses with the intent to
363 promote for the purpose of pecuniary or any other type of
364 financial gain a sexually explicit image of an identifiable
365 person without that person's consent commits a felony of the
366 third degree, punishable as provided in s. 775.082, s. 775.083,
367 or s. 775.084.

368 (4) A person who willfully promotes for the purpose of
369 pecuniary or any other financial gain a sexually explicit image
370 of an identifiable person without that person's consent commits
371 a felony of the second degree, punishable as provided in s.
372 775.082, s. 775.083, or s. 775.084.

373 (5) Every act, thing, or transaction prohibited by this
374 section constitutes a separate offense and is punishable as
375 such.

376 (6) An aggrieved person may initiate a civil action against
377 a person who violates this section to obtain all appropriate

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378 relief in order to prevent or remedy a violation of this
379 section, including the following:

380 (a) Injunctive relief.

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

384 (c) Reasonable attorney fees and costs.

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

387 (a) A provider of an interactive computer service as
388 defined in 47 U.S.C. s. 230(f), of an information service as
389 defined in 47 U.S.C. s. 153, or of a communications service as
390 defined in s. 202.11 which provides the transmission, storage,
391 or caching of electronic communications or messages of others;
392 another related telecommunications or commercial mobile radio
393 service; or content provided by another person;

394 (b) A law enforcement officer, as defined in s. 943.10, or
395 any local, state, federal, or military law enforcement agency
396 that disseminates a sexually explicit image in connection with
397 the performance of his or her duties as a law enforcement
398 officer or the duties of the law enforcement agency;

399 (c) A person reporting unlawful activity;

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

402 (e) Sexually explicit images involving voluntary exposure
403 in a public or commercial setting.

404 (8) A violation of this section is committed within this
405 state if any conduct that is an element of the offense, or any
406 harm to the depicted individual resulting from the offense,

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407 occurs within this state.

408 Section 6. Present subsections (7) through (11) and (12)
409 through (20) of section 847.001, Florida Statutes, are
410 redesignated as subsections (8) through (12) and (14) through
411 (22), respectively, new subsections (7) and (13) are added to
412 that section, and subsection (3) and present subsections (8),
413 (16), and (19) of that section are amended, to read:

414 847.001 Definitions.—As used in this chapter, the term:

415 (3) "Child sexual abuse material" ~~"Child pornography"~~
416 means:

417 (a) Any image depicting a minor engaged in sexual conduct;
418 or

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

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

423 (a) Who was a minor at the time the image was created,
424 adapted, or modified, or whose image as a minor was used in the
425 creating, adapting, or modifying of the image; and

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

429
430 The term may not be construed to require proof of the actual
431 identity of the identifiable minor.

432 (9) ~~(8)~~ "Minor" or "child" means any person, whose identity
433 is known or unknown, younger than under the age of 18 years of
434 age.

435 (13) "Promote" means to procure, manufacture, issue, sell,

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436 give, provide, lend, mail, deliver, transfer, transmit,
437 transmute, publish, distribute, circulate, disseminate, present,
438 exhibit, send, post, share, or advertise or to offer or agree to
439 do the same.

440 (18)~~(16)~~ "Sexual conduct" means actual or simulated sexual
441 intercourse, deviate sexual intercourse, sexual bestiality,
442 masturbation, or sadomasochistic abuse; actual or simulated lewd
443 exhibition of the genitals; actual physical contact with a
444 person's clothed or unclothed genitals, pubic area, buttocks,
445 or, if such person is a female, breast with the intent to arouse
446 or gratify the sexual desire of either party; or any act or
447 conduct which constitutes sexual battery or simulates that
448 sexual battery is being or will be committed. A mother's
449 breastfeeding of her baby does not under any circumstance
450 constitute "sexual conduct."

451 (21)~~(19)~~ "Simulated" means the explicit depiction of
452 conduct described in subsection (18) ~~(16)~~ which creates the
453 appearance of such conduct and which exhibits any uncovered
454 portion of the breasts, genitals, or buttocks.

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

457 847.011 Prohibition of certain acts in connection with
458 obscene, lewd, etc., materials; penalty.—

459 (5) (a) 1. A person may not knowingly sell, lend, give away,
460 distribute, transmit, show, or transmute; offer to sell, lend,
461 give away, distribute, transmit, show, or transmute; have in his
462 or her possession, custody, or control with the intent to sell,
463 lend, give away, distribute, transmit, show, or transmute; or
464 advertise in any manner an obscene, child-like sex doll.

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465 2.a. Except as provided in sub-subparagraph b., a person
466 who violates this paragraph commits a felony of the third
467 degree, punishable as provided in s. 775.082, s. 775.083, or s.
468 775.084.

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

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

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

479 (c)1. A law enforcement officer may arrest without a
480 warrant any person who he or she has probable cause to believe
481 has violated paragraph (b).

482 2. Upon proper affidavits being made, a search warrant may
483 be issued to further investigate a violation of paragraph (b),
484 including to search a private dwelling.

