

By Representatives Dawson-White, Futch, Roberts-Burke,
Murman, Meek and Brown

1 A bill to be entitled
2 An act relating to criminal offenses involving
3 minors; creating the Children's Protection Act
4 of 1997; amending s. 775.084, F.S., relating to
5 violent career criminal sentencing, to conform
6 to the act; amending s. 784.03, F.S., relating
7 to battery and felony battery; defining the
8 offense of battery upon a child under 16 years
9 of age; providing penalties; amending ss.
10 787.01 and 787.02, F.S., relating to kidnapping
11 and false imprisonment, to conform to the act;
12 amending s. 800.03, F.S.; redefining the
13 offense of unlawful exposure or exhibition of
14 sexual organs to prohibit appearing naked under
15 specified circumstances; providing penalties;
16 providing that a violation of s. 800.03, F.S.,
17 in the presence of a person under 16 years of
18 age constitutes a violation of s. 800.04, F.S.;
19 providing an exception for maternal
20 breastfeeding; amending s. 800.04, F.S.;
21 creating the offenses of "lewd or lascivious
22 battery," "lewd or lascivious molestation,"
23 "lewd or lascivious conduct," and "lewd or
24 lascivious exhibition"; providing definitions;
25 providing penalties; precluding consent from
26 being raised as a defense except in certain
27 circumstances; precluding ignorance or belief
28 of age from being raised as a defense;
29 providing an exception for maternal
30 breastfeeding; deleting provisions that define
31 and provide penalties for "lewd, lascivious, or

1 indecent assault or act upon or in the presence
2 of a child"; amending s. 826.04, F.S., relating
3 to incest; removing definition of "sexual
4 intercourse" and defining "sexual activity";
5 redefining the offense of third degree felony
6 incest to include knowingly marrying or
7 engaging in sexual activity with any of the
8 specified relatives who is at least 18 years
9 old; providing penalties; defining the offense
10 of second degree felony incest against a person
11 under 16 years of age; providing penalties;
12 reenacting ss. 775.15(7), 787.025(2)(a),
13 914.16, and 944.606(1)(b), F.S., relating to
14 time limitations, luring or enticing a child,
15 limits on interviews, and sex offender
16 notification upon release, to incorporate the
17 amendments to ss. 800.04 and 826.04, F.S., in
18 cross references; amending s. 921.0012, F.S.;
19 ranking offenses created in the act in the
20 sentencing guidelines offense severity ranking
21 chart; amending s. 948.03(4)(a), F.S., and
22 reenacting s. 948.03(5), F.S., relating to
23 terms and conditions of probation or community
24 control, to conform to the act; providing an
25 effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. This act shall be known and may be cited as
30 the "Children's Protection Act of 1997."

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1 Section 2. Paragraph (c) of subsection (1) of section
2 775.084, Florida Statutes, 1996 Supplement, is amended to
3 read:

4 775.084 Violent career criminals; habitual felony
5 offenders and habitual violent felony offenders; definitions;
6 procedure; enhanced penalties.--

7 (1) As used in this act:

8 (c) "Violent career criminal" means a defendant for
9 whom the court must impose imprisonment pursuant to paragraph
10 (4)(c), if it finds that:

11 1. The defendant has previously been convicted as an
12 adult three or more times for an offense in this state or
13 other qualified offense that is:

14 a. Any forcible felony, as described in s. 776.08;

15 b. Aggravated stalking, as described in s. 784.048(3)
16 and (4);

17 c. Aggravated child abuse, as described in s.
18 827.03(2);

19 d. Aggravated abuse of an elderly person or disabled
20 adult, as described in s. 825.102(2);

21 e. Lewd or lascivious battery, lewd or lascivious
22 molestation, lewd or lascivious conduct, or lewd or lascivious
23 exhibition, lascivious, or indecent conduct,as described in
24 s. 800.04;

25 f. Escape, as described in s. 944.40; or

26 g. A felony violation of chapter 790 involving the use
27 or possession of a firearm.

28 2. The defendant has been incarcerated in a state
29 prison or a federal prison.

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1 3. The primary felony offense for which the defendant
2 is to be sentenced is a felony enumerated in subparagraph 1.
3 and was committed on or after October 1, 1995, and:

4 a. While the defendant was serving a prison sentence
5 or other commitment imposed as a result of a prior conviction
6 for an enumerated felony; or

7 b. Within 5 years after the conviction of the last
8 prior enumerated felony, or within 5 years after the
9 defendant's release from a prison sentence or other commitment
10 imposed as a result of a prior conviction for an enumerated
11 felony, whichever is later.

12 4. The defendant has not received a pardon for any
13 felony or other qualified offense that is necessary for the
14 operation of this paragraph.

15 5. A conviction of a felony or other qualified offense
16 necessary to the operation of this paragraph has not been set
17 aside in any postconviction proceeding.

18 (6) The purpose of this section is to provide uniform
19 punishment for those crimes made punishable under this
20 section, and to this end, a reference to this section
21 constitutes a general reference under the doctrine of
22 incorporation by reference.

23 Section 3. Section 784.03, Florida Statutes, 1996
24 Supplement, is amended to read:

25 784.03 Battery; felony battery.--

26 (1)(a) The offense of battery occurs when a person:

27 1. Actually and intentionally touches or strikes
28 another person against the will of the other; or

29 2. Intentionally causes bodily harm to another person.

30 (b) Except as otherwise provided in this section
31 ~~provided in subsection (2)~~, a person who commits battery

1 commits a misdemeanor of the first degree, punishable as
2 provided in s. 775.082 or s. 775.083.

3 (2) A person who has two prior convictions for battery
4 who commits a third or subsequent battery commits a felony of
5 the third degree, punishable as provided in s. 775.082, s.
6 775.083, or s. 775.084. For purposes of this subsection,
7 "conviction" means a determination of guilt that is the result
8 of a plea or a trial, regardless of whether adjudication is
9 withheld.

10 (3) A person who commits a battery upon a child less
11 than 16 years of age commits a felony of the third degree,
12 punishable as provided in s. 775.082, s. 775.083, or s.
13 775.084.

14 Section 4. Paragraph (a) of subsection (3) of section
15 787.01, Florida Statutes, 1996 Supplement, is amended to read:
16 787.01 Kidnapping; kidnapping of child under age 13,
17 aggravating circumstances.--

18 (3)(a) A person who commits the offense of kidnapping
19 upon a child under the age of 13 and who, in the course of
20 committing the offense, commits one or more of the following:

21 1. Aggravated child abuse, as defined in s. 827.03;

22 2. Sexual battery, as defined in chapter 794, against
23 the child;

24 3. Lewd or lascivious battery, lewd or lascivious
25 molestation, lewd or lascivious conduct, or lewd or lascivious
26 exhibition ~~A lewd, lascivious, or indecent assault or act upon~~
27 ~~or in the presence of the child,~~ in violation of s. 800.04;

28 4. A violation of s. 796.03 or s. 796.04, relating to
29 prostitution, upon the child; or

30 5. Exploitation of the child or allowing the child to
31 be exploited, in violation of s. 450.151,

1
2 commits a life felony, punishable as provided in s. 775.082,
3 s. 775.083, or s. 775.084.

4 Section 5. Paragraph (a) of subsection (3) of section
5 787.02, Florida Statutes, 1996 Supplement, is amended to read:
6 787.02 False imprisonment; false imprisonment of child
7 under age 13, aggravating circumstances.--

8 (3)(a) A person who commits the offense of false
9 imprisonment upon a child under the age of 13 and who, in the
10 course of committing the offense, commits any offense
11 enumerated in subparagraphs 1.-5., commits a felony of the
12 first degree, punishable by imprisonment for a term of years
13 not exceeding life or as provided in s. 775.082, s. 775.083,
14 or s. 775.084.

