

1 A bill to be entitled
2 An act relating to sentencing for sexual
3 offenses; amending s. 794.011, providing for
4 use of expert witnesses; amending ss. 458.303,
5 459.002, and 490.014, F.S.; providing for use
6 of expert witnesses; amending s. 921.0022,
7 F.S., relating to the offense severity ranking
8 chart of the Criminal Punishment Code;
9 providing a change in ranking for a second
10 degree felony conviction for lewd or lascivious
11 battery upon an elderly person or disabled
12 adult; providing an effective date.

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

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16 Section 1. Subsection (11) is added to section
17 794.011, Florida Statutes, to read:

18 794.011 Sexual battery.--

19 (11) When mental defect or mental incapacity of the
20 victim is in issue, an expert witness who is licensed pursuant
21 to chapter 490, chapter 458, or chapter 459, may be utilized
22 to testify to such issue.

23 Section 2. Paragraph (b) of subsection (1) of section
24 458.303, Florida Statutes, is amended to read:

25 458.303 Provisions not applicable to other
26 practitioners; exceptions, etc.--

27 (1) The provisions of ss. 458.301, 458.303, 458.305,
28 458.307, 458.309, 458.311, 458.313, 458.315, 458.317, 458.319,
29 458.321, 458.327, 458.329, 458.331, 458.337, 458.339, 458.341,
30 458.343, 458.345, and 458.347 shall have no application to:

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1 (b) Any physician lawfully licensed in another state
2 or territory or foreign country, when meeting duly licensed
3 physicians of this state in consultation or when testifying or
4 preparing to testify as a witness in any civil or criminal
5 case, provide that such physician may not perform any medical
6 procedure on or render treatment to the patient.

7 Section 3. Paragraph (b) of subsection (1) of section
8 459.002, Florida Statutes, is amended to read:

9 459.002 Chapter not applicable to practice of
10 medicine, surgery, chiropractic medicine, etc.--

11 (1) The provisions of this chapter shall have no
12 application to:

13 (b) Any physician lawfully licensed in another state
14 or territory or foreign country when meeting duly licensed
15 physicians of this state in consultation or when testifying or
16 preparing to testify as a witness in any civil or criminal
17 case, provide that such physician may not perform any medical
18 procedure on or render treatment to the patient.

19 Section 4. Paragraph (g) is added to subsection (2) of
20 section 490.014, Florida Statutes, to read:

21 490.014 Exemptions.--

22 (2) No person shall be required to be licensed or
23 provisionally licensed under this chapter who:

24 (g) Is lawfully licensed or certified by a state or
25 territory of the United States, or by a foreign country or
26 province and examines, evaluates, interviews, tests, or
27 diagnoses a person solely for the purpose of testifying or
28 preparing to testify as an expert witness in any civil or
29 criminal case.