485 Section 8. Subsections (1) through (4) of section 847.0137,
486 Florida Statutes, are amended to read:

487 847.0137 Transmission of pornography by electronic device
488 or equipment prohibited; penalties.—

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

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

492 ~~(b)~~ "transmit" means the act of sending and causing to be
493 delivered, including the act of providing access for receiving

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494 and causing to be delivered, any image, information, or data
495 ~~from one or more persons or places to one or more other persons~~
496 ~~or places~~ over or through any medium, including the Internet or
497 an interconnected network, by use of any electronic equipment or
498 other device.

499 (2) Notwithstanding ss. 847.012 and 847.0133, any person in
500 this state who knew or reasonably should have known that he or
501 she was transmitting child sexual abuse material ~~child~~
502 ~~pornography,~~ as defined in s. 847.001, to another person in this
503 state or in another jurisdiction commits a felony of the third
504 degree, punishable as provided in s. 775.082, s. 775.083, or s.
505 775.084.

506 (3) Notwithstanding ss. 847.012 and 847.0133, any person in
507 any jurisdiction other than this state who knew or reasonably
508 should have known that he or she was transmitting child sexual
509 abuse material ~~child pornography,~~ as defined in s. 847.001, to
510 any person in this state commits a felony of the third degree,
511 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

512 (4) This section shall not be construed to prohibit
513 prosecution of a person in this state or another jurisdiction
514 for a violation of any law of this state, including a law
515 providing for greater penalties than prescribed in this section,
516 for the transmission of child sexual abuse material ~~child~~
517 ~~pornography,~~ as defined in s. 847.001, to any person in this
518 state.

519
520 The provisions of this section do not apply to subscription-
521 based transmissions such as list servers.

522 Section 9. Paragraphs (c), (d), and (e) of subsection (3)

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523 of section 921.0022, Florida Statutes, are amended to read:

524 921.0022 Criminal Punishment Code; offense severity ranking
525 chart.—

526 (3) OFFENSE SEVERITY RANKING CHART

527 (c) LEVEL 3

528

Florida
Statute

Felony
Degree

Description

529

119.10 (2) (b)

3rd

Unlawful use of
confidential information
from police reports.

530

316.066
(3) (b) - (d)

3rd

Unlawfully obtaining or
using confidential crash
reports.

531

316.193 (2) (b)

3rd

Felony DUI, 3rd
conviction.

532

316.1935 (2)

3rd

Fleeing or attempting to
elude law enforcement
officer in patrol vehicle
with siren and lights
activated.

533

319.30 (4)

3rd

Possession by junkyard of
motor vehicle with
identification number

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plate removed.

534

319.33 (1) (a)

3rd

Alter or forge any certificate of title to a motor vehicle or mobile home.

535

319.33 (1) (c)

3rd

Procure or pass title on stolen vehicle.

536

319.33 (4)

3rd

With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.

537

327.35 (2) (b)

3rd

Felony BUI.

538

328.05 (2)

3rd

Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.

539

328.07 (4)

3rd

Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.

540

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541

376.302 (5)

3rd

Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.

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.

542

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.

543

379.2431
(1) (e) 7.

3rd

Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.

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544

400.9935 (4) (a) 3rd Operating a clinic, or
 or (b) offering services
 requiring licensure,
 without a license.

545

400.9935 (4) (e) 3rd Filing a false license
 application or other
 required information or
 failing to report
 information.

546

440.1051 (3) 3rd False report of workers'
 compensation fraud or
 retaliation for making
 such a report.

547

501.001 (2) (b) 2nd Tampers with a consumer
 product or the container
 using materially
 false/misleading
 information.

548

624.401 (4) (a) 3rd Transacting insurance
 without a certificate of
 authority.

549

624.401 (4) (b) 1. 3rd Transacting insurance
 without a certificate of

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authority; premium
collected less than
\$20,000.

550

626.902 (1) (a) &
(b)

3rd

Representing an
unauthorized insurer.

551

697.08

3rd

Equity skimming.

552

790.15 (3)

3rd

Person directs another to
discharge firearm from a
vehicle.

553

806.10 (1)

3rd

Maliciously injure,
destroy, or interfere with
vehicles or equipment used
in firefighting.

554

806.10 (2)

3rd

Interferes with or
assaults firefighter in
performance of duty.

555

810.09 (2) (c)

3rd

Trespass on property other
than structure or
conveyance armed with
firearm or dangerous
weapon.

556

812.014 (2) (c) 2.

3rd

Grand theft; \$5,000 or

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more but less than
\$10,000.

557

812.0145 (2) (c)

3rd

Theft from person 65 years
of age or older; \$300 or
more but less than
\$10,000.

558

812.015 (8) (b)

3rd

Retail theft with intent
to sell; conspires with
others.

559

812.081 (2)

3rd

Theft of a trade secret.

560

815.04 (5) (b)

2nd

Computer offense devised
to defraud or obtain
property.

561

817.034 (4) (a) 3.

3rd

Engages in scheme to
defraud (Florida
Communications Fraud Act),
property valued at less
than \$20,000.

562

817.233

3rd

Burning to defraud
insurer.

563

817.234
(8) (b) & (c)

3rd

Unlawful solicitation of
persons involved in motor

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vehicle accidents.

564

817.234 (11) (a)

3rd

Insurance fraud; property value less than \$20,000.