15 1. Aggravated child abuse, as defined in s. 827.03;

16 2. Sexual battery, as defined in chapter 794, against
17 the child;

18 3. Lewd or lascivious battery, lewd or lascivious
19 molestation, lewd or lascivious conduct, or lewd or lascivious
20 exhibition ~~A lewd, lascivious, or indecent assault or act upon~~
21 ~~or in the presence of the child~~, in violation of s. 800.04;

22 4. A violation of s. 796.03 or s. 796.04, relating to
23 prostitution, upon the child; or

24 5. Exploitation of the child or allowing the child to
25 be exploited, in violation of s. 450.151.

26 Section 6. Section 800.03, Florida Statutes, is
27 amended to read:

28 800.03 Exposure of sexual organs.--

29 (1) It is unlawful for any person to expose or exhibit
30 his or her ~~one's~~ sexual organs in public or on the private
31 premises of another, or so near thereto as to be seen from

1 such private premises, in a vulgar or indecent manner, or
2 appear to be naked in public except in any place provided or
3 set apart for that purpose.

4 (2) Except as provided in subsection (3), a person who
5 commits a violation of this section commits ~~is~~ a misdemeanor
6 of the first degree, punishable as provided in s. 775.082 or
7 s. 775.083.

8 (3) A person who commits a violation of this section
9 in the presence of a person less than 16 years of age commits
10 a violation of s. 800.04.

11 (4) A mother's breastfeeding of her baby does not
12 under any circumstance violate this section.

13 Section 7. Section 800.04, Florida Statutes, is
14 amended to read:

15 800.04 Lewd or lascivious offenses committed upon or
16 in the presence of persons less than 16 years of age ~~lewd,~~
17 ~~lascivious, or indecent assault or act upon or in presence of~~
18 ~~child.--~~

19 (1) DEFINITIONS.--As used in this section:

20 (a) "Sexual activity" means the oral, anal, or vaginal
21 penetration by, or union with, the sexual organ of another or
22 the anal or vaginal penetration of another by any other
23 object; however, sexual activity does not include an act done
24 for a bona fide medical purpose.

25 (b) "Consent" means intelligent, knowing, and
26 voluntary consent, and does not include submission by
27 coercion.

28 (c) "Coercion" means the use of exploitation, bribes,
29 threats of force, or intimidation to gain cooperation or
30 compliance.

31

1 (d) "Victim" means a person upon whom an offense
2 described in this section was committed or attempted; or a
3 person who has reported a violation of this section to a law
4 enforcement officer.

5 (2) CONSENT OF VICTIM.--

6 (a) If the victim is under 12 years of age, the
7 consent of the victim cannot be raised as a defense to a
8 prosecution for any offense under this section.

9 (b) If the victim is 12 years of age or older but less
10 than 16 years of age, the consent of the victim cannot be
11 raised as a defense to a prosecution for any offense under
12 this section if the difference between the age of the offender
13 and the age of the victim exceeds 3 years.

14 (3) IGNORANCE OR BELIEF OF VICTIM'S AGE.--The
15 perpetrator's ignorance of the victim's age, the victim's
16 misrepresentation of his or her age, or the perpetrator's bona
17 fide belief of the victim's age, cannot be raised as a defense
18 in a prosecution under this section.

19 (4) LEWD OR LASCIVIOUS BATTERY.--A person who:

20 (a) Engages in sexual activity with a person 12 years
21 of age or older but less than 16 years of age; or

22 (b) Encourages, forces, or entices any person less
23 than 16 years of age to engage in sadomasochistic abuse,
24 sexual bestiality, prostitution, or any other act involving
25 sexual activity

26
27 commits lewd or lascivious battery, a felony of the second
28 degree, punishable as provided in s. 775.082, s. 775.083, or
29 s. 775.084.

30 (5) LEWD OR LASCIVIOUS MOLESTATION.--
31

1 (a) A person who intentionally touches in a lewd or
2 lascivious manner the breasts, genitals, genital area, or
3 buttocks, or the clothing covering them, of a person less than
4 16 years of age, commits lewd or lascivious molestation.

5 (b) An offender 18 years of age or older who commits
6 lewd or lascivious molestation against a victim less than 12
7 years of age commits a felony of the first degree, punishable
8 as provided in s. 775.082, s. 775.083, or s. 775.084.

9 (c)1. An offender less than 18 years of age who
10 commits lewd or lascivious molestation against a victim less
11 than 12 years of age; or

12 2. An offender 18 years of age or older who commits
13 lewd or lascivious molestation against a victim 12 years of
14 age or older but less than 16 years of age

15
16 commits a felony of the second degree, punishable as provided
17 in s. 775.082, s. 775.083, or s. 775.084.

18 (d) An offender less than 18 years of age who commits
19 lewd or lascivious molestation against a victim 12 years of
20 age or older but less than 16 years of age commits a felony of
21 the third degree, punishable as provided in s. 775.082, s.
22 775.083, or s. 775.084.

23 (6) LEWD OR LASCIVIOUS CONDUCT.--

24 (a) A person who:

25 1. Intentionally touches a person under 16 years of
26 age in a lewd or lascivious manner; or

27 2. Solicits a person under 16 years of age to commit a
28 lewd or lascivious act

29
30 commits lewd or lascivious conduct.

31

1 (b) An offender 18 years of age or older who commits
2 lewd or lascivious conduct commits a felony of the second
3 degree, punishable as provided in s. 775.082, s. 775.083, or
4 s. 775.084.

5 (c) An offender less than 18 years of age who commits
6 lewd or lascivious conduct commits a felony of the third
7 degree, punishable as provided in s. 775.082, s. 775.083, or
8 s. 775.084.

9 (7) LEWD OR LASCIVIOUS EXHIBITION.--

10 (a) A person who:

11 1. Intentionally masturbates;

12 2. Intentionally exposes the genitals in a lewd or
13 lascivious manner; or

14 3. Intentionally commits any other sexual act that
15 does not involve actual physical or sexual contact with the
16 victim, including, but not limited to, sadomasochistic abuse,
17 sexual bestiality, or the simulation of any act involving
18 sexual activity

19
20 in the presence of a victim who is less than 16 years of age,
21 commits lewd or lascivious exhibition.

22 (b) An offender 18 years of age or older who commits a
23 lewd or lascivious exhibition commits a felony of the second
24 degree, punishable as provided in s. 775.082, s. 775.083, or
25 s. 775.084.

26 (c) An offender less than 18 years of age who commits
27 a lewd or lascivious exhibition commits a felony of the third
28 degree, punishable as provided in s. 775.082, s. 775.083, or
29 s. 775.084.

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1 (8) EXCEPTION.--A mother's breastfeeding of her baby
2 does not under any circumstance constitute a violation of this
3 section. ~~A person who:~~

4 ~~(1) Handles, fondles, or assaults any child under the~~
5 ~~age of 16 years in a lewd, lascivious, or indecent manner;~~

6 ~~(2) Commits actual or simulated sexual intercourse,~~
7 ~~deviate sexual intercourse, sexual bestiality, masturbation,~~
8 ~~sadomasochistic abuse, actual lewd exhibition of the genitals,~~
9 ~~or any act or conduct which simulates that sexual battery is~~
10 ~~being or will be committed upon any child under the age of 16~~
11 ~~years or forces or entices the child to commit any such act;~~

12 ~~(3) Commits an act defined as sexual battery under s.~~
13 ~~794.011(1)(h) upon any child under the age of 16 years; or~~

14 ~~(4) Knowingly commits any lewd or lascivious act in~~
15 ~~the presence of any child under the age of 16 years,~~

16
17 ~~without committing the crime of sexual battery, commits a~~
18 ~~felony of the second degree, punishable as provided in s.~~
19 ~~775.082, s. 775.083, or s. 775.084. Neither the victim's lack~~
20 ~~of chastity nor the victim's consent is a defense to the crime~~
21 ~~proscribed by this section. A mother's breastfeeding of her~~
22 ~~baby does not under any circumstance violate this section.~~

23 Section 8. Section 826.04, Florida Statutes, is
24 amended to read:

25 826.04 Incest.--

26 (1) A person who ~~Whoever~~ knowingly marries or engages
27 in sexual activity ~~has sexual intercourse~~ with a person 18
28 years of age or older to whom he or she is related by lineal
29 consanguinity, or a brother, sister, uncle, aunt, nephew, or
30 niece, commits incest, ~~which constitutes~~ a felony of the third
31 degree, punishable as provided in s. 775.082, s. 775.083, or

1 ~~s. 775.084. "Sexual intercourse" is the penetration of the~~
2 ~~female sex organ by the male sex organ, however slight,~~
3 ~~emission of semen is not required.~~

4 (2) A person who knowingly marries or engages in
5 sexual activity with a person less than 18 years of age to
6 whom he or she is related by lineal consanguinity, or a
7 brother, sister, uncle, aunt, nephew, or niece, commits
8 incest, a felony of the second degree, punishable as provided
9 in s. 775.082, s. 775.083, or s. 775.084.

