

1 A bill to be entitled

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

26 thereto; providing an effective date.

27

28 Be It Enacted by the Legislature of the State of Florida:

29

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

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

36 (5) (a) A person may not knowingly sell, lend, give away,  
 37 distribute, transmit, show, or transmute; offer to sell, lend,  
 38 give away, distribute, transmit, show, or transmute; have in his  
 39 or her possession, custody, or control with the intent to sell,  
 40 lend, give away, distribute, transmit, show, or transmute; or  
 41 advertise in any manner an obscene, child-like sex doll. A  
 42 person who violates this paragraph commits a misdemeanor of the  
 43 first degree, punishable as provided in s. 775.082 or s.  
 44 775.083.

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

48 (c) A person who knowingly has in his or her possession,  
 49 custody, or control an obscene, child-like sex doll without  
 50 intent to sell, lend, give away, distribute, transmit, show,

51 transmute, or advertise the same, commits a misdemeanor of the  
52 second degree, punishable as provided in s. 775.082 or s.  
53 775.083. A person who, after having been convicted of violating  
54 this subsection, thereafter violates any of its provisions  
55 commits a misdemeanor of the first degree, punishable as  
56 provided in s. 775.082 or s. 775.083. In any prosecution for  
57 such possession, it is not necessary to allege or prove the  
58 absence of such intent.

59 Section 2. For the purpose of incorporating the amendment  
60 made by this act to section 847.011, Florida Statutes, in a  
61 reference thereto, paragraph (a) of subsection (1) of section  
62 772.102, Florida Statutes, is reenacted to read:

63 772.102 Definitions.—As used in this chapter, the term:

64 (1) "Criminal activity" means to commit, to attempt to  
65 commit, to conspire to commit, or to solicit, coerce, or  
66 intimidate another person to commit:

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

69 1. Section 210.18, relating to evasion of payment of  
70 cigarette taxes.

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

72 3. Section 440.105 or s. 440.106, relating to workers'  
73 compensation.

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

75 5. Chapter 517, relating to securities transactions.

- 76 |           6. Section 550.235 or s. 550.3551, relating to dogracing
- 77 | and horseracing.
- 78 |           7. Chapter 550, relating to jai alai frontons.
- 79 |           8. Chapter 552, relating to the manufacture, distribution,
- 80 | and use of explosives.
- 81 |           9. Chapter 562, relating to beverage law enforcement.
- 82 |           10. Section 624.401, relating to transacting insurance
- 83 | without a certificate of authority, s. 624.437(4)(c)1., relating
- 84 | to operating an unauthorized multiple-employer welfare
- 85 | arrangement, or s. 626.902(1)(b), relating to representing or
- 86 | aiding an unauthorized insurer.
- 87 |           11. Chapter 687, relating to interest and usurious
- 88 | practices.
- 89 |           12. Section 721.08, s. 721.09, or s. 721.13, relating to
- 90 | real estate timeshare plans.
- 91 |           13. Chapter 782, relating to homicide.
- 92 |           14. Chapter 784, relating to assault and battery.
- 93 |           15. Chapter 787, relating to kidnapping or human
- 94 | trafficking.
- 95 |           16. Chapter 790, relating to weapons and firearms.
- 96 |           17. Former s. 796.03, s. 796.04, s. 796.05, or s. 796.07,
- 97 | relating to prostitution.
- 98 |           18. Chapter 806, relating to arson.
- 99 |           19. Section 810.02(2)(c), relating to specified burglary
- 100 | of a dwelling or structure.

- 101           20. Chapter 812, relating to theft, robbery, and related  
 102 crimes.
- 103           21. Chapter 815, relating to computer-related crimes.
- 104           22. Chapter 817, relating to fraudulent practices, false  
 105 pretenses, fraud generally, and credit card crimes.
- 106           23. Section 827.071, relating to commercial sexual  
 107 exploitation of children.
- 108           24. Chapter 831, relating to forgery and counterfeiting.
- 109           25. Chapter 832, relating to issuance of worthless checks  
 110 and drafts.
- 111           26. Section 836.05, relating to extortion.
- 112           27. Chapter 837, relating to perjury.
- 113           28. Chapter 838, relating to bribery and misuse of public  
 114 office.
- 115           29. Chapter 843, relating to obstruction of justice.
- 116           30. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or  
 117 s. 847.07, relating to obscene literature and profanity.
- 118           31. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s.  
 119 849.25, relating to gambling.
- 120           32. Chapter 893, relating to drug abuse prevention and  
 121 control.
- 122           33. Section 914.22 or s. 914.23, relating to witnesses,  
 123 victims, or informants.
- 124           34. Section 918.12 or s. 918.13, relating to tampering  
 125 with jurors and evidence.

