

Amendment No. 01 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

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Representative(s) Paul offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause

and insert:

Section 1. Section 825.1025, Florida Statutes, is amended to read:

825.1025 Lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled person ~~adult~~--

(1) As used in this section, "sexual activity" means the oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, sexual activity does not include an act done for a bona fide medical purpose.

(2)(a) "Lewd or lascivious battery upon an elderly person or disabled person ~~adult~~" occurs when a person encourages, forces, or entices an elderly person or disabled person ~~adult~~ to engage in sadomasochistic abuse, sexual bestiality, prostitution, or any other act involving sexual

1 activity, when the person knows or reasonably should know that
2 the elderly person or disabled person adult either lacks the
3 capacity to consent or fails to give consent.

4 (b) A person who commits lewd or lascivious battery
5 upon an elderly person or disabled person adult commits a
6 felony of the second degree, punishable as provided in s.
7 775.082, s. 775.083, or s. 775.084.

8 (3)(a) "Lewd or lascivious molestation of an elderly
9 person or disabled person adult" occurs when a person
10 intentionally touches in a lewd or lascivious manner the
11 breasts, genitals, genital area, or buttocks, or the clothing
12 covering them, of an elderly person or disabled person adult
13 when the person knows or reasonably should know that the
14 elderly person or disabled person adult either lacks the
15 capacity to consent or fails to give consent.

16 (b) A person who commits lewd or lascivious
17 molestation of an elderly person or disabled person adult
18 commits a felony of the third degree, punishable as provided
19 in s. 775.082, s. 775.083, or s. 775.084.

20 (4)(a) "Lewd or lascivious exhibition in the presence
21 of an elderly person or disabled person adult" occurs when a
22 person, in the presence of an elderly person or disabled
23 person adult:

- 24 1. Intentionally masturbates;
- 25 2. Intentionally exposes his or her genitals in a lewd
26 or lascivious manner; or
- 27 3. Intentionally commits any other lewd or lascivious
28 act that does not involve actual physical or sexual contact
29 with the elderly person or disabled person adult, including
30 but not limited to, sadomasochistic abuse, sexual bestiality,
31 or the simulation of any act involving sexual activity,

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when the person knows or reasonably should know that the elderly person or disabled person ~~adult~~ either lacks the capacity to consent or fails to give consent to having such act committed in his or her presence.

(b) A person who commits a lewd or lascivious exhibition in the presence of an elderly person or disabled person ~~adult~~ commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 2. Paragraphs (g) and (h) of subsection (3) of section 921.0022, Florida Statutes, as amended by section 2 of chapter 2001-358, Laws of Florida, are amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.--

(3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
		(g) LEVEL 7
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
409.920(2)	3rd	Medicaid provider fraud.

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1	456.065(2)	3rd	Practicing a health care
2			profession without a license.
3	456.065(2)	2nd	Practicing a health care
4			profession without a license
5			which results in serious bodily
6			injury.
7	458.327(1)	3rd	Practicing medicine without a
8			license.
9	459.013(1)	3rd	Practicing osteopathic medicine
10			without a license.
11	460.411(1)	3rd	Practicing chiropractic medicine
12			without a license.
13	461.012(1)	3rd	Practicing podiatric medicine
14			without a license.
15	462.17	3rd	Practicing naturopathy without a
16			license.
17	463.015(1)	3rd	Practicing optometry without a
18			license.
19	464.016(1)	3rd	Practicing nursing without a
20			license.
21	465.015(2)	3rd	Practicing pharmacy without a
22			license.
23	466.026(1)	3rd	Practicing dentistry or dental
24			hygiene without a license.
25	467.201	3rd	Practicing midwifery without a
26			license.
27	468.366	3rd	Delivering respiratory care
28			services without a license.
29	483.828(1)	3rd	Practicing as clinical laboratory
30			personnel without a license.
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1	483.901(9)	3rd	Practicing medical physics
2			without a license.
3	484.013(1)(c)	3rd	Preparing or dispensing optical
4			devices without a prescription.
5	484.053	3rd	Dispensing hearing aids without a
6			license.
7	494.0018(2)	1st	Conviction of any violation of
8			ss. 494.001-494.0077 in which the
9			total money and property
10			unlawfully obtained exceeded
11			\$50,000 and there were five or
12			more victims.
13	560.123(8)(b)1.	3rd	Failure to report currency or
14			payment instruments exceeding
15			\$300 but less than \$20,000 by
16			money transmitter.
17	560.125(5)(a)	3rd	Money transmitter business by
18			unauthorized person, currency or
19			payment instruments exceeding
20			\$300 but less than \$20,000.
21	655.50(10)(b)1.	3rd	Failure to report financial
22			transactions exceeding \$300 but
23			less than \$20,000 by financial
24			institution.
25	782.051(3)	2nd	Attempted felony murder of a
26			person by a person other than the
27			perpetrator or the perpetrator of
28			an attempted felony.
29	782.07(1)	2nd	Killing of a human being by the
30			act, procurement, or culpable
31			negligence of another