10 (3) For purposes of this section, "sexual activity"
11 means the oral, anal, or vaginal penetration by or union with,
12 the sexual organ of another; however, sexual activity does not
13 include an act done for a bona fide medical purpose.

14 Section 9. For the purpose of incorporating the
15 amendments to sections 800.04 and 826.04, Florida Statutes, in
16 references thereto, the sections or subdivisions of Florida
17 Statutes set forth below are reenacted to read:

18 775.15 Time limitations.--

19 (7) If the victim of a violation of s. 794.011, former
20 s. 794.05, Florida Statutes 1995, s. 800.04, or s. 826.04 is
21 under the age of 16, the applicable period of limitation, if
22 any, does not begin to run until the victim has reached the
23 age of 16 or the violation is reported to a law enforcement
24 agency or other governmental agency, whichever occurs earlier.
25 Such law enforcement agency or other governmental agency shall
26 promptly report such allegation to the state attorney for the
27 judicial circuit in which the alleged violation occurred. This
28 subsection applies to any such offense except an offense the
29 prosecution of which would have been barred by subsection (2)
30 on or before December 31, 1984.

31 787.025 Luring or enticing a child.--

1 (2)(a) A person over the age of 18 who, having been
2 previously convicted of a violation of chapter 794 or s.
3 800.04, or a violation of a similar law of another
4 jurisdiction, intentionally lures or entices, or attempts to
5 lure or entice, a child under the age of 12 into a structure,
6 dwelling, or conveyance for other than a lawful purpose
7 commits a felony of the third degree, punishable as provided
8 in s. 775.082, s. 775.083, or s. 775.084.

9 914.16 Child abuse and sexual abuse of victims under
10 age 16 or persons with mental retardation; limits on
11 interviews.--The chief judge of each judicial circuit, after
12 consultation with the state attorney and the public defender
13 for the judicial circuit, the appropriate chief law
14 enforcement officer, and any other person deemed appropriate
15 by the chief judge, shall provide by order reasonable limits
16 on the number of interviews that a victim of a violation of s.
17 794.011, s. 800.04, or s. 827.03 who is under 16 years of age
18 or a victim of a violation of s. 794.011, s. 800.02, s.
19 800.03, or s. 825.102 who is a person with mental retardation
20 as defined in s. 393.063(41) must submit to for law
21 enforcement or discovery purposes. The order shall, to the
22 extent possible, protect the victim from the psychological
23 damage of repeated interrogations while preserving the rights
24 of the public, the victim, and the person charged with the
25 violation.

26 944.606 Sexual offenders; notification upon release.--

27 (1) As used in this section:

28 (b) "Sexual offender" means a person who has been
29 convicted of a felony violation of chapter 794, s. 800.04, s.
30 827.071, or s. 847.0145, or a violation of a similar law of
31 another jurisdiction, when the department has received

1 verified information regarding such conviction; an offender's
2 computerized criminal history record is not, in and of itself,
3 verified information.

4 Section 10. Paragraphs (b), (d), (e), (f), (g), (h),
5 (i), and (j) of subsection (3) of section 921.0012, Florida
6 Statutes, 1996 Supplement, are amended to read:

7 921.0012 Sentencing guidelines offense levels; offense
8 severity ranking chart.--

9 (3) OFFENSE SEVERITY RANKING CHART

| 10 Florida | Felony | |
|------------------|--------|--|
| 11 Statute | Degree | Description |
| | | (b) LEVEL 2 |
| 15 403.413(5)(c) | 3rd | Dumps waste litter exceeding 500 16 lbs. in weight or 100 cubic feet 17 in volume or any quantity for 18 commercial purposes, or hazardous 19 waste. |
| 20 517.07 | 3rd | Registration of securities and 21 furnishing of prospectus 22 required. |
| 23 590.28(1) | 3rd | Willful, malicious, or 24 intentional burning. |
| 25 784.05(3) | 3rd | Storing or leaving a loaded 26 firearm within reach of minor who 27 uses it to inflict injury or 28 death. |
| 29 787.04(1) | 3rd | In violation of court order, 30 take, entice, etc., minor beyond 31 state limits. |

| | | | |
|----|-----------------|-----|-----------------------------------|
| 1 | 806.13(1)(b)3. | 3rd | Criminal mischief; damage \$1,000 |
| 2 | | | or more to public communication |
| 3 | | | or any other public service. |
| 4 | 810.09(2)(e) | 3rd | Trespassing on posted commerical |
| 5 | | | horticulture property. |
| 6 | 812.014(2)(c)1. | 3rd | Grand theft, 3rd degree; \$300 or |
| 7 | | | more but less than \$5,000. |
| 8 | 812.014(2)(d) | 3rd | Grand theft, 3rd degree; \$100 or |
| 9 | | | more but less than \$300, taken |
| 10 | | | from unenclosed curtilage of |
| 11 | | | dwelling. |
| 12 | 817.234(1)(a)2. | 3rd | False statement in support of |
| 13 | | | insurance claim. |
| 14 | 817.481(3)(a) | 3rd | Obtain credit or purchase with |
| 15 | | | false, expired, counterfeit, |
| 16 | | | etc., credit card, value over |
| 17 | | | \$300. |
| 18 | 817.52(3) | 3rd | Failure to redeliver hired |
| 19 | | | vehicle. |
| 20 | 817.54 | 3rd | With intent to defraud, obtain |
| 21 | | | mortgage note, etc., by false |
| 22 | | | representation. |
| 23 | 817.60(5) | 3rd | Dealing in credit cards of |
| 24 | | | another. |
| 25 | 817.60(6)(a) | 3rd | Forgery; purchase goods, services |
| 26 | | | with false card. |
| 27 | 817.61 | 3rd | Fraudulent use of credit cards |
| 28 | | | over \$100 or more within 6 |
| 29 | | | months. |
| 30 | | | |
| 31 | | | |