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

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

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

140 847.03 Officer to seize obscene material.—Whenever any  
141 officer arrests any person charged with any offense under s.  
142 847.011, the officer shall seize said obscene material and take  
143 the same into his or her custody to await the sentence of the  
144 court upon the trial of the offender.

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

149 847.09 Legislative intent.—

150 (2) Nothing in ss. 847.07–847.09 shall be construed to

151 repeal or in any way supersede the provisions of s. 847.011, s.  
 152 847.012, or s. 847.013.

153 Section 6. For the purpose of incorporating the amendment  
 154 made by this act to section 847.011, Florida Statutes, in a  
 155 reference thereto, paragraph (a) of subsection (8) of section  
 156 895.02, Florida Statutes, is reenacted to read:

157 895.02 Definitions.—As used in ss. 895.01-895.08, the  
 158 term:

159 (8) "Racketeering activity" means to commit, to attempt to  
 160 commit, to conspire to commit, or to solicit, coerce, or  
 161 intimidate another person to commit:

162 (a) Any crime that is chargeable by petition, indictment,  
 163 or information under the following provisions of the Florida  
 164 Statutes:

165 1. Section 210.18, relating to evasion of payment of  
 166 cigarette taxes.

167 2. Section 316.1935, relating to fleeing or attempting to  
 168 elude a law enforcement officer and aggravated fleeing or  
 169 eluding.

170 3. Section 403.727(3)(b), relating to environmental  
 171 control.

172 4. Section 409.920 or s. 409.9201, relating to Medicaid  
 173 fraud.

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

175 6. Section 440.105 or s. 440.106, relating to workers'

176 compensation.

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

180       8. Section 465.0161, relating to distribution of medicinal  
181 drugs without a permit as an Internet pharmacy.

182       9. Section 499.0051, relating to crimes involving  
183 contraband, adulterated, or misbranded drugs.

184       10. Part IV of chapter 501, relating to telemarketing.

185       11. Chapter 517, relating to sale of securities and  
186 investor protection.

187       12. Section 550.235 or s. 550.3551, relating to dogracing  
188 and horseracing.

189       13. Chapter 550, relating to jai alai frontons.

190       14. Section 551.109, relating to slot machine gaming.

191       15. Chapter 552, relating to the manufacture,  
192 distribution, and use of explosives.

193       16. Chapter 560, relating to money transmitters, if the  
194 violation is punishable as a felony.

195       17. Chapter 562, relating to beverage law enforcement.

196       18. Section 624.401, relating to transacting insurance  
197 without a certificate of authority, s. 624.437(4)(c)1., relating  
198 to operating an unauthorized multiple-employer welfare  
199 arrangement, or s. 626.902(1)(b), relating to representing or  
200 aiding an unauthorized insurer.



201           19. Section 655.50, relating to reports of currency  
202 transactions, when such violation is punishable as a felony.

203           20. Chapter 687, relating to interest and usurious  
204 practices.

205           21. Section 721.08, s. 721.09, or s. 721.13, relating to  
206 real estate timeshare plans.

207           22. Section 775.13(5)(b), relating to registration of  
208 persons found to have committed any offense for the purpose of  
209 benefiting, promoting, or furthering the interests of a criminal  
210 gang.

211           23. Section 777.03, relating to commission of crimes by  
212 accessories after the fact.

213           24. Chapter 782, relating to homicide.

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

215           26. Chapter 787, relating to kidnapping or human  
216 trafficking.

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

218           28. Chapter 794, relating to sexual battery, but only if  
219 such crime was committed with the intent to benefit, promote, or  
220 further the interests of a criminal gang, or for the purpose of  
221 increasing a criminal gang member's own standing or position  
222 within a criminal gang.

223           29. Former s. 796.03, former s. 796.035, s. 796.04, s.  
224 796.05, or s. 796.07, relating to prostitution.

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

- 226           31. Chapter 810, relating to burglary and trespass.
- 227           32. Chapter 812, relating to theft, robbery, and related
- 228 crimes.
- 229           33. Chapter 815, relating to computer-related crimes.
- 230           34. Chapter 817, relating to fraudulent practices, false
- 231 pretenses, fraud generally, credit card crimes, and patient
- 232 brokering.
- 233           35. Chapter 825, relating to abuse, neglect, or
- 234 exploitation of an elderly person or disabled adult.
- 235           36. Section 827.071, relating to commercial sexual
- 236 exploitation of children.
- 237           37. Section 828.122, relating to fighting or baiting
- 238 animals.
- 239           38. Chapter 831, relating to forgery and counterfeiting.
- 240           39. Chapter 832, relating to issuance of worthless checks
- 241 and drafts.
- 242           40. Section 836.05, relating to extortion.
- 243           41. Chapter 837, relating to perjury.
- 244           42. Chapter 838, relating to bribery and misuse of public
- 245 office.
- 246           43. Chapter 843, relating to obstruction of justice.
- 247           44. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or
- 248 s. 847.07, relating to obscene literature and profanity.
- 249           45. Chapter 849, relating to gambling, lottery, gambling
- 250 or gaming devices, slot machines, or any of the provisions

251 within that chapter.