1			(manslaughter).
2	782.071	2nd	Killing of human being or viable
3			fetus by the operation of a motor
4			vehicle in a reckless manner
5			(vehicular homicide).
6	782.072	2nd	Killing of a human being by the
7			operation of a vessel in a
8			reckless manner (vessel
9			homicide).
10	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
11			causing great bodily harm or
12			disfigurement.
13	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
14			weapon.
15	784.045(1)(b)	2nd	Aggravated battery; perpetrator
16			aware victim pregnant.
17	784.048(4)	3rd	Aggravated stalking; violation of
18			injunction or court order.
19	784.07(2)(d)	1st	Aggravated battery on law
20			enforcement officer.
21	784.074(1)(a)	1st	Aggravated battery on sexually
22			violent predators facility staff.
23	784.08(2)(a)	1st	Aggravated battery on a person 65
24			years of age or older.
25	784.081(1)	1st	Aggravated battery on specified
26			official or employee.
27	784.082(1)	1st	Aggravated battery by detained
28			person on visitor or other
29			detainee.
30	784.083(1)	1st	Aggravated battery on code
31			inspector.

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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	790.166(3)	2nd	Possessing, selling, using, or
7			attempting to use a hoax weapon
8			of mass destruction.
9	796.03	2nd	Procuring any person under 16
10			years for prostitution.
11	800.04(5)(c)1.	2nd	Lewd or lascivious molestation;
12			victim less than 12 years of age;
13			offender less than 18 years.
14	800.04(5)(c)2.	2nd	Lewd or lascivious molestation;
15			victim 12 years of age or older
16			but less than 16 years; offender
17			18 years or older.
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; cargo stolen
28			valued at \$50,000, or more;
29			property stolen while causing
30			other property damage; 1st degree
31			grand theft.

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1	812.014(2)(b)2.	2nd	Property stolen, emergency
2			medical equipment; 2nd degree
3			grand theft.
4	812.019(2)	1st	Stolen property; initiates,
5			organizes, plans, etc., the theft
6			of property and traffics in
7			stolen property.
8	812.131(2)(a)	2nd	Robbery by sudden snatching.
9	812.133(2)(b)	1st	Carjacking; no firearm, deadly
10			weapon, or other weapon.
11	817.234(11)(c)	1st	Insurance fraud; property value
12			\$100,000 or more.
13	825.102(3)(b)	2nd	Neglecting an elderly person or
14			disabled adult causing great
15			bodily harm, disability, or
16			disfigurement.
17	825.1025(2)	2nd	Lewd or lascivious battery upon
18			an elderly person or disabled
19			adult.
20	825.103(2)(b)	2nd	Exploiting an elderly person or
21			disabled adult and property is
22			valued at \$20,000 or more, but
23			less than \$100,000.
24	827.03(3)(b)	2nd	Neglect of a child causing great
25			bodily harm, disability, or
26			disfigurement.
27	827.04(3)	3rd	Impregnation of a child under 16
28			years of age by person 21 years
29			of age or older.
30	837.05(2)	3rd	Giving false information about
31			alleged capital felony to a law