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|----|------------------|------------|--|
| 1 | <u>826.04(1)</u> | 3rd | Knowingly marries or <u>engages in</u> |
| 2 | | | <u>sexual activity</u> has sexual |
| 3 | | | intercourse with person <u>18 years</u> |
| 4 | | | <u>of age or older</u> to whom related. |
| 5 | 831.01 | 3rd | Forgery. |
| 6 | 831.02 | 3rd | Uttering forged instrument; |
| 7 | | | utters or publishes alteration |
| 8 | | | with intent to defraud. |
| 9 | 831.07 | 3rd | Forging bank bills or promissory |
| 10 | | | note. |
| 11 | 831.08 | 3rd | Possession of 10 or more forged |
| 12 | | | notes. |
| 13 | 831.09 | 3rd | Uttering forged bills; passes as |
| 14 | | | bank bill or promissory note. |
| 15 | 832.05(3)(a) | 3rd | Cashing or depositing item with |
| 16 | | | intent to defraud. |
| 17 | 843.08 | 3rd | Falsely impersonating an officer. |
| 18 | 893.13(2)(a)2. | 3rd | Purchase of any s. 893.03(1)(c), |
| 19 | | | (2)(c), (3), or (4) drugs other |
| 20 | | | than cannabis. |
| 21 | 893.147(2) | 3rd | Manufacture or delivery of drug |
| 22 | | | paraphernalia. |
| 23 | | | |
| 24 | | | (d) LEVEL 4 |
| 25 | 316.1935(2) | 3rd | Fleeing or attempting to elude |
| 26 | | | law enforcement officer resulting |
| 27 | | | in high-speed pursuit. |
| 28 | <u>784.03(3)</u> | <u>3rd</u> | <u>Battery of a person less than 16</u> |
| 29 | | | <u>years of age.</u> |
| 30 | | | |
| 31 | | | |

| | | | |
|----|---------------|-----|-----------------------------------|
| 1 | 784.07(2)(b) | 3rd | Battery of law enforcement |
| 2 | | | officer, firefighter, intake |
| 3 | | | officer, etc. |
| 4 | 784.075 | 3rd | Battery on detention or |
| 5 | | | commitment facility staff. |
| 6 | 784.08(2)(c) | 3rd | Battery on a person 65 years of |
| 7 | | | age or older. |
| 8 | 784.081(3) | 3rd | Battery on specified official or |
| 9 | | | employee. |
| 10 | 784.082(3) | 3rd | Battery by detained person on |
| 11 | | | visitor or other detainee. |
| 12 | 787.03(1) | 3rd | Interference with custody; |
| 13 | | | wrongly takes child from |
| 14 | | | appointed guardian. |
| 15 | 787.04(2) | 3rd | Take, entice, or remove child |
| 16 | | | beyond state limits with criminal |
| 17 | | | intent pending custody |
| 18 | | | proceedings. |
| 19 | 787.04(3) | 3rd | Carrying child beyond state lines |
| 20 | | | with criminal intent to avoid |
| 21 | | | producing child at custody |
| 22 | | | hearing or delivering to |
| 23 | | | designated person. |
| 24 | 790.115(1) | 3rd | Exhibiting firearm or weapon |
| 25 | | | within 1,000 feet of a school. |
| 26 | 790.115(2)(b) | 3rd | Possessing electric weapon or |
| 27 | | | device, destructive device, or |
| 28 | | | other weapon on school property. |
| 29 | 790.115(2)(c) | 3rd | Possessing firearm on school |
| 30 | | | property. |
| 31 | | | |

| | | | |
|----|---------------------|------------|---------------------------------------|
| 1 | <u>800.04(7)(c)</u> | <u>3rd</u> | <u>Lewd or lascivious exhibition;</u> |
| 2 | | | <u>offender less than 18 years.</u> |
| 3 | 810.02(4)(a) | 3rd | Burglary, or attempted burglary, |
| 4 | | | of an unoccupied structure; |
| 5 | | | unarmed; no assault or battery. |
| 6 | 810.02(4)(b) | 3rd | Burglary, or attempted burglary, |
| 7 | | | of an unoccupied conveyance; |
| 8 | | | unarmed; no assault or battery. |
| 9 | 810.06 | 3rd | Burglary; possession of tools. |
| 10 | 810.08(2)(c) | 3rd | Trespass on property, armed with |
| 11 | | | firearm or dangerous weapon. |
| 12 | 812.014(2)(c)3. | 3rd | Grand theft, 3rd degree \$10,000 |
| 13 | | | or more but less than \$20,000. |
| 14 | 812.014 | | |
| 15 | (2)(c)4.-10. | 3rd | Grand theft, 3rd degree, a will, |
| 16 | | | firearm, motor vehicle, |
| 17 | | | livestock, etc. |
| 18 | 817.563(1) | 3rd | Sell or deliver substance other |
| 19 | | | than controlled substance agreed |
| 20 | | | upon, excluding s. 893.03(5) |
| 21 | | | drugs. |
| 22 | 828.125(1) | 2nd | Kill, maim, or cause great bodily |
| 23 | | | harm or permanent breeding |
| 24 | | | disability to any registered |
| 25 | | | horse or cattle. |
| 26 | 837.02(1) | 3rd | Perjury in official proceedings. |
| 27 | 837.021(1) | 3rd | Make contradictory statements in |
| 28 | | | official proceedings. |
| 29 | | | |
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|----|----------------|-----|-----------------------------------|
| 1 | 843.025 | 3rd | Deprive law enforcement, |
| 2 | | | correctional, or correctional |
| 3 | | | probation officer of means of |
| 4 | | | protection or communication. |
| 5 | 843.15(1)(a) | 3rd | Failure to appear while on bail |
| 6 | | | for felony (bond estreatment or |
| 7 | | | bond jumping). |
| 8 | 874.05(1) | 3rd | Encouraging or recruiting another |
| 9 | | | to join a criminal street gang. |
| 10 | 893.13(2)(a)1. | 2nd | Purchase of cocaine (or other s. |
| 11 | | | 893.03(1)(a), (b), or (d), or |
| 12 | | | (2)(a) or (b) drugs). |
| 13 | 914.14(2) | 3rd | Witnesses accepting bribes. |
| 14 | 914.22(1) | 3rd | Force, threaten, etc., witness, |
| 15 | | | victim, or informant. |
| 16 | 914.23(2) | 3rd | Retaliation against a witness, |
| 17 | | | victim, or informant, no bodily |
| 18 | | | injury. |
| 19 | 918.12 | 3rd | Tampering with jurors. |
| 20 | | | |
| 21 | | | (e) LEVEL 5 |
| 22 | 316.027(1)(a) | 3rd | Accidents involving personal |
| 23 | | | injuries, failure to stop; |
| 24 | | | leaving scene. |
| 25 | 316.1935(3) | 3rd | Aggravated fleeing or eluding. |
| 26 | 322.34(3) | 3rd | Careless operation of motor |
| 27 | | | vehicle with suspended license, |
| 28 | | | resulting in death or serious |
| 29 | | | bodily injury. |
| 30 | 327.30(5) | 3rd | Vessel accidents involving |
| 31 | | | personal injury; leaving scene. |