30 Section 5. Paragraphs (g) and (h) of subsection (3) of
31 section 921.0022, Florida Statutes, are amended to read:

1 921.0022 Criminal Punishment Code; offense severity
 2 ranking chart.--

3 (3) OFFENSE SEVERITY RANKING CHART

4	5 Florida	6 Felony	
7	8 Statute	9 Degree	10 Description
11			(g) LEVEL 7
12	316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
13	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
14	402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
15	409.920(2)	3rd	Medicaid provider fraud.
16	456.065(2)	3rd	Practicing a health care profession without a license.
17	456.065(2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
18	458.327(1)	3rd	Practicing medicine without a license.
19	459.013(1)	3rd	Practicing osteopathic medicine without a license.
20	460.411(1)	3rd	Practicing chiropractic medicine without a license.
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1	461.012(1)	3rd	Practicing podiatric medicine
2			without a license.
3	462.17	3rd	Practicing naturopathy without a
4			license.
5	463.015(1)	3rd	Practicing optometry without a
6			license.
7	464.016(1)	3rd	Practicing nursing without a
8			license.
9	465.015(2)	3rd	Practicing pharmacy without a
10			license.
11	466.026(1)	3rd	Practicing dentistry or dental
12			hygiene without a license.
13	467.201	3rd	Practicing midwifery without a
14			license.
15	468.366	3rd	Delivering respiratory care
16			services without a license.
17	483.828(1)	3rd	Practicing as clinical laboratory
18			personnel without a license.
19	483.901(9)	3rd	Practicing medical physics
20			without a license.
21	484.013(1)(c)	3rd	Preparing or dispensing optical
22			devices without a prescription.
23	484.053	3rd	Dispensing hearing aids without a
24			license.
25	494.0018(2)	1st	Conviction of any violation of
26			ss. 494.001-494.0077 in which the
27			total money and property
28			unlawfully obtained exceeded
29			\$50,000 and there were five or
30			more victims.
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1	560.123(8)(b)1.	3rd	Failure to report currency or
2			payment instruments exceeding
3			\$300 but less than \$20,000 by
4			money transmitter.
5	560.125(5)(a)	3rd	Money transmitter business by
6			unauthorized person, currency or
7			payment instruments exceeding
8			\$300 but less than \$20,000.
9	655.50(10)(b)1.	3rd	Failure to report financial
10			transactions exceeding \$300 but
11			less than \$20,000 by financial
12			institution.
13	782.051(3)	2nd	Attempted felony murder of a
14			person by a person other than the
15			perpetrator or the perpetrator of
16			an attempted felony.
17	782.07(1)	2nd	Killing of a human being by the
18			act, procurement, or culpable
19			negligence of another
20			(manslaughter).
21	782.071	2nd	Killing of human being or viable
22			fetus by the operation of a motor
23			vehicle in a reckless manner
24			(vehicular homicide).
25	782.072	2nd	Killing of a human being by the
26			operation of a vessel in a
27			reckless manner (vessel
28			homicide).
29	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
30			causing great bodily harm or
31			disfigurement.

1	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
2			weapon.
3	784.045(1)(b)	2nd	Aggravated battery; perpetrator
4			aware victim pregnant.
5	784.048(4)	3rd	Aggravated stalking; violation of
6			injunction or court order.
7	784.07(2)(d)	1st	Aggravated battery on law
8			enforcement officer.
9	784.074(1)(a)	1st	Aggravated battery on sexually
10			violent predators facility staff.
11	784.08(2)(a)	1st	Aggravated battery on a person 65
12			years of age or older.
13	784.081(1)	1st	Aggravated battery on specified
14			official or employee.
15	784.082(1)	1st	Aggravated battery by detained
16			person on visitor or other
17			detainee.
18	784.083(1)	1st	Aggravated battery on code
19			inspector.
20	790.07(4)	1st	Specified weapons violation
21			subsequent to previous conviction
22			of s. 790.07(1) or (2).
23	790.16(1)	1st	Discharge of a machine gun under
24			specified circumstances.
25	790.166(3)	2nd	Possessing, selling, using, or
26			attempting to use a hoax weapon
27			of mass destruction.
28	796.03	2nd	Procuring any person under 16
29			years for prostitution.
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1	800.04(5)(c)1.	2nd	Lewd or lascivious molestation;
2			victim less than 12 years of age;
3			offender less than 18 years.
4	800.04(5)(c)2.	2nd	Lewd or lascivious molestation;
5			victim 12 years of age or older
6			but less than 16 years; offender
7			18 years or older.
8	806.01(2)	2nd	Maliciously damage structure by
9			fire or explosive.
10	810.02(3)(a)	2nd	Burglary of occupied dwelling;
11			unarmed; no assault or battery.
12	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
13			unarmed; no assault or battery.
14	810.02(3)(d)	2nd	Burglary of occupied conveyance;
15			unarmed; no assault or battery.
16	812.014(2)(a)	1st	Property stolen, valued at
17			\$100,000 or more; cargo stolen
18			valued at \$50,000, or more;
19			property stolen while causing
20			other property damage; 1st degree
21			grand theft.
22	812.014(2)(b)2.	2nd	Property stolen, emergency
23			medical equipment; 2nd degree
24			grand theft.
25	812.019(2)	1st	Stolen property; initiates,
26			organizes, plans, etc., the theft
27			of property and traffics in
28			stolen property.
29	812.131(2)(a)	2nd	Robbery by sudden snatching.
30	812.133(2)(b)	1st	Carjacking; no firearm, deadly
31			weapon, or other weapon.