1			enforcement officer.
2	872.06	2nd	Abuse of a dead human body.
3	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
4			cocaine (or other drug prohibited
5			under s. 893.03(1)(a), (1)(b),
6			(1)(d), (2)(a), (2)(b), or
7			(2)(c)4.) within 1,000 feet of a
8			child care facility or school.
9	893.13(1)(e)1.	1st	Sell, manufacture, or deliver
10			cocaine or other drug prohibited
11			under s. 893.03(1)(a), (1)(b),
12			(1)(d), (2)(a), (2)(b), or
13			(2)(c)4., within 1,000 feet of
14			property used for religious
15			services or a specified business
16			site.
17	893.13(4)(a)	1st	Deliver to minor cocaine (or
18			other s. 893.03(1)(a), (1)(b),
19			(1)(d), (2)(a), (2)(b), or
20			(2)(c)4. drugs).
21	893.135(1)(a)1.	1st	Trafficking in cannabis, more
22			than 25 lbs., less than 2,000
23			lbs.
24	893.135		
25	(1)(b)1.a.	1st	Trafficking in cocaine, more than
26			28 grams, less than 200 grams.
27	893.135		
28	(1)(c)1.a.	1st	Trafficking in illegal drugs,
29			more than 4 grams, less than 14
30			grams.
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1 893.135
2 (1)(d)1. 1st Trafficking in phencyclidine,
3 more than 28 grams, less than 200
4 grams.
5 893.135(1)(e)1. 1st Trafficking in methaqualone, more
6 than 200 grams, less than 5
7 kilograms.
8 893.135(1)(f)1. 1st Trafficking in amphetamine, more
9 than 14 grams, less than 28
10 grams.
11 893.135
12 (1)(g)1.a. 1st Trafficking in flunitrazepam, 4
13 grams or more, less than 14
14 grams.
15 893.135
16 (1)(h)1.a. 1st Trafficking in
17 gamma-hydroxybutyric acid (GHB),
18 1 kilogram or more, less than 5
19 kilograms.
20 893.135
21 (1)(i)1.a. 1st Trafficking in 1,4-Butanediol, 1
22 kilogram or more, less than 5
23 kilograms.
24 893.135
25 (1)(j)2.a. 1st Trafficking in Phenethylamines,
26 10 grams or more, less than 200
27 grams.
28 896.101(5)(a) 3rd Money laundering, financial
29 transactions exceeding \$300 but
30 less than \$20,000.
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1	896.104(4)(a)1.	3rd	Structuring transactions to evade
2			reporting or registration
3			requirements, financial
4			transactions exceeding \$300 but
5			less than \$20,000.
6			(h) LEVEL 8
7	316.193		
8	(3)(c)3.a.	2nd	DUI manslaughter.
9	327.35(3)(c)3.	2nd	Vessel BUI manslaughter.
10	560.123(8)(b)2.	2nd	Failure to report currency or
11			payment instruments totaling or
12			exceeding \$20,000, but less than
13			\$100,000 by money transmitter.
14	560.125(5)(b)	2nd	Money transmitter business by
15			unauthorized person, currency or
16			payment instruments totaling or
17			exceeding \$20,000, but less than
18			\$100,000.
19	655.50(10)(b)2.	2nd	Failure to report financial
20			transactions totaling or
21			exceeding \$20,000, but less than
22			\$100,000 by financial
23			institutions.
24	777.03(2)(a)	1st	Accessory after the fact, capital
25			felony.
26	782.04(4)	2nd	Killing of human without design
27			when engaged in act or attempt of
28			any felony other than arson,
29			sexual battery, robbery,
30			burglary, kidnapping, aircraft
31			piracy, or unlawfully discharging

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1			bomb.
2	782.051(2)	1st	Attempted felony murder while
3			perpetrating or attempting to
4			perpetrate a felony not
5			enumerated in s. 782.04(3).
6	782.071(1)(b)	1st	Committing vehicular homicide and
7			failing to render aid or give
8			information.
9	782.072(2)	1st	Committing vessel homicide and
10			failing to render aid or give
11			information.
12	790.161(3)	1st	Discharging a destructive device
13			which results in bodily harm or
14			property damage.
15	794.011(5)	2nd	Sexual battery, victim 12 years
16			or over, offender does not use
17			physical force likely to cause
18			serious injury.
19	800.04(4)	2nd	Lewd or lascivious battery.
20	806.01(1)	1st	Maliciously damage dwelling or
21			structure by fire or explosive,
22			believing person in structure.
23	810.02(2)(a)	1st,PBL	Burglary with assault or battery.
24	810.02(2)(b)	1st,PBL	Burglary; armed with explosives
25			or dangerous weapon.
26	810.02(2)(c)	1st	Burglary of a dwelling or
27			structure causing structural
28			damage or \$1,000 or more property
29			damage.
30	812.13(2)(b)	1st	Robbery with a weapon.
31	812.135(2)	1st	Home-invasion robbery.