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| 1 | 381.0041(11)(b) | 3rd | Donate blood, plasma, or organs |
| 2 | | | knowing HIV positive. |
| 3 | 790.01(2) | 3rd | Carrying a concealed firearm. |
| 4 | 790.162 | 2nd | Threat to throw or discharge |
| 5 | | | destructive device. |
| 6 | 790.163 | 2nd | False report of deadly explosive. |
| 7 | 790.165(2) | 3rd | Manufacture, sell, possess, or |
| 8 | | | deliver hoax bomb. |
| 9 | 790.221(1) | 2nd | Possession of short-barreled |
| 10 | | | shotgun or machine gun. |
| 11 | 790.23 | 2nd | Felons in possession of firearms |
| 12 | | | or electronic weapons or devices. |
| 13 | <u>800.04(6)(c)</u> | <u>3rd</u> | <u>Lewd or lascivious conduct;</u> |
| 14 | | | <u>offender less than 18 years.</u> |
| 15 | <u>800.04(7)(b)</u> | <u>2nd</u> | <u>Lewd or lascivious exhibition;</u> |
| 16 | | | <u>offender 18 years or older.</u> |
| 17 | 806.111(1) | 3rd | Possess, manufacture, or dispense |
| 18 | | | fire bomb with intent to damage |
| 19 | | | any structure or property. |
| 20 | 812.019(1) | 2nd | Stolen property; dealing in or |
| 21 | | | trafficking in. |
| 22 | 812.16(2) | 3rd | Owning, operating, or conducting |
| 23 | | | a chop shop. |
| 24 | 817.034(4)(a)2. | 2nd | Communications fraud, value |
| 25 | | | \$20,000 to \$50,000. |
| 26 | 825.1025(4) | 3rd | Lewd or lascivious exhibition in |
| 27 | | | the presence of an elderly person |
| 28 | | | or disabled adult. |
| 29 | | | |
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|----|----------------|-----|-----------------------------------|
| 1 | 827.071(4) | 2nd | Possess with intent to promote |
| 2 | | | any photographic material, motion |
| 3 | | | picture, etc., which includes |
| 4 | | | sexual conduct by a child. |
| 5 | 843.01 | 3rd | Resist officer with violence to |
| 6 | | | person; resist arrest with |
| 7 | | | violence. |
| 8 | 874.05(2) | 2nd | Encouraging or recruiting another |
| 9 | | | to join a criminal street gang; |
| 10 | | | second or subsequent offense. |
| 11 | 893.13(1)(a)1. | 2nd | Sell, manufacture, or deliver |
| 12 | | | cocaine (or other s. |
| 13 | | | 893.03(1)(a), (1)(b), (1)(d), |
| 14 | | | (2)(a), or (2)(b) drugs). |
| 15 | 893.13(1)(c)2. | 2nd | Sell, manufacture, or deliver |
| 16 | | | cannabis (or other s. |
| 17 | | | 893.03(1)(c), (2)(c), (3), or (4) |
| 18 | | | drugs) within 1,000 feet of a |
| 19 | | | school. |
| 20 | 893.13(1)(d)1. | 1st | Sell, manufacture, or deliver |
| 21 | | | cocaine (or other s. |
| 22 | | | 893.03(1)(a), (1)(b), (1)(d), |
| 23 | | | (2)(a), or (2)(b) drugs) within |
| 24 | | | 200 feet of university, public |
| 25 | | | housing facility, or public park. |
| 26 | 893.13(4)(b) | 2nd | Deliver to minor cannabis (or |
| 27 | | | other s. 893.03(1)(c), (2)(c), |
| 28 | | | (3), or (4) drugs). |
| 29 | | | |
| 30 | | | (f) LEVEL 6 |
| 31 | | | |

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|----|---------------|-----|-----------------------------------|
| 1 | 316.027(1)(b) | 2nd | Accident involving death, failure |
| 2 | | | to stop; leaving scene. |
| 3 | 316.193(2)(b) | 3rd | Felony DUI, 4th or subsequent |
| 4 | | | conviction. |
| 5 | 775.0875(1) | 3rd | Taking firearm from law |
| 6 | | | enforcement officer. |
| 7 | 784.021(1)(a) | 3rd | Aggravated assault; deadly weapon |
| 8 | | | without intent to kill. |
| 9 | 784.021(1)(b) | 3rd | Aggravated assault; intent to |
| 10 | | | commit felony. |
| 11 | 784.048(3) | 3rd | Aggravated stalking; credible |
| 12 | | | threat. |
| 13 | 784.07(2)(c) | 2nd | Aggravated assault on law |
| 14 | | | enforcement officer. |
| 15 | 784.08(2)(b) | 2nd | Aggravated assault on a person 65 |
| 16 | | | years of age or older. |
| 17 | 784.081(2) | 2nd | Aggravated assault on specified |
| 18 | | | official or employee. |
| 19 | 784.082(2) | 2nd | Aggravated assault by detained |
| 20 | | | person on visitor or other |
| 21 | | | detainee. |
| 22 | 787.02(2) | 3rd | False imprisonment; restraining |
| 23 | | | with purpose other than those in |
| 24 | | | s. 787.01. |
| 25 | 790.115(2)(d) | 2nd | Discharging firearm or weapon on |
| 26 | | | school property. |
| 27 | 790.161(2) | 2nd | Make, possess, or throw |
| 28 | | | destructive device with intent to |
| 29 | | | do bodily harm or damage |
| 30 | | | property. |
| 31 | | | |

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|----|---------------------|------------|---|
| 1 | 790.164(1) | 2nd | False report of deadly explosive |
| 2 | | | or act of arson or violence to |
| 3 | | | state property. |
| 4 | 790.19 | 2nd | Shooting or throwing deadly |
| 5 | | | missiles into dwellings, vessels, |
| 6 | | | or vehicles. |
| 7 | 794.011(8)(a) | 3rd | Solicitation of minor to |
| 8 | | | participate in sexual activity by |
| 9 | | | custodial adult. |
| 10 | 794.05(1) | 2nd | Unlawful sexual activity with |
| 11 | | | specified minor. |
| 12 | <u>800.04(5)(d)</u> | <u>3rd</u> | <u>Lewd or lascivious molestation;</u> |
| 13 | | | <u>victim 12 years of age or older</u> |
| 14 | | | <u>but less than 16 years; offender</u> |
| 15 | | | <u>less than 18 years.</u> |
| 16 | <u>800.04(6)(b)</u> | <u>2nd</u> | <u>Lewd or lascivious conduct;</u> |
| 17 | | | <u>offender 18 years of age or</u> |
| 18 | | | <u>older.</u> |
| 19 | 806.031(2) | 2nd | Arson resulting in great bodily |
| 20 | | | harm to firefighter or any other |
| 21 | | | person. |
| 22 | 810.02(3)(c) | 2nd | Burglary of occupied structure; |
| 23 | | | unarmed; no assault or battery. |
| 24 | 812.014(2)(b) | 2nd | Property stolen \$20,000 or more, |
| 25 | | | but less than \$100,000, grand |
| 26 | | | theft in 2nd degree. |
| 27 | 812.13(2)(c) | 2nd | Robbery, no firearm or other |
| 28 | | | weapon (strong-arm robbery). |
| 29 | 817.034(4)(a)1. | 1st | Communications fraud, value |
| 30 | | | greater than \$50,000. |
| 31 | | | |

