

By the Committee on Criminal Justice; and Senator Book

591-02309-19

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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

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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.

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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

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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 of  
100 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

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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 with  
125 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 is  
131 convicted under s. 847.011, the court in awarding sentence shall  
132 make an order confiscating said obscene material and authorize  
133 the sheriff of the county in which the material is held to  
134 destroy the same. The sheriff shall file with the court a  
135 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

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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 term:

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

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

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

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

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

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

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

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

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175 compensation.

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

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

180 9. Section 499.0051, relating to crimes involving  
181 contraband, adulterated, or misbranded drugs.

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

183 11. Chapter 517, relating to sale of securities and  
184 investor protection.

185 12. Section 550.235 or s. 550.3551, relating to dogracing  
186 and horseracing.

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

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

189 15. Chapter 552, relating to the manufacture, distribution,  
190 and use of explosives.

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

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

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

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

201 20. Chapter 687, relating to interest and usurious  
202 practices.

203 21. Section 721.08, s. 721.09, or s. 721.13, relating to

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204 real estate timeshare plans.

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

209 23. Section 777.03, relating to commission of crimes by  
210 accessories after the fact.

211 24. Chapter 782, relating to homicide.

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

213 26. Chapter 787, relating to kidnapping or human  
214 trafficking.

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

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

221 29. Former s. 796.03, former s. 796.035, s. 796.04, s.  
222 796.05, or s. 796.07, relating to prostitution.

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

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

225 32. Chapter 812, relating to theft, robbery, and related  
226 crimes.

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

228 34. Chapter 817, relating to fraudulent practices, false  
229 pretenses, fraud generally, credit card crimes, and patient  
230 brokering.

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



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233           36. Section 827.071, relating to commercial sexual  
234 exploitation of children.

235           37. Section 828.122, relating to fighting or baiting  
236 animals.

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

238           39. Chapter 832, relating to issuance of worthless checks  
239 and drafts.

240           40. Section 836.05, relating to extortion.

241           41. Chapter 837, relating to perjury.

242           42. Chapter 838, relating to bribery and misuse of public  
243 office.

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

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

247           45. Chapter 849, relating to gambling, lottery, gambling or  
248 gaming devices, slot machines, or any of the provisions within  
249 that chapter.

250           46. Chapter 874, relating to criminal gangs.

251           47. Chapter 893, relating to drug abuse prevention and  
252 control.

253           48. Chapter 896, relating to offenses related to financial  
254 transactions.

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

258           50. Sections 918.12 and 918.13, relating to tampering with  
259 jurors and evidence.

260           Section 7. For the purpose of incorporating the amendment  
261 made by this act to section 847.011, Florida Statutes, in a

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262 reference thereto, paragraph (f) of subsection (3) of section  
 263 921.0022, Florida Statutes, is reenacted to read:

264 921.0022 Criminal Punishment Code; offense severity ranking  
 265 chart.—

266 (3) OFFENSE SEVERITY RANKING CHART

267 (f) LEVEL 6

268

Florida Statute	Felony Degree	Description
316.027 (2) (b)	2nd	Leaving the scene of a crash involving serious bodily injury.
316.193 (2) (b)	3rd	Felony DUI, 4th or subsequent conviction.
400.9935 (4) (c)	2nd	Operating a clinic, or offering services requiring licensure, without a license.
499.0051 (2)	2nd	Knowing forgery of transaction history, transaction information, or transaction statement.
499.0051 (3)	2nd	Knowing purchase or

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			receipt of prescription drug from unauthorized person.
274	499.0051 (4)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.
275	775.0875 (1)	3rd	Taking firearm from law enforcement officer.
276	784.021 (1) (a)	3rd	Aggravated assault; deadly weapon without intent to kill.
277	784.021 (1) (b)	3rd	Aggravated assault; intent to commit felony.
278	784.041	3rd	Felony battery; domestic battery by strangulation.
279	784.048 (3)	3rd	Aggravated stalking; credible threat.
280	784.048 (5)	3rd	Aggravated stalking of person under 16.
281	784.07 (2) (c)	2nd	Aggravated assault on

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			law enforcement officer.
282	784.074 (1) (b)	2nd	Aggravated assault on sexually violent predators facility staff.
283	784.08 (2) (b)	2nd	Aggravated assault on a person 65 years of age or older.
284	784.081 (2)	2nd	Aggravated assault on specified official or employee.
285	784.082 (2)	2nd	Aggravated assault by detained person on visitor or other detainee.
286	784.083 (2)	2nd	Aggravated assault on code inspector.
287	787.02 (2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
288	790.115 (2) (d)	2nd	Discharging firearm or

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weapon on school  
property.

289

790.161(2)

2nd

Make, possess, or throw  
destructive device with  
intent to do bodily harm  
or damage property.

