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

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

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

17 825.1025 Lewd or lascivious offenses committed upon or  
18 in the presence of an elderly person or disabled person  
19 ~~adult~~--

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

25 (2)(a) "Lewd or lascivious battery upon an elderly  
26 person or disabled person ~~adult~~" occurs when a person  
27 encourages, forces, or entices an elderly person or disabled  
28 person ~~adult~~ to engage in sadomasochistic abuse, sexual  
29 bestiality, prostitution, or any other act involving sexual  
30 activity, when the person knows or reasonably should know that

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1 the elderly person or disabled person ~~adult~~ either lacks the  
2 capacity to consent or fails to give consent.

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

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

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

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

- 23 1. Intentionally masturbates;
- 24 2. Intentionally exposes his or her genitals in a lewd  
25 or lascivious manner; or
- 26 3. Intentionally commits any other lewd or lascivious  
27 act that does not involve actual physical or sexual contact  
28 with the elderly person or disabled person ~~adult~~, including  
29 but not limited to, sadomasochistic abuse, sexual bestiality,  
30 or the simulation of any act involving sexual activity,  
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1 when the person knows or reasonably should know that the  
 2 elderly person or disabled person ~~adult~~ either lacks the  
 3 capacity to consent or fails to give consent to having such  
 4 act committed in his or her presence.

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

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

12 921.0022 Criminal Punishment Code; offense severity  
 13 ranking chart.--

14 (3) OFFENSE SEVERITY RANKING CHART

16 Florida	Felony	
17 Statute	Degree	Description
		(g) LEVEL 7
21 316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
23 327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
25 402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
30 409.920(2)	3rd	Medicaid provider fraud.

ENROLLED

2002 Legislature

CS/HB 163, Second Engrossed

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.
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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	2nd	Killing of human being or viable
6			fetus by the operation of a motor
7			vehicle in a reckless manner
8			(vehicular homicide).
9	782.072	2nd	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	784.074(1)(a)	1st	Aggravated battery on sexually
25			violent predators facility staff.
26	784.08(2)(a)	1st	Aggravated battery on a person 65
27			years of age or older.
28	784.081(1)	1st	Aggravated battery on specified
29			official or employee.
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1	784.082(1)	1st	Aggravated battery by detained
2			person on visitor or other
3			detainee.
4	784.083(1)	1st	Aggravated battery on code
5			inspector.
6	790.07(4)	1st	Specified weapons violation
7			subsequent to previous conviction
8			of s. 790.07(1) or (2).
9	790.16(1)	1st	Discharge of a machine gun under
10			specified circumstances.
11	790.166(3)	2nd	Possessing, selling, using, or
12			attempting to use a hoax weapon
13			of mass destruction.
14	796.03	2nd	Procuring any person under 16
15			years for prostitution.
16	800.04(5)(c)1.	2nd	Lewd or lascivious molestation;
17			victim less than 12 years of age;
18			offender less than 18 years.
19	800.04(5)(c)2.	2nd	Lewd or lascivious molestation;
20			victim 12 years of age or older
21			but less than 16 years; offender
22			18 years or older.
23	806.01(2)	2nd	Maliciously damage structure by
24			fire or explosive.
25	810.02(3)(a)	2nd	Burglary of occupied dwelling;
26			unarmed; no assault or battery.
27	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
28			unarmed; no assault or battery.
29	810.02(3)(d)	2nd	Burglary of occupied conveyance;
30			unarmed; no assault or battery.
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1	812.014(2)(a)	1st	Property stolen, valued at
2			\$100,000 or more; cargo stolen
3			valued at \$50,000, or more;
4			property stolen while causing
5			other property damage; 1st degree
6			grand theft.
7	812.014(2)(b)2.	2nd	Property stolen, emergency
8			medical equipment; 2nd degree
9			grand theft.
10	812.019(2)	1st	Stolen property; initiates,
11			organizes, plans, etc., the theft
12			of property and traffics in
13			stolen property.
14	812.131(2)(a)	2nd	Robbery by sudden snatching.
15	812.133(2)(b)	1st	Carjacking; no firearm, deadly
16			weapon, or other weapon.
17	817.234(11)(c)	1st	Insurance fraud; property value
18			\$100,000 or more.
19	825.102(3)(b)	2nd	Neglecting an elderly person or
20			disabled adult causing great
21			bodily harm, disability, or
22			disfigurement.
23	<del>825.1025(2)</del>	<del>2nd</del>	<del>Fewd or lascivious battery upon</del>
24			<del>an elderly person or disabled</del>
25			<del>adult.</del>
26	825.103(2)(b)	2nd	Exploiting an elderly person or
27			disabled adult and property is
28			valued at \$20,000 or more, but
29			less than \$100,000.
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1	827.03(3)(b)	2nd	Neglect of a child causing great
2			bodily harm, disability, or
3			disfigurement.
4	827.04(3)	3rd	Impregnation of a child under 16
5			years of age by person 21 years
6			of age or older.
7	837.05(2)	3rd	Giving false information about
8			alleged capital felony to a law
9			enforcement officer.
10	872.06	2nd	Abuse of a dead human body.
11	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
12			cocaine (or other drug prohibited
13			under s. 893.03(1)(a), (1)(b),
14			(1)(d), (2)(a), (2)(b), or
15			(2)(c)4.) within 1,000 feet of a
16			child care facility or school.
17	893.13(1)(e)1.	1st	Sell, manufacture, or deliver
18			cocaine or other drug prohibited
19			under s. 893.03(1)(a), (1)(b),
20			(1)(d), (2)(a), (2)(b), or
21			(2)(c)4., within 1,000 feet of
22			property used for religious
23			services or a specified business
24			site.
25	893.13(4)(a)	1st	Deliver to minor cocaine (or
26			other s. 893.03(1)(a), (1)(b),
27			(1)(d), (2)(a), (2)(b), or
28			(2)(c)4. drugs).
29	893.135(1)(a)1.	1st	Trafficking in cannabis, more
30			than 25 lbs., less than 2,000
31			lbs.