565

817.236

3rd

Filing a false motor vehicle insurance application.

566

817.2361

3rd

Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.

567

817.413 (2)

3rd

Sale of used goods of \$1,000 or more as new.

568

817.49 (2) (b) 1.

3rd

Willful making of a false report of a crime causing great bodily harm, permanent disfigurement, or permanent disability.

569

831.28 (2) (a)

3rd

Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument with intent to defraud.

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570

831.29 2nd Possession of instruments
for counterfeiting driver
licenses or identification
cards.

571

836.13 (2) 3rd Person who promotes an
altered sexual depiction
of an identifiable person
without consent.

572

838.021 (3) (b) 3rd Threatens unlawful harm to
public servant.

573

843.19 2nd Injure, disable, or kill
police, fire, or SAR
canine or police horse.

574

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

575

870.01 (2) 3rd Riot.

576

870.01 (4) 3rd Inciting a riot.

577

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.,

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(2) (c) 6., (2) (c) 7.,
 (2) (c) 8., (2) (c) 9.,
 (2) (c) 10., (3), or (4)
 drugs).

578

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.

579

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.

580

893.13 (4) (c)

3rd

Use or hire of minor;
 deliver to minor other
 controlled substances.

581

893.13 (6) (a)

3rd

Possession of any

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controlled substance other than felony possession of cannabis.

582

893.13 (7) (a) 8.

3rd

Withhold information from practitioner regarding previous receipt of or prescription for a controlled substance.

583

893.13 (7) (a) 9.

3rd

Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.

584

893.13 (7) (a) 10.

3rd

Affix false or forged label to package of controlled substance.

585

893.13 (7) (a) 11.

3rd

Furnish false or fraudulent material information on any document or record required by chapter 893.

586

893.13 (8) (a) 1.

3rd

Knowingly assist a patient, other person, or owner of an animal in

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obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or related to the practitioner's practice.

587

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.

588

893.13 (8) (a) 3.

3rd

Knowingly write a prescription for a controlled substance for a fictitious person.

589

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.

590

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591 918.13 (1) (a) 3rd Alter, destroy, or conceal investigation evidence.

592 944.47 (1) (a) 1. & 2. 3rd Introduce contraband to correctional facility.

593 944.47 (1) (c) 2nd Possess contraband while upon the grounds of a correctional institution.

594 985.721 3rd Escapes from a juvenile facility (secure detention or residential commitment facility).

595 (d) LEVEL 4

596 Florida Statute Felony Degree Description

597 316.1935 (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.

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598
599
600
601
602
603
604

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.
517.12 (1)	3rd	Failure of dealer, associated person, or issuer of securities to register.
784.07 (2) (b)	3rd	Battery of law enforcement officer, firefighter, etc.
784.074 (1) (c)	3rd	Battery of sexually violent predators facility staff.

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605
606
607
608
609
610
611

784.075	3rd	Battery on detention or commitment facility staff.
784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.
784.08 (2) (c)	3rd	Battery on a person 65 years of age or older.
784.081 (3)	3rd	Battery on specified official or employee.
784.082 (3)	3rd	Battery by detained person on visitor or other detainee.
784.083 (3)	3rd	Battery on code inspector.
784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.

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612

787.03 (1)

3rd

Interference with custody; wrongly takes minor from appointed guardian.

613

787.04 (2)

3rd

Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.

614

787.04 (3)

3rd

Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.

615

787.07

3rd

Human smuggling.

616

790.115 (1)

3rd

Exhibiting firearm or weapon within 1,000 feet of a school.

790.115 (2) (b)

3rd

Possessing electric weapon or device, destructive device, or other weapon on school

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property.

617

790.115 (2) (c)

3rd

Possessing firearm on school property.

618

800.04 (7) (c)

3rd

Lewd or lascivious exhibition; offender less than 18 years.

619

806.135

2nd

Destroying or demolishing a memorial or historic property.

620

810.02 (4) (a)

3rd

Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.

621

810.02 (4) (b)

3rd

Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.

622

810.06

3rd

Burglary; possession of tools.

623

810.08 (2) (c)

3rd

Trespass on property,

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armed with firearm or
dangerous weapon.

624

812.014 (2) (c) 3.

3rd

Grand theft, 3rd degree
\$10,000 or more but
less than \$20,000.

625

812.014
(2) (c) 4.-10.

3rd

Grand theft, 3rd
degree; specified
items.

626

812.0195 (2)

3rd

Dealing in stolen
property by use of the
Internet; property
stolen \$300 or more.

627

817.505 (4) (a)

3rd

Patient brokering.

628

817.563 (1)

3rd

Sell or deliver
substance other than
controlled substance
agreed upon, excluding
s. 893.03(5) drugs.

629

817.568 (2) (a)

3rd

Fraudulent use of
personal identification
information.

630

817.625 (2) (a)

3rd

Fraudulent use of

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scanning device,
skimming device, or
reencoder.

631

817.625 (2) (c)

3rd

Possess, sell, or
deliver skimming
device.

632

828.125 (1)

2nd

Kill, maim, or cause
great bodily harm or
permanent breeding
disability to any
registered horse or
cattle.

633

836.14 (2)

3rd

Person who obtains a
sexually explicit image
of an identifiable
person with certain
intent.

