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

27
28 Be It Enacted by the Legislature of the State of Florida:
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30 Section 1. Present subsections (5) through (10) of section
31 847.011, Florida Statutes, are redesignated as subsections (6)
32 through (11), respectively, and a new subsection (5) is added to
33 that section, to read:

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

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

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

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

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

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

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

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59 772.102, Florida Statutes, is reenacted to read:

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

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

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

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

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

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

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

72 5. Chapter 517, relating to securities transactions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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146 847.09 Legislative intent.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

208 24. Chapter 782, relating to homicide.

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

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

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

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

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

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

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

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

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

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

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

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

232 37. Section 828.122, relating to fighting or baiting

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233 animals.

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

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

237 40. Section 836.05, relating to extortion.

238 41. Chapter 837, relating to perjury.

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

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

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

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

247 46. Chapter 874, relating to criminal gangs.

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

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

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

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

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

261 921.0022 Criminal Punishment Code; offense severity ranking

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

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

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| | | | sexually violent predators facility staff. |
| 280 | 784.08 (2) (b) | 2nd | Aggravated assault on a person 65 years of age or older. |
| 281 | 784.081 (2) | 2nd | Aggravated assault on specified official or employee. |
| 282 | 784.082 (2) | 2nd | Aggravated assault by detained person on visitor or other detainee. |
| 283 | 784.083 (2) | 2nd | Aggravated assault on code inspector. |
| 284 | 787.02 (2) | 3rd | False imprisonment; restraining with purpose other than those in s. 787.01. |
| 285 | 790.115 (2) (d) | 2nd | Discharging firearm or weapon on school property. |
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| 287 | 790.161 (2) | 2nd | Make, possess, or throw destructive device with intent to do bodily harm or damage property. |
| 288 | 790.164 (1) | 2nd | False report concerning bomb, explosive, weapon of mass destruction, act of arson or violence to state property, or use of firearms in violent manner. |
| 289 | 790.19 | 2nd | Shooting or throwing deadly missiles into dwellings, vessels, or vehicles. |
| 290 | 794.011 (8) (a) | 3rd | Solicitation of minor to participate in sexual activity by custodial adult. |
| 291 | 794.05 (1) | 2nd | Unlawful sexual activity with specified minor. |
| | 800.04 (5) (d) | 3rd | Lewd or lascivious molestation; victim 12 years of age or older |

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

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

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

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313 847.011 3rd Distributing, offering
to distribute, or
possessing with intent
to distribute obscene
materials depicting
minors.

314 847.012 3rd Knowingly using a minor
in the production of
materials harmful to
minors.

315 847.0135(2) 3rd Facilitates sexual
conduct of or with a
minor or the visual
depiction of such
conduct.

316 914.23 2nd Retaliation against a
witness, victim, or
informant, with bodily
injury.

317 944.35(3)(a)2. 3rd Committing malicious
battery upon or
inflicting cruel or
inhuman treatment on an
inmate or offender on

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community supervision,
resulting in great
bodily harm.

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944.40 2nd Escapes.

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944.46 3rd Harboring, concealing,
aiding escaped
prisoners.

320

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

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

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

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

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

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331 in violation of law;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

369 943.325 DNA database.—

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

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

373 1.a. Committed to a county jail;

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

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

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

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

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

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

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

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

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