1	893.135		
2	(1)(b)1.a.	1st	Trafficking in cocaine, more than
3			28 grams, less than 200 grams.
4	893.135		
5	(1)(c)1.a.	1st	Trafficking in illegal drugs,
6			more than 4 grams, less than 14
7			grams.
8	893.135		
9	(1)(d)1.	1st	Trafficking in phencyclidine,
10			more than 28 grams, less than 200
11			grams.
12	893.135(1)(e)1.	1st	Trafficking in methaqualone, more
13			than 200 grams, less than 5
14			kilograms.
15	893.135(1)(f)1.	1st	Trafficking in amphetamine, more
16			than 14 grams, less than 28
17			grams.
18	893.135		
19	(1)(g)1.a.	1st	Trafficking in flunitrazepam, 4
20			grams or more, less than 14
21			grams.
22	893.135		
23	(1)(h)1.a.	1st	Trafficking in
24			gamma-hydroxybutyric acid (GHB),
25			1 kilogram or more, less than 5
26			kilograms.
27	893.135		
28	(1)(i)1.a.	1st	Trafficking in 1,4-Butanediol, 1
29			kilogram or more, less than 5
30			kilograms.
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1	893.135		
2	(1)(j)2.a.	1st	Trafficking in Phenethylamines,
3			10 grams or more, less than 200
4			grams.
5	896.101(5)(a)	3rd	Money laundering, financial
6			transactions exceeding \$300 but
7			less than \$20,000.
8	896.104(4)(a)1.	3rd	Structuring transactions to evade
9			reporting or registration
10			requirements, financial
11			transactions exceeding \$300 but
12			less than \$20,000.
13			(h) LEVEL 8
14	316.193		
15	(3)(c)3.a.	2nd	DUI manslaughter.
16	327.35(3)(c)3.	2nd	Vessel BUI manslaughter.
17	560.123(8)(b)2.	2nd	Failure to report currency or
18			payment instruments totaling or
19			exceeding \$20,000, but less than
20			\$100,000 by money transmitter.
21	560.125(5)(b)	2nd	Money transmitter business by
22			unauthorized person, currency or
23			payment instruments totaling or
24			exceeding \$20,000, but less than
25			\$100,000.
26	655.50(10)(b)2.	2nd	Failure to report financial
27			transactions totaling or
28			exceeding \$20,000, but less than
29			\$100,000 by financial
30			institutions.
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1	777.03(2)(a)	1st	Accessory after the fact, capital
2			felony.
3	782.04(4)	2nd	Killing of human without design
4			when engaged in act or attempt of
5			any felony other than arson,
6			sexual battery, robbery,
7			burglary, kidnapping, aircraft
8			piracy, or unlawfully discharging
9			bomb.
10	782.051(2)	1st	Attempted felony murder while
11			perpetrating or attempting to
12			perpetrate a felony not
13			enumerated in s. 782.04(3).
14	782.071(1)(b)	1st	Committing vehicular homicide and
15			failing to render aid or give
16			information.
17	782.072(2)	1st	Committing vessel homicide and
18			failing to render aid or give
19			information.
20	790.161(3)	1st	Discharging a destructive device
21			which results in bodily harm or
22			property damage.
23	794.011(5)	2nd	Sexual battery, victim 12 years
24			or over, offender does not use
25			physical force likely to cause
26			serious injury.
27	800.04(4)	2nd	Lewd or lascivious battery.
28	806.01(1)	1st	Maliciously damage dwelling or
29			structure by fire or explosive,
30			believing person in structure.
31	810.02(2)(a)	1st, PBL	Burglary with assault or battery.