634

836.14 (3)

3rd

Person who possesses
with intent to promote
for a certain purpose a
sexually explicit image
of an identifiable
person without consent.

635

837.02 (1)

3rd

Perjury in official

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proceedings.

636

837.021 (1)

3rd

Make contradictory statements in official proceedings.

637

838.022

3rd

Official misconduct.

638

839.13 (2) (a)

3rd

Falsifying records of an individual in the care and custody of a state agency.

639

839.13 (2) (c)

3rd

Falsifying records of the Department of Children and Families.

640

843.021

3rd

Possession of a concealed handcuff key by a person in custody.

641

843.025

3rd

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

642

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643

843.15 (1) (a)

3rd

Failure to appear while on bail for felony (bond estreature or bond jumping).

644

847.0135 (5) (c)

3rd

Lewd or lascivious exhibition using computer; offender less than 18 years.

645

870.01 (3)

2nd

Aggravated rioting.

646

870.01 (5)

2nd

Aggravated inciting a riot.

647

874.05 (1) (a)

3rd

Encouraging or recruiting another to join a criminal gang.

648

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).

649

914.14 (2)

3rd

Witnesses accepting bribes.

914.22 (1)

3rd

Force, threaten, etc.,

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witness, victim, or informant.

650

914.23 (2)

3rd

Retaliation against a witness, victim, or informant, no bodily injury.

651

916.1085
(2) (c) 1.

3rd

Introduction of specified contraband into certain DCF facilities.

652

918.12

3rd

Tampering with jurors.

653

934.215

3rd

Use of two-way communications device to facilitate commission of a crime.

654

944.47 (1) (a) 6.

3rd

Introduction of contraband (cellular telephone or other portable communication device) into correctional institution.

655

951.22 (1) (h) ,

3rd

Intoxicating drug,

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(j) & (k)

instrumentality or other device to aid escape, or cellular telephone or other portable communication device introduced into county detention facility.

656

(e) LEVEL 5

657

658

Florida
Statute

Felony
Degree

Description

659

316.027(2)(a)

3rd

Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.

660

316.1935(4)(a)

2nd

Aggravated fleeing or eluding.

661

316.80(2)

2nd

Unlawful conveyance of fuel; obtaining fuel fraudulently.

662

322.34(6)

3rd

Careless operation of motor vehicle with

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suspended license,
 resulting in death or
 serious bodily injury.

663

327.30 (5)

3rd

Vessel accidents
 involving personal
 injury; leaving scene.

664

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

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trap tags; and engaging
in the commercial
harvest of stone crabs
while license is
suspended or revoked.

665

379.367(4)

3rd

Willful molestation of a
commercial harvester's
spiny lobster trap,
line, or buoy.

666

379.407(5)(b)3.

3rd

Possession of 100 or
more undersized spiny
lobsters.

667

381.0041(11)(b)

3rd

Donate blood, plasma, or
organs knowing HIV
positive.

668

440.10(1)(g)

2nd

Failure to obtain
workers' compensation
coverage.

669

440.105(5)

2nd

Unlawful solicitation
for the purpose of
making workers'
compensation claims.

670

440.381(2)

3rd

Submission of false,

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misleading, or
incomplete information
with the purpose of
avoiding or reducing
workers' compensation
premiums.

671

624.401(4)(b)2.

2nd

Transacting insurance
without a certificate or
authority; premium
collected \$20,000 or
more but less than
\$100,000.

672

626.902(1)(c)

2nd

Representing an
unauthorized insurer;
repeat offender.

673

790.01(2)

3rd

Carrying a concealed
firearm.

674

790.162

2nd

Threat to throw or
discharge destructive
device.

675

790.163(1)

2nd

False report of bomb,
explosive, weapon of
mass destruction, or use
of firearms in violent

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manner.

676

790.221 (1)

2nd

Possession of short-barreled shotgun or machine gun.

677

790.23

2nd

Felons in possession of firearms, ammunition, or electronic weapons or devices.

678

796.05 (1)

2nd

Live on earnings of a prostitute; 1st offense.

679

800.04 (6) (c)

3rd

Lewd or lascivious conduct; offender less than 18 years of age.

680

800.04 (7) (b)

2nd

Lewd or lascivious exhibition; offender 18 years of age or older.

681

806.111 (1)

3rd

Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.

682

812.0145 (2) (b)

2nd

Theft from person 65 years of age or older;

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\$10,000 or more but less than \$50,000.

683
684
685
686
687
688
689
690

812.015
(8) (a) & (c) - (e)

3rd

Retail theft; property stolen is valued at \$750 or more and one or more specified acts.

812.019(1)

2nd

Stolen property; dealing in or trafficking in.

812.081(3)

2nd

Trafficking in trade secrets.

812.131(2)(b)

3rd

Robbery by sudden snatching.

812.16(2)

3rd

Owning, operating, or conducting a chop shop.

817.034(4)(a)2.

2nd

Communications fraud, value \$20,000 to \$50,000.

817.234(11)(b)

2nd

Insurance fraud; property value \$20,000 or more but less than \$100,000.

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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.

691

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.