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| 1 | 817.4821(5) | 2nd | Possess cloning paraphernalia |
| 2 | | | with intent to create cloned |
| 3 | | | cellular telephones. |
| 4 | 825.102(1) | 3rd | Abuse of an elderly person or |
| 5 | | | disabled adult. |
| 6 | 825.102(3)(c) | 3rd | Neglect of an elderly person or |
| 7 | | | disabled adult. |
| 8 | 825.1025(3) | 3rd | Lewd or lascivious molestation of |
| 9 | | | an elderly person or disabled |
| 10 | | | adult. |
| 11 | 825.103(2)(c) | 3rd | Exploiting an elderly person or |
| 12 | | | disabled adult and property is |
| 13 | | | valued at \$100 or more, but less |
| 14 | | | than \$20,000. |
| 15 | 827.03(1) | 3rd | Abuse of a child. |
| 16 | 827.03(3)(c) | 3rd | Neglect of a child. |
| 17 | 827.071(2)&(3) | 2nd | Use or induce a child in a sexual |
| 18 | | | performance, or promote or direct |
| 19 | | | such performance. |
| 20 | 836.05 | 2nd | Threats; extortion. |
| 21 | 836.10 | 2nd | Written threats to kill or do |
| 22 | | | bodily injury. |
| 23 | 843.12 | 3rd | Aids or assists person to escape. |
| 24 | 914.23 | 2nd | Retaliation against a witness, |
| 25 | | | victim, or informant, with bodily |
| 26 | | | injury. |
| 27 | | | |
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|----|-----------------|-----|-----------------------------------|
| 1 | 944.35(3)(a)2. | 3rd | Committing malicious battery upon |
| 2 | | | or inflicting cruel or inhuman |
| 3 | | | treatment on an inmate or |
| 4 | | | offender on community |
| 5 | | | supervision, resulting in great |
| 6 | | | bodily harm. |
| 7 | 944.40 | 2nd | Escapes. |
| 8 | 944.46 | 3rd | Harboring, concealing, aiding |
| 9 | | | escaped prisoners. |
| 10 | 944.47(1)(a)5. | 2nd | Introduction of contraband |
| 11 | | | (firearm, weapon, or explosive) |
| 12 | | | into correctional facility. |
| 13 | 951.22(1) | 3rd | Intoxicating drug, firearm, or |
| 14 | | | weapon introduced into county |
| 15 | | | facility. |
| 16 | | | |
| 17 | | | (g) LEVEL 7 |
| 18 | 316.193(3)(c)2. | 3rd | DUI resulting in serious bodily |
| 19 | | | injury. |
| 20 | 327.35(3)(c)2. | 3rd | Vessel BUI resulting in serious |
| 21 | | | bodily injury. |
| 22 | 409.920(2) | 3rd | Medicaid provider fraud. |
| 23 | 494.0018(2) | 1st | Conviction of any violation of |
| 24 | | | ss. 494.001-494.0077 in which the |
| 25 | | | total money and property |
| 26 | | | unlawfully obtained exceeded |
| 27 | | | \$50,000 and there were five or |
| 28 | | | more victims. |
| 29 | | | |
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| 1 | 782.07(1) | 2nd | Killing of a human being by the |
| 2 | | | act, procurement, or culpable |
| 3 | | | negligence of another |
| 4 | | | (manslaughter). |
| 5 | 782.071(1) | 3rd | Killing of human being by the |
| 6 | | | operation of a motor vehicle in a |
| 7 | | | reckless manner (vehicular |
| 8 | | | homicide). |
| 9 | 782.072(1) | 3rd | Killing of a human being by the |
| 10 | | | operation of a vessel in a |
| 11 | | | reckless manner (vessel |
| 12 | | | homicide). |
| 13 | 784.045(1)(a)1. | 2nd | Aggravated battery; intentionally |
| 14 | | | causing great bodily harm or |
| 15 | | | disfigurement. |
| 16 | 784.045(1)(a)2. | 2nd | Aggravated battery; using deadly |
| 17 | | | weapon. |
| 18 | 784.045(1)(b) | 2nd | Aggravated battery; perpetrator |
| 19 | | | aware victim pregnant. |
| 20 | 784.048(4) | 3rd | Aggravated stalking; violation of |
| 21 | | | injunction or court order. |
| 22 | 784.07(2)(d) | 1st | Aggravated battery on law |
| 23 | | | enforcement officer. |
| 24 | 784.08(2)(a) | 1st | Aggravated battery on a person 65 |
| 25 | | | years of age or older. |
| 26 | 784.081(1) | 1st | Aggravated battery on specified |
| 27 | | | official or employee. |
| 28 | 784.082(1) | 1st | Aggravated battery by detained |
| 29 | | | person on visitor or other |
| 30 | | | detainee. |
| 31 | | | |

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| 1 | 790.07(4) | 1st | Specified weapons violation |
| 2 | | | subsequent to previous conviction |
| 3 | | | of s. 790.07(1) or (2). |
| 4 | 790.16(1) | 1st | Discharge of a machine gun under |
| 5 | | | specified circumstances. |
| 6 | 796.03 | 2nd | Procuring any person under 16 |
| 7 | | | years for prostitution. |
| 8 | <u>800.04(5)(c)1.</u> | 2nd | <u>Lewd or lascivious molestation;</u> |
| 9 | | | <u>victim less than 12 years of age;</u> |
| 10 | | | <u>offender less than 18 years</u> |
| 11 | | | Handle, fondle, or assault child |
| 12 | | | under 16 years in lewd, |
| 13 | | | lascivious, or indecent manner. |
| 14 | <u>800.04(5)(c)2.</u> | 2nd | <u>Lewd or lascivious molestation;</u> |
| 15 | | | <u>victim 12 years of age or older</u> |
| 16 | | | <u>but less than 16 years; offender</u> |
| 17 | | | <u>18 years or older.</u> |
| 18 | 806.01(2) | 2nd | Maliciously damage structure by |
| 19 | | | fire or explosive. |
| 20 | 810.02(3)(a) | 2nd | Burglary of occupied dwelling; |
| 21 | | | unarmed; no assault or battery. |
| 22 | 810.02(3)(b) | 2nd | Burglary of unoccupied dwelling; |
| 23 | | | unarmed; no assault or battery. |
| 24 | 810.02(3)(d) | 2nd | Burglary of occupied conveyance; |
| 25 | | | unarmed; no assault or battery. |
| 26 | 812.014(2)(a) | 1st | Property stolen, valued at |
| 27 | | | \$100,000 or more; property stolen |
| 28 | | | while causing other property |
| 29 | | | damage; 1st degree grand theft. |
| 30 | | | |
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| 1 | 812.019(2) | 1st | Stolen property; initiates, |
| 2 | | | organizes, plans, etc., the theft |
| 3 | | | of property and traffics in |
| 4 | | | stolen property. |
| 5 | 812.133(2)(b) | 1st | Carjacking; no firearm, deadly |
| 6 | | | weapon, or other weapon. |
| 7 | 825.102(3)(b) | 2nd | Neglecting an elderly person or |
| 8 | | | disabled adult causing great |
| 9 | | | bodily harm, disability, or |
| 10 | | | disfigurement. |
| 11 | 825.1025(2) | 2nd | Lewd or lascivious battery upon |
| 12 | | | an elderly person or disabled |
| 13 | | | adult. |
| 14 | 825.103(2)(b) | 2nd | Exploiting an elderly person or |
| 15 | | | disabled adult and property is |
| 16 | | | valued at \$20,000 or more, but |
| 17 | | | less than \$100,000. |
| 18 | 827.03(3)(b) | 2nd | Neglect of a child causing great |
| 19 | | | bodily harm, disability, or |
| 20 | | | disfigurement. |
| 21 | 827.04(4) | 3rd | Impregnation of a child under 16 |
| 22 | | | years of age by person 21 years |
| 23 | | | of age or older. |
| 24 | 872.06 | 2nd | Abuse of a dead human body. |
| 25 | 893.13(1)(c)1. | 1st | Sell, manufacture, or deliver |
| 26 | | | cocaine (or other s. |
| 27 | | | 893.03(1)(a), (1)(b), (1)(d), |
| 28 | | | (2)(a), or (2)(b) drugs) within |
| 29 | | | 1,000 feet of a school. |
| 30 | | | |
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|----|-----------------|-----|-----------------------------------|
| 1 | 893.13(4)(a) | 1st | Deliver to minor cocaine (or |
| 2 | | | other s. 893.03(1)(a), (1)(b), |
| 3 | | | (1)(d), (2)(a), or (2)(b) drugs). |
| 4 | 893.135(1)(a)1. | 1st | Trafficking in cannabis, more |
| 5 | | | than 50 lbs., less than 2,000 |
| 6 | | | lbs. |
| 7 | 893.135 | | |
| 8 | (1)(b)1.a. | 1st | Trafficking in cocaine, more than |
| 9 | | | 28 grams, less than 200 grams. |
| 10 | 893.135 | | |
| 11 | (1)(c)1.a. | 1st | Trafficking in illegal drugs, |
| 12 | | | more than 4 grams, less than 14 |
| 13 | | | grams. |
| 14 | 893.135 | | |
| 15 | (1)(d)1. | 1st | Trafficking in phencyclidine, |
| 16 | | | more than 28 grams, less than 200 |
| 17 | | | grams. |
| 18 | 893.135(1)(e)1. | 1st | Trafficking in methaqualone, more |
| 19 | | | than 200 grams, less than 5 |
| 20 | | | kilograms. |
| 21 | 893.135(1)(f)1. | 1st | Trafficking in amphetamine, more |
| 22 | | | than 14 grams, less than 28 |
| 23 | | | grams. |
| 24 | | | |
| 25 | | | (h) LEVEL 8 |
| 26 | 316.193 | | |
| 27 | (3)(c)3.a. | 2nd | DUI manslaughter. |
| 28 | 327.35(3)(c)3. | 2nd | Vessel BUI manslaughter. |
| 29 | 777.03(2)(a) | 1st | Accessory after the fact, capital |
| 30 | | | felony. |
| 31 | | | |