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1	825.102(2)	2nd	Aggravated abuse of an elderly person or disabled adult.
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3	<u>825.1025(2)</u>	<u>2nd</u>	<u>Lewd or lascivious battery upon</u>
4			<u>an elderly person or disabled</u>
5			<u>adult.</u>
6	825.103(2)(a)	1st	Exploiting an elderly person or disabled adult and property is valued at \$100,000 or more.
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9	837.02(2)	2nd	Perjury in official proceedings relating to prosecution of a capital felony.
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12	837.021(2)	2nd	Making contradictory statements in official proceedings relating to prosecution of a capital felony.
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16	860.121(2)(c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.
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20	860.16	1st	Aircraft piracy.
21	893.13(1)(b)	1st	Sell or deliver in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
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24	893.13(2)(b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
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27	893.13(6)(c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
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30	893.135(1)(a)2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000
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1			lbs.
2	893.135		
3	(1)(b)1.b.	1st	Trafficking in cocaine, more than
4			200 grams, less than 400 grams.
5	893.135		
6	(1)(c)1.b.	1st	Trafficking in illegal drugs,
7			more than 14 grams, less than 28
8			grams.
9	893.135		
10	(1)(d)1.b.	1st	Trafficking in phencyclidine,
11			more than 200 grams, less than
12			400 grams.
13	893.135		
14	(1)(e)1.b.	1st	Trafficking in methaqualone, more
15			than 5 kilograms, less than 25
16			kilograms.
17	893.135		
18	(1)(f)1.b.	1st	Trafficking in amphetamine, more
19			than 28 grams, less than 200
20			grams.
21	893.135		
22	(1)(g)1.b.	1st	Trafficking in flunitrazepam, 14
23			grams or more, less than 28
24			grams.
25	893.135		
26	(1)(h)1.b.	1st	Trafficking in
27			gamma-hydroxybutyric acid (GHB),
28			5 kilograms or more, less than 10
29			kilograms.
30	893.135		
31	(1)(i)1.b.	1st	Trafficking in 1,4-Butanediol, 5

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1 kilograms or more, less than 10
2 kilograms.
3 893.135
4 (1)(j)2.b. 1st Trafficking in Phenethylamines,
5 200 grams or more, less than 400
6 grams.
7 895.03(1) 1st Use or invest proceeds derived
8 from pattern of racketeering
9 activity.
10 895.03(2) 1st Acquire or maintain through
11 racketeering activity any
12 interest in or control of any
13 enterprise or real property.
14 895.03(3) 1st Conduct or participate in any
15 enterprise through pattern of
16 racketeering activity.
17 896.101(5)(b) 2nd Money laundering, financial
18 transactions totaling or
19 exceeding \$20,000, but less than
20 \$100,000.
21 896.104(4)(a)2. 2nd Structuring transactions to evade
22 reporting or registration
23 requirements, financial
24 transactions totaling or
25 exceeding \$20,000 but less than
26 \$100,000.

27 Section 3. This act shall take effect July 1, 2002.

30 ===== T I T L E A M E N D M E N T =====

31 And the title is amended as follows:

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1 On page 1, line 2,
2 remove: entire title
3
4 and insert:
5 An act relating to sexual offenses; amending s.
6 825.1025, F.S.; providing for the crime of lewd
7 or lascivious offenses committed upon or in the
8 presence of an elderly person or disabled
9 person; providing penalties; amending s.
10 921.0022, F.S., relating to the offense
11 severity ranking chart of the criminal
12 punishment code; revising punishment for lewd
13 or lascivious battery upon an elderly person or
14 disabled adult; providing an effective date.
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