692

817.611(2)(a)

2nd

Traffic in or possess 5 to 14 counterfeit credit cards or related documents.

693

817.625(2)(b)

2nd

Second or subsequent fraudulent use of scanning device,

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skimming device, or
reencoder.

694

825.1025 (4)

3rd

Lewd or lascivious
exhibition in the
presence of an elderly
person or disabled
adult.

695

827.071 (4)

2nd

Possess with intent to
promote any photographic
material, motion
picture, etc., which
includes child sexual
abuse material ~~sexual
conduct by a child~~.

696

827.071 (5)

3rd

Possess, control, or
intentionally view any
photographic material,
motion picture, etc.,
which includes child
sexual abuse material
~~sexual conduct by a
child~~.

697

828.12 (2)

3rd

Tortures any animal with
intent to inflict
intense pain, serious

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physical injury, or
death.

698

836.14 (4)

2nd

Person who promotes for
a certain purpose a
sexually explicit image
of an identifiable
person without consent.

699

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.

700

843.01

3rd

Resist officer with
violence to person;
resist arrest with
violence.

701

847.0135 (5) (b)

2nd

Lewd or lascivious
exhibition using
computer; offender 18
years or older.

702

847.0137
(2) & (3)

3rd

Transmission of
pornography by
electronic device or
equipment.

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703

847.0138
(2) & (3)

3rd

Transmission of material harmful to minors to a minor by electronic device or equipment.

704

874.05 (1) (b)

2nd

Encouraging or recruiting another to join a criminal gang; second or subsequent offense.

705

874.05 (2) (a)

2nd

Encouraging or recruiting person under 13 years of age to join a criminal gang.

706

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).

707

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.,

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(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.

708

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.

709

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

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for religious services
or a specified business
site.

710

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.

711

893.13(4)(b)

2nd

Use or hire of minor;
deliver to minor other
controlled substance.

712

893.1351(1)

3rd

Ownership, lease, or
rental for trafficking
in or manufacturing of
controlled substance.

713

714 Section 10. Paragraph (e) of subsection (3) and subsection
715 (10) of section 960.03, Florida Statutes, are amended to read:

716 960.03 Definitions; ss. 960.01-960.28.—As used in ss.

717 960.01-960.28, unless the context otherwise requires, the term:

718 (3) "Crime" means:

719 (e) A violation of s. 827.071, s. 847.0135, s. 847.0137, or

720 s. 847.0138, related to online sexual exploitation and child

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721 sexual abuse material ~~child pornography~~.

722 (10) "Identified victim of child sexual abuse material
723 ~~child pornography~~" means any person who, while under the age of
724 18, is depicted in any image or movie of child sexual abuse
725 material ~~child pornography~~ and who is identified through a
726 report generated by a law enforcement agency and provided to the
727 National Center for Missing and Exploited Children's Child
728 Victim Identification Program.

729 Section 11. Paragraph (j) of subsection (1) of section
730 288.1254, Florida Statutes, is amended to read:

731 288.1254 Entertainment industry financial incentive
732 program.—

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

734 (j) "Qualified production" means a production in this state
735 meeting the requirements of this section. The term does not
736 include a production:

737 1. In which, for the first 2 years of the incentive
738 program, less than 50 percent, and thereafter, less than 60
739 percent, of the positions that make up its production cast and
740 below-the-line production crew, or, in the case of digital media
741 projects, less than 75 percent of such positions, are filled by
742 legal residents of this state, whose residency is demonstrated
743 by a valid Florida driver license or other state-issued
744 identification confirming residency, or students enrolled full-
745 time in a film-and-entertainment-related course of study at an
746 institution of higher education in this state; or

747 2. That contains obscene content as defined in s. 847.001
748 ~~s. 847.001(10)~~.

749 Section 12. Subsection (1) of section 847.0141, Florida

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750 Statutes, is amended to read:

751 847.0141 Sexting; prohibited acts; penalties.—

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

754 (a) Uses a computer, or any other device capable of
755 electronic data transmission or distribution, to transmit or
756 distribute to another minor any photograph or video of any
757 person which depicts nudity, as defined in s. 847.001 ~~s.~~
758 ~~847.001(9)~~, and is harmful to minors, as defined in s. 847.001
759 ~~s. 847.001(6)~~.

760 (b) Possesses a photograph or video of any person that was
761 transmitted or distributed by another minor which depicts
762 nudity, as defined in s. 847.001 ~~s. 847.001(9)~~, and is harmful
763 to minors, as defined in s. 847.001 ~~s. 847.001(6)~~. A minor does
764 not violate this paragraph if all of the following apply:

- 765 1. The minor did not solicit the photograph or video.
766 2. The minor took reasonable steps to report the photograph
767 or video to the minor's legal guardian or to a school or law
768 enforcement official.
769 3. The minor did not transmit or distribute the photograph
770 or video to a third party.