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|----|------------------|------------|------------------------------------|
| 1 | 782.04(4) | 2nd | Killing of human without design |
| 2 | | | when engaged in act or attempt of |
| 3 | | | any felony other than arson, |
| 4 | | | sexual battery, robbery, |
| 5 | | | burglary, kidnapping, aircraft |
| 6 | | | piracy, or unlawfully discharging |
| 7 | | | bomb. |
| 8 | 782.071(2) | 2nd | Committing vehicular homicide and |
| 9 | | | failing to render aid or give |
| 10 | | | information. |
| 11 | 782.072(2) | 2nd | Committing vessel homicide and |
| 12 | | | failing to render aid or give |
| 13 | | | information. |
| 14 | 790.161(3) | 1st | Discharging a destructive device |
| 15 | | | which results in bodily harm or |
| 16 | | | property damage. |
| 17 | 794.011(5) | 2nd | Sexual battery, victim 12 years |
| 18 | | | or over, offender does not use |
| 19 | | | physical force likely to cause |
| 20 | | | serious injury. |
| 21 | <u>800.04(4)</u> | <u>2nd</u> | <u>Lewd or lascivious battery.</u> |
| 22 | 806.01(1) | 1st | Maliciously damage dwelling or |
| 23 | | | structure by fire or explosive, |
| 24 | | | believing person in structure. |
| 25 | 810.02(2)(a) | 1st,PBL | Burglary with assault or battery. |
| 26 | 810.02(2)(b) | 1st,PBL | Burglary; armed with explosives |
| 27 | | | or dangerous weapon. |
| 28 | 810.02(2)(c) | 1st | Burglary of a dwelling or |
| 29 | | | structure causing structural |
| 30 | | | damage or \$1,000 or more property |
| 31 | | | damage. |

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| 1 | 812.13(2)(b) | 1st | Robbery with a weapon. |
| 2 | 812.135(2) | 1st | Home-invasion robbery. |
| 3 | 825.102(2) | 2nd | Aggravated abuse of an elderly |
| 4 | | | person or disabled adult. |
| 5 | 825.103(2)(a) | 1st | Exploiting an elderly person or |
| 6 | | | disabled adult and property is |
| 7 | | | valued at \$100,000 or more. |
| 8 | <u>826.04(2)</u> | <u>2nd</u> | <u>Knowingly marries or engages in</u> |
| 9 | | | <u>sexual activity with person less</u> |
| 10 | | | <u>than 18 years of age to whom</u> |
| 11 | | | <u>related.</u> |
| 12 | 827.03(2) | 2nd | Aggravated child abuse. |
| 13 | 860.121(2)(c) | 1st | Shooting at or throwing any |
| 14 | | | object in path of railroad |
| 15 | | | vehicle resulting in great bodily |
| 16 | | | harm. |
| 17 | 860.16 | 1st | Aircraft piracy. |
| 18 | 893.13(1)(b) | 1st | Sell or deliver in excess of 10 |
| 19 | | | grams of any substance specified |
| 20 | | | in s. 893.03(1)(a) or (b). |
| 21 | 893.13(2)(b) | 1st | Purchase in excess of 10 grams of |
| 22 | | | any substance specified in s. |
| 23 | | | 893.03(1)(a) or (b). |
| 24 | 893.13(6)(c) | 1st | Possess in excess of 10 grams of |
| 25 | | | any substance specified in s. |
| 26 | | | 893.03(1)(a) or (b). |
| 27 | 893.135(1)(a)2. | 1st | Trafficking in cannabis, more |
| 28 | | | than 2,000 lbs., less than 10,000 |
| 29 | | | lbs. |
| 30 | | | |
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|----|-----------------|-----|-----------------------------------|
| 1 | 893.135 | | |
| 2 | (1)(b)1.b. | 1st | Trafficking in cocaine, more than |
| 3 | | | 200 grams, less than 400 grams. |
| 4 | 893.135 | | |
| 5 | (1)(c)1.b. | 1st | Trafficking in illegal drugs, |
| 6 | | | more than 14 grams, less than 28 |
| 7 | | | grams. |
| 8 | 893.135(1)(d)2. | 1st | Trafficking in phencyclidine, |
| 9 | | | more than 200 grams, less than |
| 10 | | | 400 grams. |
| 11 | 893.135(1)(e)2. | 1st | Trafficking in methaqualone, more |
| 12 | | | than 5 kilograms, less than 25 |
| 13 | | | kilograms. |
| 14 | 893.135(1)(f)2. | 1st | Trafficking in amphetamine, more |
| 15 | | | than 28 grams, less than 200 |
| 16 | | | grams. |
| 17 | 895.03(1) | 1st | Use or invest proceeds derived |
| 18 | | | from pattern of racketeering |
| 19 | | | activity. |
| 20 | 895.03(2) | 1st | Acquire or maintain through |
| 21 | | | racketeering activity any |
| 22 | | | interest in or control of any |
| 23 | | | enterprise or real property. |
| 24 | 895.03(3) | 1st | Conduct or participate in any |
| 25 | | | enterprise through pattern of |
| 26 | | | racketeering activity. |
| 27 | | | |
| 28 | | | (i) LEVEL 9 |
| 29 | 316.193 | | |
| 30 | (3)(c)3.b. | 1st | DUI manslaughter; failing to |
| 31 | | | render aid or give information. |

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|----|----------------|---------|-------------------------------------|
| 1 | 782.04(1) | 1st | Attempt, conspire, or solicit to |
| 2 | | | commit premeditated murder. |
| 3 | 782.04(3) | 1st,PBL | Accomplice to murder in |
| 4 | | | connection with arson, sexual |
| 5 | | | battery, robbery, burglary, and |
| 6 | | | other specified felonies. |
| 7 | 782.07(2) | 1st | Aggravated manslaughter of an |
| 8 | | | elderly person or disabled adult. |
| 9 | 782.07(3) | 1st | Aggravated manslaughter of a |
| 10 | | | child. |
| 11 | 787.01(1)(a)1. | 1st,PBL | Kidnapping; hold for ransom or |
| 12 | | | reward or as a shield or hostage. |
| 13 | 787.01(1)(a)2. | 1st,PBL | Kidnapping with intent to commit |
| 14 | | | or facilitate commission of any |
| 15 | | | felony. |
| 16 | 787.01(1)(a)4. | 1st,PBL | Kidnapping with intent to |
| 17 | | | interfere with performance of any |
| 18 | | | governmental or political |
| 19 | | | function. |
| 20 | 787.02(3)(a) | 1st | False imprisonment; child under |
| 21 | | | age 13; perpetrator also commits |
| 22 | | | child abuse, sexual battery, |
| 23 | | | lewd, or lascivious <u>battery,</u> |
| 24 | | | <u>molestation, conduct, or</u> |
| 25 | | | <u>exhibition act, etc.</u> |
| 26 | 790.161 | 1st | Attempted capital destructive |
| 27 | | | device offense. |
| 28 | 794.011(2) | 1st | Attempted sexual battery; victim |
| 29 | | | less than 12 years of age. |
| 30 | | | |
| 31 | | | |

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| 1 | 794.011(2) | Life | Sexual battery; offender younger |
| 2 | | | than 18 years and commits sexual |
| 3 | | | battery on a person less than 12 |
| 4 | | | years. |
| 5 | 794.011(4) | 1st | Sexual battery; victim 12 years |
| 6 | | | or older, certain circumstances. |
| 7 | 794.011(8)(b) | 1st | Sexual battery; engage in sexual |
| 8 | | | conduct with minor 12 to 18 years |
| 9 | | | by person in familial or |
| 10 | | | custodial authority. |
| 11 | <u>800.04(5)(b)</u> | <u>1st</u> | <u>Lewd or lascivious molestation;</u> |
| 12 | | | <u>victim less than 12 years;</u> |
| 13 | | | <u>offender 18 years or older.</u> |
| 14 | 812.13(2)(a) | 1st,PBL | Robbery with firearm or other |
| 15 | | | deadly weapon. |
| 16 | 812.133(2)(a) | 1st,PBL | Carjacking; firearm or other |
| 17 | | | deadly weapon. |
| 18 | 847.0145(1) | 1st | Selling, or otherwise |
| 19 | | | transferring custody or control, |
| 20 | | | of a minor. |
| 21 | 847.0145(2) | 1st | Purchasing, or otherwise |
| 22 | | | obtaining custody or control, of |
| 23 | | | a minor. |
| 24 | 859.01 | 1st | Poisoning food, drink, medicine, |
| 25 | | | or water with intent to kill or |
| 26 | | | injure another person. |
| 27 | 893.135 | 1st | Attempted capital trafficking |
| 28 | | | offense. |
| 29 | 893.135(1)(a)3. | 1st | Trafficking in cannabis, more |
| 30 | | | than 10,000 lbs. |
| 31 | | | |