252 46. Chapter 874, relating to criminal gangs.

253 47. Chapter 893, relating to drug abuse prevention and  
254 control.

255 48. Chapter 896, relating to offenses related to financial  
256 transactions.

257 49. Sections 914.22 and 914.23, relating to tampering with  
258 or harassing a witness, victim, or informant, and retaliation  
259 against a witness, victim, or informant.

260 50. Sections 918.12 and 918.13, relating to tampering with  
261 jurors and evidence.

262 Section 7. For the purpose of incorporating the amendment  
263 made by this act to section 847.011, Florida Statutes, in a  
264 reference thereto, paragraph (f) of subsection (3) of section  
265 921.0022, Florida Statutes, is reenacted to read:

266 921.0022 Criminal Punishment Code; offense severity  
267 ranking chart.—

268 (3) OFFENSE SEVERITY RANKING CHART

269 (f) LEVEL 6

270

Florida	Felony	
Statute	Degree	Description
316.027 (2) (b)	2nd	Leaving the scene of a crash involving

271

HB 1107

2019

272	316.193 (2) (b)	3rd	serious bodily injury. Felony DUI, 4th or subsequent conviction.
273	400.9935 (4) (c)	2nd	Operating a clinic, or offering services requiring licensure, without a license.
274	499.0051 (2)	2nd	Knowing forgery of transaction history, transaction information, or transaction statement.
275	499.0051 (3)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.
276	499.0051 (4)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.
277	775.0875 (1)	3rd	Taking firearm from law enforcement officer.

HB 1107

2019

278	784.021 (1) (a)	3rd	Aggravated assault; deadly weapon without intent to kill.
279	784.021 (1) (b)	3rd	Aggravated assault; intent to commit felony.
280	784.041	3rd	Felony battery; domestic battery by strangulation.
281	784.048 (3)	3rd	Aggravated stalking; credible threat.
282	784.048 (5)	3rd	Aggravated stalking of person under 16.
283	784.07 (2) (c)	2nd	Aggravated assault on law enforcement officer.
284	784.074 (1) (b)	2nd	Aggravated assault on sexually violent predators facility staff.

HB 1107

2019

285	784.08 (2) (b)	2nd	Aggravated assault on a person 65 years of age or older.
286	784.081 (2)	2nd	Aggravated assault on specified official or employee.
287	784.082 (2)	2nd	Aggravated assault by detained person on visitor or other detainee.
288	784.083 (2)	2nd	Aggravated assault on code inspector.
289	787.02 (2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
290	790.115 (2) (d)	2nd	Discharging firearm or weapon on school property.
291	790.161 (2)	2nd	Make, possess, or throw

destructive device with  
intent to do bodily harm or  
damage property.

292

790.164 (1)

2nd

False report concerning  
bomb, explosive, weapon of  
mass destruction, act of  
arson or violence to state  
property, or use of firearms  
in violent manner.

293

790.19

2nd

Shooting or throwing deadly  
missiles into dwellings,  
vessels, or vehicles.

294

794.011 (8) (a)

3rd

Solicitation of minor to  
participate in sexual  
activity by custodial  
adult.

295

794.05 (1)

2nd

Unlawful sexual activity  
with specified minor.

296

800.04 (5) (d)

3rd

Lewd or lascivious  
molestation; victim 12

HB 1107

2019

297			years of age or older but less than 16 years of age; offender less than 18 years.
	800.04 (6) (b)	2nd	Lewd or lascivious conduct; offender 18 years of age or older.
298			
	806.031 (2)	2nd	Arson resulting in great bodily harm to firefighter or any other person.
299			
	810.02 (3) (c)	2nd	Burglary of occupied structure; unarmed; no assault or battery.
300			
	810.145 (8) (b)	2nd	Video voyeurism; certain minor victims; 2nd or subsequent offense.
301			
	812.014 (2) (b) 1.	2nd	Property stolen \$20,000 or more, but less than \$100,000,



HB 1107

2019

302			grand theft in 2nd degree.
303	812.014 (6)	2nd	Theft; property stolen \$3,000 or more; coordination of others.
304	812.015 (9) (a)	2nd	Retail theft; property stolen \$300 or more; second or subsequent conviction.
305	812.015 (9) (b)	2nd	Retail theft; property stolen \$3,000 or more; coordination of others.
306	812.13 (2) (c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).
307	817.4821 (5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.
	817.505 (4) (b)	2nd	Patient brokering; 10

HB 1107

2019

308			or more patients.
825.102 (1)	3rd		Abuse of an elderly person or disabled adult.
309			
825.102 (3) (c)	3rd		Neglect of an elderly person or disabled adult.
310			
825.1025 (3)	3rd		Lewd or lascivious molestation of an elderly person or disabled adult.
311			
825.103 (3) (c)	3rd		Exploiting an elderly person or disabled adult and property is valued at less than \$10,000.
312			
827.03 (2) (c)	3rd		Abuse of a child.
313			
827.03 (2) (d)	3rd		Neglect of a child.
314			
827.071 (2) & (3)	2nd		Use or induce a child in a

HB 1107

2019

sexual performance, or  
promote or direct such  
performance.