771 Section 13. Subsection (3) of section 39.0138, Florida
772 Statutes, is amended to read:

773 39.0138 Criminal history and other records checks; limit on
774 placement of a child.—

775 (3) The department may not place a child with a person
776 other than a parent if the criminal history records check
777 reveals that the person has been convicted of any felony that
778 falls within any of the following categories:

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- 779 (a) Child abuse, abandonment, or neglect;
780 (b) Domestic violence;
781 (c) Child sexual abuse material ~~Child pornography~~ or other
782 felony in which a child was a victim of the offense; or
783 (d) Homicide, sexual battery, or other felony involving
784 violence, other than felony assault or felony battery when an
785 adult was the victim of the assault or battery, or resisting
786 arrest with violence.

787 Section 14. Subsection (3) of section 92.56, Florida
788 Statutes, is amended to read:

789 92.56 Judicial proceedings and court records involving
790 sexual offenses and human trafficking.—

791 (3) The state may use a pseudonym instead of the victim's
792 name to designate the victim of a crime described in s.
793 787.06(3)(a)1., (c)1., or (e)1., in s. 787.06(3)(b), (d), (f),
794 or (g), or in chapter 794 or chapter 800, or of child abuse,
795 aggravated child abuse, or sexual performance by a child as
796 described in chapter 827, or any crime involving the production,
797 possession, or promotion of child sexual abuse material ~~child~~
798 ~~pornography~~ as described in chapter 847, in all court records
799 and records of court proceedings, both civil and criminal.

800 Section 15. Section 92.561, Florida Statutes, is amended to
801 read:

802 92.561 Prohibition on reproduction of child sexual abuse
803 material ~~child pornography~~.—

804 (1) In a criminal proceeding, any property or material that
805 portrays sexual performance by a child as defined in s. 827.071,
806 or constitutes child sexual abuse material ~~child pornography~~ as
807 defined in s. 847.001, must remain secured or locked in the

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808 care, custody, and control of a law enforcement agency, the
809 state attorney, or the court.

810 (2) Notwithstanding any law or rule of court, a court shall
811 deny, in a criminal proceeding, any request by the defendant to
812 copy, photograph, duplicate, or otherwise reproduce any property
813 or material that portrays sexual performance by a child or
814 constitutes child sexual abuse material ~~child pornography~~ so
815 long as the state attorney makes the property or material
816 reasonably available to the defendant.

817 (3) For purposes of this section, property or material is
818 deemed to be reasonably available to the defendant if the state
819 attorney provides ample opportunity at a designated facility for
820 the inspection, viewing, and examination of the property or
821 material that portrays sexual performance by a child or
822 constitutes child sexual abuse material ~~child pornography~~ by the
823 defendant, his or her attorney, or any individual whom the
824 defendant uses as an expert during the discovery process or at a
825 court proceeding.

826 Section 16. Paragraph (c) of subsection (4) of section
827 435.07, Florida Statutes, is amended to read:

828 435.07 Exemptions from disqualification.—Unless otherwise
829 provided by law, the provisions of this section apply to
830 exemptions from disqualification for disqualifying offenses
831 revealed pursuant to background screenings required under this
832 chapter, regardless of whether those disqualifying offenses are
833 listed in this chapter or other laws.

834 (4)

835 (c) Disqualification from employment under this chapter may
836 not be removed from, and an exemption may not be granted to, any

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837 current or prospective child care personnel, as defined in s.
838 402.302(3), and such a person is disqualified from employment as
839 child care personnel, regardless of any previous exemptions from
840 disqualification, if the person has been registered as a sex
841 offender as described in 42 U.S.C. s. 9858f(c)(1)(C) or has been
842 arrested for and is awaiting final disposition of, has been
843 convicted or found guilty of, or entered a plea of guilty or
844 nolo contendere to, regardless of adjudication, or has been
845 adjudicated delinquent and the record has not been sealed or
846 expunged for, any offense prohibited under any of the following
847 provisions of state law or a similar law of another
848 jurisdiction:

849 1. A felony offense prohibited under any of the following
850 statutes:

851 a. Chapter 741, relating to domestic violence.

852 b. Section 782.04, relating to murder.

853 c. Section 782.07, relating to manslaughter, aggravated
854 manslaughter of an elderly person or disabled adult, aggravated
855 manslaughter of a child, or aggravated manslaughter of an
856 officer, a firefighter, an emergency medical technician, or a
857 paramedic.

858 d. Section 784.021, relating to aggravated assault.

859 e. Section 784.045, relating to aggravated battery.

860 f. Section 787.01, relating to kidnapping.

861 g. Section 787.025, relating to luring or enticing a child.

862 h. Section 787.04(2), relating to leading, taking,
863 enticing, or removing a minor beyond the state limits, or
864 concealing the location of a minor, with criminal intent pending
865 custody proceedings.

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866 i. Section 787.04(3), relating to leading, taking,
867 enticing, or removing a minor beyond the state limits, or
868 concealing the location of a minor, with criminal intent pending
869 dependency proceedings or proceedings concerning alleged abuse
870 or neglect of a minor.

871 j. Section 794.011, relating to sexual battery.

872 k. Former s. 794.041, relating to sexual activity with or
873 solicitation of a child by a person in familial or custodial
874 authority.

875 l. Section 794.05, relating to unlawful sexual activity
876 with certain minors.

877 m. Section 794.08, relating to female genital mutilation.

878 n. Section 806.01, relating to arson.

879 o. Section 826.04, relating to incest.