1	810.02(2)(b)	1st,PBL	Burglary; armed with explosives
2			or dangerous weapon.
3	810.02(2)(c)	1st	Burglary of a dwelling or
4			structure causing structural
5			damage or \$1,000 or more property
6			damage.
7	812.13(2)(b)	1st	Robbery with a weapon.
8	812.135(2)	1st	Home-invasion robbery.
9	825.102(2)	2nd	Aggravated abuse of an elderly
10			person or disabled adult.
11	<u>825.1025(2)</u>	<u>2nd</u>	<u>Lewd or lascivious battery upon</u>
12			<u>an elderly person or disabled</u>
13			<u>adult.</u>
14	825.103(2)(a)	1st	Exploiting an elderly person or
15			disabled adult and property is
16			valued at \$100,000 or more.
17	837.02(2)	2nd	Perjury in official proceedings
18			relating to prosecution of a
19			capital felony.
20	837.021(2)	2nd	Making contradictory statements
21			in official proceedings relating
22			to prosecution of a capital
23			felony.
24	860.121(2)(c)	1st	Shooting at or throwing any
25			object in path of railroad
26			vehicle resulting in great bodily
27			harm.
28	860.16	1st	Aircraft piracy.
29	893.13(1)(b)	1st	Sell or deliver in excess of 10
30			grams of any substance specified
31			in s. 893.03(1)(a) or (b).

1	893.13(2)(b)	1st	Purchase in excess of 10 grams of
2			any substance specified in s.
3			893.03(1)(a) or (b).
4	893.13(6)(c)	1st	Possess in excess of 10 grams of
5			any substance specified in s.
6			893.03(1)(a) or (b).
7	893.135(1)(a)2.	1st	Trafficking in cannabis, more
8			than 2,000 lbs., less than 10,000
9			lbs.
10	893.135		
11	(1)(b)1.b.	1st	Trafficking in cocaine, more than
12			200 grams, less than 400 grams.
13	893.135		
14	(1)(c)1.b.	1st	Trafficking in illegal drugs,
15			more than 14 grams, less than 28
16			grams.
17	893.135		
18	(1)(d)1.b.	1st	Trafficking in phencyclidine,
19			more than 200 grams, less than
20			400 grams.
21	893.135		
22	(1)(e)1.b.	1st	Trafficking in methaqualone, more
23			than 5 kilograms, less than 25
24			kilograms.
25	893.135		
26	(1)(f)1.b.	1st	Trafficking in amphetamine, more
27			than 28 grams, less than 200
28			grams.
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1	893.135		
2	(1)(g)1.b.	1st	Trafficking in flunitrazepam, 14
3			grams or more, less than 28
4			grams.
5	893.135		
6	(1)(h)1.b.	1st	Trafficking in
7			gamma-hydroxybutyric acid (GHB),
8			5 kilograms or more, less than 10
9			kilograms.
10	893.135		
11	(1)(i)1.b.	1st	Trafficking in 1,4-Butanediol, 5
12			kilograms or more, less than 10
13			kilograms.
14	893.135		
15	(1)(j)2.b.	1st	Trafficking in Phenethylamines,
16			200 grams or more, less than 400
17			grams.
18	895.03(1)	1st	Use or invest proceeds derived
19			from pattern of racketeering
20			activity.
21	895.03(2)	1st	Acquire or maintain through
22			racketeering activity any
23			interest in or control of any
24			enterprise or real property.
25	895.03(3)	1st	Conduct or participate in any
26			enterprise through pattern of
27			racketeering activity.
28	896.101(5)(b)	2nd	Money laundering, financial
29			transactions totaling or
30			exceeding \$20,000, but less than
31			\$100,000.

1 896.104(4)(a)2. 2nd Structuring transactions to evade  
2 reporting or registration  
3 requirements, financial  
4 transactions totaling or  
5 exceeding \$20,000 but less than  
6 \$100,000.

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