1	817.234(11)(c)	1st	Insurance fraud; property value
2			\$100,000 or more.
3	825.102(3)(b)	2nd	Neglecting an elderly person or
4			disabled adult causing great
5			bodily harm, disability, or
6			disfigurement.
7	825.1025(2)	2nd	Lewd or lascivious battery upon
8			an elderly person or disabled
9			adult.
10	825.103(2)(b)	2nd	Exploiting an elderly person or
11			disabled adult and property is
12			valued at \$20,000 or more, but
13			less than \$100,000.
14	827.03(3)(b)	2nd	Neglect of a child causing great
15			bodily harm, disability, or
16			disfigurement.
17	827.04(3)	3rd	Impregnation of a child under 16
18			years of age by person 21 years
19			of age or older.
20	837.05(2)	3rd	Giving false information about
21			alleged capital felony to a law
22			enforcement officer.
23	872.06	2nd	Abuse of a dead human body.
24	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
25			cocaine (or other drug prohibited
26			under s. 893.03(1)(a), (1)(b),
27			(1)(d), (2)(a), (2)(b), or
28			(2)(c)4.) within 1,000 feet of a
29			child care facility or school.
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1	893.13(1)(e)1.	1st	Sell, manufacture, or deliver
2			cocaine or other drug prohibited
3			under s. 893.03(1)(a), (1)(b),
4			(1)(d), (2)(a), (2)(b), or
5			(2)(c)4., within 1,000 feet of
6			property used for religious
7			services or a specified business
8			site.
9	893.13(4)(a)	1st	Deliver to minor cocaine (or
10			other s. 893.03(1)(a), (1)(b),
11			(1)(d), (2)(a), (2)(b), or
12			(2)(c)4. drugs).
13	893.135(1)(a)1.	1st	Trafficking in cannabis, more
14			than 25 lbs., less than 2,000
15			lbs.
16	893.135		
17	(1)(b)1.a.	1st	Trafficking in cocaine, more than
18			28 grams, less than 200 grams.
19	893.135		
20	(1)(c)1.a.	1st	Trafficking in illegal drugs,
21			more than 4 grams, less than 14
22			grams.
23	893.135		
24	(1)(d)1.	1st	Trafficking in phencyclidine,
25			more than 28 grams, less than 200
26			grams.
27	893.135(1)(e)1.	1st	Trafficking in methaqualone, more
28			than 200 grams, less than 5
29			kilograms.
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1	893.135(1)(f)1.	1st	Trafficking in amphetamine, more
2			than 14 grams, less than 28
3			grams.
4	893.135		
5	(1)(g)1.a.	1st	Trafficking in flunitrazepam, 4
6			grams or more, less than 14
7			grams.
8	893.135		
9	(1)(h)1.a.	1st	Trafficking in
10			gamma-hydroxybutyric acid (GHB),
11			1 kilogram or more, less than 5
12			kilograms.
13	893.135		
14	(1)(i)1.a.	1st	Trafficking in 1,4-Butanediol, 1
15			kilogram or more, less than 5
16			kilograms.
17	893.135		
18	(1)(j)2.a.	1st	Trafficking in Phenethylamines,
19			10 grams or more, less than 200
20			grams.
21	896.101(5)(a)	3rd	Money laundering, financial
22			transactions exceeding \$300 but
23			less than \$20,000.
24	896.104(4)(a)1.	3rd	Structuring transactions to evade
25			reporting or registration
26			requirements, financial
27			transactions exceeding \$300 but
28			less than \$20,000.
29			(h) LEVEL 8
30	316.193		
31	(3)(c)3.a.	2nd	DUI manslaughter.

1	327.35(3)(c)3.	2nd	Vessel BUI manslaughter.
2	560.123(8)(b)2.	2nd	Failure to report currency or
3			payment instruments totaling or
4			exceeding \$20,000, but less than
5			\$100,000 by money transmitter.
6	560.125(5)(b)	2nd	Money transmitter business by
7			unauthorized person, currency or
8			payment instruments totaling or
9			exceeding \$20,000, but less than
10			\$100,000.
11	655.50(10)(b)2.	2nd	Failure to report financial
12			transactions totaling or
13			exceeding \$20,000, but less than
14			\$100,000 by financial
15			institutions.
16	777.03(2)(a)	1st	Accessory after the fact, capital
17			felony.
18	782.04(4)	2nd	Killing of human without design
19			when engaged in act or attempt of
20			any felony other than arson,
21			sexual battery, robbery,
22			burglary, kidnapping, aircraft
23			piracy, or unlawfully discharging
24			bomb.
25	782.051(2)	1st	Attempted felony murder while
26			perpetrating or attempting to
27			perpetrate a felony not
28			enumerated in s. 782.04(3).
29	782.071(1)(b)	1st	Committing vehicular homicide and
30			failing to render aid or give
31			information.