880 p. Section 827.03, relating to child abuse, aggravated
881 child abuse, or neglect of a child.

882 q. Section 827.04, relating to contributing to the
883 delinquency or dependency of a child.

884 r. Section 827.071, relating to sexual performance by a
885 child.

886 s. Chapter 847, relating to child sexual abuse material
887 ~~child pornography~~.

888 t. Chapter 893, relating to a drug abuse prevention and
889 control offense, if that offense was committed in the preceding
890 5 years.

891 u. Section 985.701, relating to sexual misconduct in
892 juvenile justice programs.

893 2. A misdemeanor offense prohibited under any of the
894 following statutes:

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895 a. Section 784.03, relating to battery, if the victim of
896 the offense was a minor.

897 b. Section 787.025, relating to luring or enticing a child.

898 c. Chapter 847, relating to child sexual abuse material
899 ~~child pornography~~.

900 3. A criminal act committed in another state or under
901 federal law which, if committed in this state, constitutes an
902 offense prohibited under any statute listed in subparagraph 1.
903 or subparagraph 2.

904 Section 17. Paragraph (z) of subsection (5) of section
905 456.074, Florida Statutes, is amended to read:

906 456.074 Certain health care practitioners; immediate
907 suspension of license.—

908 (5) The department shall issue an emergency order
909 suspending the license of any health care practitioner who is
910 arrested for committing or attempting, soliciting, or conspiring
911 to commit any act that would constitute a violation of any of
912 the following criminal offenses in this state or similar
913 offenses in another jurisdiction:

914 (z) Section 847.0137, relating to the transmission of child
915 sexual abuse material ~~child pornography~~ by electronic device or
916 equipment.

917 Section 18. Section 847.002, Florida Statutes, is amended
918 to read:

919 847.002 Child sexual abuse material ~~Child pornography~~
920 prosecutions.—

921 (1) Any law enforcement officer who, pursuant to a criminal
922 investigation, recovers images or movies of child sexual abuse
923 material ~~child pornography~~ shall:

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924 (a) Provide such images or movies to the law enforcement
925 agency representative assigned to the Child Victim
926 Identification Program at the National Center for Missing and
927 Exploited Children, as required by the center's guidelines.

928 (b) Request the law enforcement agency contact information
929 from the Child Victim Identification Program for any images or
930 movies recovered which contain an identified victim of child
931 sexual abuse material ~~child pornography~~ as defined in s. 960.03.

932 (c) Provide case information to the Child Victim
933 Identification Program, as required by the National Center for
934 Missing and Exploited Children guidelines, in any case where the
935 law enforcement officer identifies a previously unidentified
936 victim of child sexual abuse material ~~child pornography~~.

937 (2) Any law enforcement officer submitting a case for
938 prosecution which involves the production, promotion, or
939 possession of child sexual abuse material ~~child pornography~~
940 shall submit to the designated prosecutor the law enforcement
941 agency contact information provided by the Child Victim
942 Identification Program at the National Center for Missing and
943 Exploited Children, for any images or movies involved in the
944 case which contain the depiction of an identified victim of
945 child sexual abuse material ~~child pornography~~ as defined in s.
946 960.03.

947 (3) In every filed case involving an identified victim of
948 child sexual abuse material ~~child pornography~~, as defined in s.
949 960.03, the prosecuting agency shall enter the following
950 information into the Victims in Child Sexual Abuse Material
951 ~~Child Pornography~~ Tracking Repeat Exploitation database
952 maintained by the Office of the Attorney General:

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- 953 (a) The case number and agency file number.
954 (b) The named defendant.
955 (c) The circuit court division and county.
956 (d) Current court dates and the status of the case.
957 (e) Contact information for the prosecutor assigned.
958 (f) Verification that the prosecutor is or is not in
959 possession of a victim impact statement and will use the
960 statement in sentencing.

961 Section 19. Subsections (1) and (4) of section 847.01357,
962 Florida Statutes, are amended to read:

963 847.01357 Exploited children's civil remedy.—

964 (1) Any person who, while under the age of 18, was a victim
965 of a sexual abuse crime listed in chapter 794, chapter 800,
966 chapter 827, or chapter 847, where any portion of such abuse was
967 used in the production of child sexual abuse material ~~child~~
968 ~~pornography~~, and who suffers personal or psychological injury as
969 a result of the production, promotion, or possession of such
970 images or movies, may bring an action in an appropriate state
971 court against the producer, promoter, or possessor of such
972 images or movies, regardless of whether the victim is now an
973 adult. In any action brought under this section, a prevailing
974 plaintiff shall recover the actual damages such person sustained
975 and the cost of the suit, including reasonable attorney's fees.
976 Any victim who is awarded damages under this section shall be
977 deemed to have sustained damages of at least \$150,000.

978 (4) It is not a defense to a civil cause of action under
979 this section that the respondent did not know the victim or
980 commit the abuse depicted in any image of child sexual abuse
981 material ~~child pornography~~.