315

836.05

2nd

Threats; extortion.

316

836.10

2nd

Written threats to kill, do  
bodily injury, or conduct a  
mass shooting or an act of  
terrorism.

317

843.12

3rd

Aids or assists person to  
escape.

318

847.011

3rd

Distributing, offering to  
distribute, or possessing with  
intent to distribute obscene  
materials depicting minors.

319

847.012

3rd

Knowingly using a minor in  
the production of materials  
harmful to minors.

320

847.0135(2)

3rd

Facilitates sexual conduct  
of or with a minor or the

			visual depiction of such conduct.
321	914.23	2nd	Retaliation against a witness, victim, or informant, with bodily injury.
322	944.35 (3) (a) 2.	3rd	Committing malicious battery upon or inflicting cruel or inhuman treatment on an inmate or offender on community supervision, resulting in great bodily harm.
323	944.40	2nd	Escapes.
324	944.46	3rd	Harboring, concealing, aiding escaped prisoners.
325	944.47 (1) (a) 5.	2nd	Introduction of contraband (firearm, weapon, or explosive) into correctional

facility.

326

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

327

328 Section 8. For the purpose of incorporating the amendment  
329 made by this act to section 847.011, Florida Statutes, in a  
330 reference thereto, section 933.02, Florida Statutes, is  
331 reenacted to read:

332 933.02 Grounds for issuance of search warrant.—Upon proper  
333 affidavits being made, a search warrant may be issued under the  
334 provisions of this chapter upon any of the following grounds:

335 (1) When the property shall have been stolen or embezzled  
336 in violation of law;

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

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

339 (b) In connection with gambling, gambling implements and  
340 appliances; or

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

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

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

346 (a) In violation of any of the laws prohibiting the

347 manufacture, sale, and transportation of intoxicating liquors;  
 348 (b) In violation of the fish and game laws;  
 349 (c) In violation of the laws relative to food and drug; or  
 350 (d) In violation of the laws relative to citrus disease  
 351 pursuant to s. 581.184; or  
 352 (5) When the laws in relation to cruelty to animals, as  
 353 provided in chapter 828, have been or are violated in any  
 354 particular building or place.

355  
 356 This section also applies to any papers or documents used as a  
 357 means of or in aid of the commission of any offense against the  
 358 laws of the state.

359 Section 9. For the purpose of incorporating the amendment  
 360 made by this act to section 847.011, Florida Statutes, in a  
 361 reference thereto, section 933.03, Florida Statutes, is  
 362 reenacted to read:

363 933.03 Destruction of obscene prints and literature.—All  
 364 obscene prints and literature, or other things mentioned in s.  
 365 847.011 found by an officer in executing a search warrant, or  
 366 produced or brought into court, shall be safely kept so long as  
 367 is necessary for the purpose of being used as evidence in any  
 368 case, and as soon as may be afterwards, shall be destroyed by  
 369 order of the court before whom the case is brought.

370 Section 10. For the purpose of incorporating the amendment  
 371 made by this act to section 847.011, Florida Statutes, in a

372 reference thereto, paragraph (g) of subsection (2) of section  
 373 943.325, Florida Statutes, is reenacted to read:

374 943.325 DNA database.—

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

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

378 1.a. Committed to a county jail;

379 b. Committed to or under the supervision of the Department  
 380 of Corrections, including persons incarcerated in a private  
 381 correctional institution operated under contract pursuant to s.  
 382 944.105;

383 c. Committed to or under the supervision of the Department  
 384 of Juvenile Justice;

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

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

389 2.a. Convicted of any felony offense or attempted felony  
 390 offense in this state or of a similar offense in another  
 391 jurisdiction;

392 b. Convicted of a misdemeanor violation of s. 784.048, s.  
 393 810.14, s. 847.011, s. 847.013, s. 847.0135, or s. 877.26, or an  
 394 offense that was found, pursuant to s. 874.04, to have been  
 395 committed for the purpose of benefiting, promoting, or  
 396 furthering the interests of a criminal gang as defined in s.

HB 1107

2019

397 | 874.03; or

398 |       c. Arrested for any felony offense or attempted felony  
399 | offense in this state.

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