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|----|-----------------|---------|--|
| 1 | 893.135 | | |
| 2 | (1)(b)1.c. | 1st | Trafficking in cocaine, more than |
| 3 | | | 400 grams, less than 150 |
| 4 | | | kilograms. |
| 5 | 893.135 | | |
| 6 | (1)(c)1.c. | 1st | Trafficking in illegal drugs, |
| 7 | | | more than 28 grams, less than 30 |
| 8 | | | kilograms. |
| 9 | 893.135(1)(d)3. | 1st | Trafficking in phencyclidine, |
| 10 | | | more than 400 grams. |
| 11 | 893.135(1)(e)3. | 1st | Trafficking in methaqualone, more |
| 12 | | | than 25 kilograms. |
| 13 | 893.135(1)(f)3. | 1st | Trafficking in amphetamine, more |
| 14 | | | than 200 grams. |
| 15 | | | |
| 16 | | | (j) LEVEL 10 |
| 17 | 782.04(2) | 1st,PBL | Unlawful killing of human; act is |
| 18 | | | homicide, unpremeditated. |
| 19 | 787.01(1)(a)3. | 1st,PBL | Kidnapping; inflict bodily harm |
| 20 | | | upon or terrorize victim. |
| 21 | 787.01(3)(a) | Life | Kidnapping; child under age 13, |
| 22 | | | perpetrator also commits child |
| 23 | | | abuse, sexual battery, lewd, or |
| 24 | | | lascivious <u>offense upon or in the</u> |
| 25 | | | <u>presence of person less than 16</u> |
| 26 | | | <u>years of age act</u> , etc. |
| 27 | 794.011(3) | Life | Sexual battery; victim 12 years |
| 28 | | | or older, offender uses or |
| 29 | | | threatens to use deadly weapon or |
| 30 | | | physical force to cause serious |
| 31 | | | injury. |

1 876.32 1st Treason against the state.

2

3 Section 11. Paragraph (a) of subsection (4) of section
4 948.03, Florida Statutes, 1996 Supplement, is amended, and
5 subsection (5) of said section is reenacted, to read:

6 948.03 Terms and conditions of probation or community
7 control.--

8 (4) The court shall require a diagnosis and evaluation
9 to determine the need of a probationer or offender in
10 community control for treatment. If the court determines that
11 a need therefor is established by such diagnosis and
12 evaluation process, the court shall require outpatient
13 counseling as a term or condition of probation or community
14 control for any person who was found guilty of any of the
15 following, or whose plea of guilty or nolo contendere to any
16 of the following was accepted by the court:

17 (a) Lewd or lascivious battery, lewd or lascivious
18 molestation, lewd or lascivious conduct, or lewd or lascivious
19 exhibition, as defined in s. 800.04 ~~A lewd, lascivious, or~~
20 ~~indecent assault or act upon, or in the presence of, a child.~~

21 (b) Sexual battery, as defined in chapter 794, against
22 a child.

23 (c) Exploitation of a child as provided in s. 450.151,
24 or for prostitution.

25

26 Such counseling shall be required to be obtained from a
27 community mental health center, a recognized social service
28 agency providing mental health services, or a private mental
29 health professional or through other professional counseling.
30 The plan for counseling for the individual shall be provided
31 to the court for review.

1 (5) Effective for probationers or community controlees
2 whose crime was committed on or after October 1, 1995, and who
3 are placed under supervision for violation of chapter 794, ~~or~~
4 s. 800.04, s. 827.071, or s. 847.0145, the court must impose
5 the following conditions in addition to all other standard and
6 special conditions imposed:

7 (a) A curfew, if appropriate, during hours set by the
8 sentencing court.

9 (b) If the victim was under the age of 18, a
10 prohibition on living within 1,000 feet of a school, day care
11 center, park, playground, or other place where children
12 regularly congregate, as prescribed by the court.

13 (c) Active participation in and successful completion
14 of a sex offender treatment program, at the probationer's or
15 community controlee's own expense, unless one is not available
16 within a 50-mile radius of the probationer's or community
17 controlee's residence.

18 (d) A prohibition on any contact with the victim,
19 directly or indirectly, including through a third person,
20 unless approved by the sentencing court.

21 (e) If the victim was under the age of 18, a
22 prohibition, until successful completion of a sex offender
23 treatment program, on unsupervised contact with a child under
24 the age of 18, unless authorized by the sentencing court
25 without another adult present who is responsible for the
26 child's welfare, has been advised of the crime, and is
27 approved by the commission.

28 (f) If the victim was under age 18, a prohibition on
29 working for pay or as a volunteer at any school, day care
30 center, park, playground, or other place where children
31 regularly congregate.

1 (g) Unless otherwise indicated in the treatment plan
2 provided by the sexual offender treatment program, a
3 prohibition on viewing, owning, or possessing any obscene,
4 pornographic, or sexually explicit material.

5 (h) A requirement that the probationer or community
6 controlee must submit two specimens of blood to the Florida
7 Department of Law Enforcement to be registered with the DNA
8 data bank.

9 (i) A requirement that the probationer or community
10 controlee make restitution to the victim, as ordered by the
11 court under s. 775.089, for all necessary medical and related
12 professional services relating to physical, psychiatric, and
13 psychological care.

14 Section 12. This act shall take effect October 1,
15 1997.

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HOUSE SUMMARY

Creates the Children's Protection Act of 1997. Defines the offense of battery upon a child under 16 years of age. Provides penalties.

Redefines the offense of unlawful exposure or exhibition of sexual organs to prohibit appearing naked under specified circumstances. Provides penalties. Provides that a violation of specified provisions relating to exposure of sexual organs in the presence of a person under 16 years of age constitutes a violation of specified provisions relating to lewd or lascivious offenses committed upon or in the presence of a person under 16 years of age. Provides an exception for maternal breastfeeding.

Revises specified provisions relating to incest. Removes definition of "sexual intercourse" and defines "sexual activity." Redefines the offense of third degree felony incest to include knowingly marrying or engaging in sexual activity with any specified relative who is at least 18 years old. Provides penalties. Defines the offense of second degree felony incest against a person under 16 years of age. Provides penalties.

Deletes provisions that define and provide penalties for "lewd, lascivious, or indecent assault or act upon or in the presence of a child." Creates the offenses of "lewd or lascivious battery," "lewd or lascivious molestation," "lewd or lascivious conduct," and "lewd or lascivious exhibition." Provides definitions. Provides penalties. Provides definitions of "consent" and "coercion." Precludes consent from being raised as a defense except in certain circumstances. Precludes ignorance or belief of age from being raised as a defense. Provides an exception for maternal breastfeeding. Revises specified provisions relating to violent career criminal sentencing or relating to kidnapping and false imprisonment, to conform to the act. Reenacts specified provisions relating to time limitations, luring or enticing a child, limits on interviews, and sex offender notification upon release, to incorporate amendments in cross references.

Ranks offenses created in the act in the sentencing guidelines offense severity ranking chart. Revises or reenacts specified provisions relating to terms and conditions of probation or community control, to conform to the act.