1	782.072(2)	1st	Committing vessel homicide and
2			failing to render aid or give
3			information.
4	790.161(3)	1st	Discharging a destructive device
5			which results in bodily harm or
6			property damage.
7	794.011(5)	2nd	Sexual battery, victim 12 years
8			or over, offender does not use
9			physical force likely to cause
10			serious injury.
11	800.04(4)	2nd	Lewd or lascivious battery.
12	806.01(1)	1st	Maliciously damage dwelling or
13			structure by fire or explosive,
14			believing person in structure.
15	810.02(2)(a)	1st,PBL	Burglary with assault or battery.
16	810.02(2)(b)	1st,PBL	Burglary; armed with explosives
17			or dangerous weapon.
18	810.02(2)(c)	1st	Burglary of a dwelling or
19			structure causing structural
20			damage or \$1,000 or more property
21			damage.
22	812.13(2)(b)	1st	Robbery with a weapon.
23	812.135(2)	1st	Home-invasion robbery.
24	825.102(2)	2nd	Aggravated abuse of an elderly
25			person or disabled adult.
26	<u>825.1025(2)</u>	<u>2nd</u>	<u>Lewd or lascivious battery upon</u>
27			<u>an elderly person or disabled</u>
28			<u>adult.</u>
29	825.103(2)(a)	1st	Exploiting an elderly person or
30			disabled adult and property is
31			valued at \$100,000 or more.

1	837.02(2)	2nd	Perjury in official proceedings
2			relating to prosecution of a
3			capital felony.
4	837.021(2)	2nd	Making contradictory statements
5			in official proceedings relating
6			to prosecution of a capital
7			felony.
8	860.121(2)(c)	1st	Shooting at or throwing any
9			object in path of railroad
10			vehicle resulting in great bodily
11			harm.
12	860.16	1st	Aircraft piracy.
13	893.13(1)(b)	1st	Sell or deliver in excess of 10
14			grams of any substance specified
15			in s. 893.03(1)(a) or (b).
16	893.13(2)(b)	1st	Purchase in excess of 10 grams of
17			any substance specified in s.
18			893.03(1)(a) or (b).
19	893.13(6)(c)	1st	Possess in excess of 10 grams of
20			any substance specified in s.
21			893.03(1)(a) or (b).
22	893.135(1)(a)2.	1st	Trafficking in cannabis, more
23			than 2,000 lbs., less than 10,000
24			lbs.
25	893.135		
26	(1)(b)1.b.	1st	Trafficking in cocaine, more than
27			200 grams, less than 400 grams.
28	893.135		
29	(1)(c)1.b.	1st	Trafficking in illegal drugs,
30			more than 14 grams, less than 28
31			grams.

1	893.135		
2	(1)(d)1.b.	1st	Trafficking in phencyclidine,
3			more than 200 grams, less than
4			400 grams.
5	893.135		
6	(1)(e)1.b.	1st	Trafficking in methaqualone, more
7			than 5 kilograms, less than 25
8			kilograms.
9	893.135		
10	(1)(f)1.b.	1st	Trafficking in amphetamine, more
11			than 28 grams, less than 200
12			grams.
13	893.135		
14	(1)(g)1.b.	1st	Trafficking in flunitrazepam, 14
15			grams or more, less than 28
16			grams.
17	893.135		
18	(1)(h)1.b.	1st	Trafficking in
19			gamma-hydroxybutyric acid (GHB),
20			5 kilograms or more, less than 10
21			kilograms.
22	893.135		
23	(1)(i)1.b.	1st	Trafficking in 1,4-Butanediol, 5
24			kilograms or more, less than 10
25			kilograms.
26	893.135		
27	(1)(j)2.b.	1st	Trafficking in Phenethylamines,
28			200 grams or more, less than 400
29			grams.
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1	895.03(1)	1st	Use or invest proceeds derived
2			from pattern of racketeering
3			activity.
4	895.03(2)	1st	Acquire or maintain through
5			racketeering activity any
6			interest in or control of any
7			enterprise or real property.
8	895.03(3)	1st	Conduct or participate in any
9			enterprise through pattern of
10			racketeering activity.
11	896.101(5)(b)	2nd	Money laundering, financial
12			transactions totaling or
13			exceeding \$20,000, but less than
14			\$100,000.
15	896.104(4)(a)2.	2nd	Structuring transactions to evade
16			reporting or registration
17			requirements, financial
18			transactions totaling or
19			exceeding \$20,000 but less than
20			\$100,000.

21 Section 6. This act shall take effect July 1, 2002.

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