290

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.

291

790.19

2nd

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

292

794.011(8)(a)

3rd

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

293

794.05(1)

2nd

Unlawful sexual activity  
with specified minor.

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295	800.04 (5) (d)	3rd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years of age; offender less than 18 years.
296	800.04 (6) (b)	2nd	Lewd or lascivious conduct; offender 18 years of age or older.
297	806.031 (2)	2nd	Arson resulting in great bodily harm to firefighter or any other person.
298	810.02 (3) (c)	2nd	Burglary of occupied structure; unarmed; no assault or battery.
299	810.145 (8) (b)	2nd	Video voyeurism; certain minor victims; 2nd or subsequent offense.
300	812.014 (2) (b) 1.	2nd	Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree.

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301	812.014 (6)	2nd	Theft; property stolen \$3,000 or more; coordination of others.
302	812.015 (9) (a)	2nd	Retail theft; property stolen \$300 or more; second or subsequent conviction.
303	812.015 (9) (b)	2nd	Retail theft; property stolen \$3,000 or more; coordination of others.
304	812.13 (2) (c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).
305	817.4821 (5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.
306	817.505 (4) (b)	2nd	Patient brokering; 10 or more patients.
307	825.102 (1)	3rd	Abuse of an elderly person or disabled adult.

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825.102 (3) (c)

3rd

Neglect of an elderly person or disabled adult.

308

825.1025 (3)

3rd

Lewd or lascivious molestation of an elderly person or disabled adult.

309

825.103 (3) (c)

3rd

Exploiting an elderly person or disabled adult and property is valued at less than \$10,000.

310

827.03 (2) (c)

3rd

Abuse of a child.

311

827.03 (2) (d)

3rd

Neglect of a child.

312

827.071 (2) & (3)

2nd

Use or induce a child in a sexual performance, or promote or direct such performance.

313

836.05

2nd

Threats; extortion.

314

836.10

2nd

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



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843.12 3rd Aids or assists person to escape.

316

847.011 3rd Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors.

317

847.012 3rd Knowingly using a minor in the production of materials harmful to minors.

318

847.0135 (2) 3rd Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.

319

914.23 2nd Retaliation against a witness, victim, or informant, with bodily injury.

320

944.35 (3) (a) 2. 3rd Committing malicious battery upon or

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inflicting cruel or  
inhuman treatment on an  
inmate or offender on  
community supervision,  
resulting in great  
bodily harm.

321

944.40

2nd

Escapes.

322

944.46

3rd

Harboring, concealing,  
aiding escaped  
prisoners.

323

944.47 (1) (a) 5.

2nd

Introduction of  
contraband (firearm,  
weapon, or explosive)  
into correctional  
facility.

324

951.22 (1)

3rd

Intoxicating drug,  
firearm, or weapon  
introduced into county  
facility.

325

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

330 933.02 Grounds for issuance of search warrant.—Upon proper

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331 affidavits being made, a search warrant may be issued under the  
332 provisions of this chapter upon any of the following grounds:

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

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

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

337 (b) In connection with gambling, gambling implements and  
338 appliances; or

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

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

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

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

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

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

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

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

353

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

357 Section 9. For the purpose of incorporating the amendment  
358 made by this act to section 847.011, Florida Statutes, in a  
359 reference thereto, section 933.03, Florida Statutes, is

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360 reenacted to read:

361 933.03 Destruction of obscene prints and literature.—All  
362 obscene prints and literature, or other things mentioned in s.  
363 847.011 found by an officer in executing a search warrant, or  
364 produced or brought into court, shall be safely kept so long as  
365 is necessary for the purpose of being used as evidence in any  
366 case, and as soon as may be afterwards, shall be destroyed by  
367 order of the court before whom the case is brought.

368 Section 10. For the purpose of incorporating the amendment  
369 made by this act to section 847.011, Florida Statutes, in a  
370 reference thereto, paragraph (g) of subsection (2) of section  
371 943.325, Florida Statutes, is reenacted to read:

372 943.325 DNA database.—

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

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

376 1.a. Committed to a county jail;

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

381 c. Committed to or under the supervision of the Department  
382 of Juvenile Justice;

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

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

387 2.a. Convicted of any felony offense or attempted felony  
388 offense in this state or of a similar offense in another

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389 jurisdiction;

390       b. Convicted of a misdemeanor violation of s. 784.048, s.  
391 810.14, s. 847.011, s. 847.013, s. 847.0135, or s. 877.26, or an  
392 offense that was found, pursuant to s. 874.04, to have been  
393 committed for the purpose of benefiting, promoting, or  
394 furthering the interests of a criminal gang as defined in s.  
395 874.03; or

396       c. Arrested for any felony offense or attempted felony  
397 offense in this state.

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