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982 Section 20. Section 847.0139, Florida Statutes, is amended
983 to read:

984 847.0139 Immunity from civil liability for reporting child
985 sexual abuse material ~~child pornography~~, transmission of child
986 sexual abuse material ~~child pornography~~, or any image,
987 information, or data harmful to minors to a minor in this
988 state.—Any person who reports to a law enforcement officer what
989 the person reasonably believes to be child sexual abuse material
990 ~~child pornography~~, transmission of child sexual abuse material
991 ~~child pornography~~, or any image, information, or data that is
992 harmful to minors to a minor in this state may not be held
993 civilly liable for such reporting. For purposes of this section,
994 such reporting may include furnishing the law enforcement
995 officer with any image, information, or data that the person
996 reasonably believes to be evidence of child sexual abuse
997 material ~~child pornography~~, transmission of child sexual abuse
998 material ~~child pornography~~, or an image, information, or data
999 that is harmful to minors to a minor in this state.

1000 Section 21. Paragraph (c) of subsection (8) of section
1001 948.06, Florida Statutes, is amended to read:

1002 948.06 Violation of probation or community control;
1003 revocation; modification; continuance; failure to pay
1004 restitution or cost of supervision.—

1005 (8)

1006 (c) For purposes of this section, the term “qualifying
1007 offense” means any of the following:

1008 1. Kidnapping or attempted kidnapping under s. 787.01,
1009 false imprisonment of a child under the age of 13 under s.
1010 787.02(3), or luring or enticing a child under s. 787.025(2)(b)

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- 1011 or (c).
- 1012 2. Murder or attempted murder under s. 782.04, attempted
- 1013 felony murder under s. 782.051, or manslaughter under s. 782.07.
- 1014 3. Aggravated battery or attempted aggravated battery under
- 1015 s. 784.045.
- 1016 4. Sexual battery or attempted sexual battery under s.
- 1017 794.011(2), (3), (4), or (8)(b) or (c).
- 1018 5. Lewd or lascivious battery or attempted lewd or
- 1019 lascivious battery under s. 800.04(4), lewd or lascivious
- 1020 molestation under s. 800.04(5)(b) or (c)2., lewd or lascivious
- 1021 conduct under s. 800.04(6)(b), lewd or lascivious exhibition
- 1022 under s. 800.04(7)(b), or lewd or lascivious exhibition on
- 1023 computer under s. 847.0135(5)(b).
- 1024 6. Robbery or attempted robbery under s. 812.13, carjacking
- 1025 or attempted carjacking under s. 812.133, or home invasion
- 1026 robbery or attempted home invasion robbery under s. 812.135.
- 1027 7. Lewd or lascivious offense upon or in the presence of an
- 1028 elderly or disabled person or attempted lewd or lascivious
- 1029 offense upon or in the presence of an elderly or disabled person
- 1030 under s. 825.1025.
- 1031 8. Sexual performance by a child or attempted sexual
- 1032 performance by a child under s. 827.071.
- 1033 9. Computer pornography under s. 847.0135(2) or (3),
- 1034 transmission of child sexual abuse material ~~child pornography~~
- 1035 under s. 847.0137, or selling or buying of minors under s.
- 1036 847.0145.
- 1037 10. Poisoning food or water under s. 859.01.
- 1038 11. Abuse of a dead human body under s. 872.06.
- 1039 12. Any burglary offense or attempted burglary offense that

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1040 is either a first degree felony or second degree felony under s.
1041 810.02(2) or (3).

1042 13. Arson or attempted arson under s. 806.01(1).

1043 14. Aggravated assault under s. 784.021.

1044 15. Aggravated stalking under s. 784.048(3), (4), (5), or
1045 (7).

1046 16. Aircraft piracy under s. 860.16.

1047 17. Unlawful throwing, placing, or discharging of a
1048 destructive device or bomb under s. 790.161(2), (3), or (4).

1049 18. Treason under s. 876.32.

1050 19. Any offense committed in another jurisdiction which
1051 would be an offense listed in this paragraph if that offense had
1052 been committed in this state.

1053 Section 22. Section 960.197, Florida Statutes, is amended
1054 to read:

1055 960.197 Assistance to victims of online sexual exploitation
1056 and child sexual abuse material ~~child pornography~~.

1057 (1) Notwithstanding the criteria set forth in s. 960.13 for
1058 crime victim compensation awards, the department may award
1059 compensation for counseling and other mental health services to
1060 treat psychological injury or trauma to:

1061 (a) A child younger than 18 years of age who suffers
1062 psychiatric or psychological injury as a direct result of online
1063 sexual exploitation under any provision of s. 827.071, s.
1064 847.0135, s. 847.0137, or s. 847.0138, and who does not
1065 otherwise sustain a personal injury or death; or

1066 (b) Any person who, while younger than age 18, was depicted
1067 in any image or movie, regardless of length, of child sexual
1068 abuse material ~~child pornography~~ as defined in s. 847.001, who

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1069 has been identified by a law enforcement agency or the National
1070 Center for Missing and Exploited Children as an identified
1071 victim of child sexual abuse material ~~child pornography~~, who
1072 suffers psychiatric or psychological injury as a direct result
1073 of the crime, and who does not otherwise sustain a personal
1074 injury or death.

1075 (2) Compensation under this section is not contingent upon
1076 pursuit of a criminal investigation or prosecution.

1077 Section 23. This act shall take effect October 1, 2022.