

By Senator Fasano

11-305-05

1 A bill to be entitled
2 An act relating to the Criminal Punishment
3 Code; amending s. 921.0022, F.S.; including
4 offenses involving the possession of
5 photographic material containing sexual conduct
6 by a minor, the transmission of pornography by
7 electronic device, and the transmission to a
8 minor of material harmful to minors by
9 electronic device within the offense severity
10 ranking chart of the Criminal Punishment Code;
11 reclassifying within the offense severity
12 ranking chart the offense of soliciting a child
13 by a computer service to commit an unlawful
14 sexual act, which is a felony of the third
15 degree, to increase the penalty imposed for
16 that offense; providing an effective date.

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

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20 Section 1. Paragraphs (e), (f), and (g) of subsection
21 (3) of section 921.0022, Florida Statutes, are amended to
22 read:

23 921.0022 Criminal Punishment Code; offense severity
24 ranking chart.--

25 (3) OFFENSE SEVERITY RANKING CHART

26
27 Florida Felony
28 Statute Degree Description

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31 (e) LEVEL 5

1	316.027(1)(a)	3rd	Accidents involving personal
2			injuries, failure to stop;
3			leaving scene.
4	316.1935(4)(a)	2nd	Aggravated fleeing or eluding.
5	322.34(6)	3rd	Careless operation of motor
6			vehicle with suspended license,
7			resulting in death or serious
8			bodily injury.
9	327.30(5)	3rd	Vessel accidents involving
10			personal injury; leaving scene.
11	381.0041		
12	(11)(b)	3rd	Donate blood, plasma, or organs
13			knowing HIV positive.
14	440.10(1)(g)	2nd	Failure to obtain workers'
15			compensation coverage.
16	440.105(5)	2nd	Unlawful solicitation for the
17			purpose of making workers'
18			compensation claims.
19	440.381(2)	2nd	Submission of false, misleading,
20			or incomplete information with
21			the purpose of avoiding or
22			reducing workers' compensation
23			premiums.
24	624.401(4)(b)2.	2nd	Transacting insurance without a
25			certificate or authority; premium
26			collected \$20,000 or more but
27			less than \$100,000.
28	626.902(1)(c)	2nd	Representing an unauthorized
29			insurer; repeat offender.
30	790.01(2)	3rd	Carrying a concealed firearm.
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1	790.162	2nd	Threat to throw or discharge
2			destructive device.
3	790.163(1)	2nd	False report of deadly explosive
4			or weapon of mass destruction.
5	790.221(1)	2nd	Possession of short-barreled
6			shotgun or machine gun.
7	790.23	2nd	Felons in possession of firearms,
8			ammunition, or electronic weapons
9			or devices.
10	800.04(6)(c)	3rd	Lewd or lascivious conduct;
11			offender less than 18 years.
12	800.04(7)(c)	2nd	Lewd or lascivious exhibition;
13			offender 18 years or older.
14	806.111(1)	3rd	Possess, manufacture, or dispense
15			fire bomb with intent to damage
16			any structure or property.
17	812.0145(2)(b)	2nd	Theft from person 65 years of age
18			or older; \$10,000 or more but
19			less than \$50,000.
20	812.015(8)	3rd	Retail theft; property stolen is
21			valued at \$300 or more and one or
22			more specified acts.
23	812.019(1)	2nd	Stolen property; dealing in or
24			trafficking in.
25	812.131(2)(b)	3rd	Robbery by sudden snatching.
26	812.16(2)	3rd	Owning, operating, or conducting
27			a chop shop.
28	817.034(4)(a)2.	2nd	Communications fraud, value
29			\$20,000 to \$50,000.
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1	817.234(11)(b)	2nd	Insurance fraud; property value
2			\$20,000 or more but less than
3			\$100,000.
4	817.2341(1),		
5	(2)(a)&(3)(a)	3rd	Filing false financial
6			statements, making false entries
7			of material fact or false
8			statements regarding property
9			values relating to the solvency
10			of an insuring entity.
11	817.568(2)(b)	2nd	Fraudulent use of personal
12			identification information; value
13			of benefit, services received,
14			payment avoided, or amount of
15			injury or fraud, \$5,000 or more
16			or use of personal identification
17			information of 10 or more
18			individuals.
19	817.625(2)(b)	2nd	Second or subsequent fraudulent
20			use of scanning device or
21			reencoder.
22	825.1025(4)	3rd	Lewd or lascivious exhibition in
23			the presence of an elderly person
24			or disabled adult.
25	827.071(4)	2nd	Possess with intent to promote
26			any photographic material, motion
27			picture, etc., which includes
28			sexual conduct by a child.
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1	<u>827.071(5)</u>	3rd	<u>Possess any photographic</u>
2			<u>material, motion picture, etc.,</u>
3			<u>which includes sexual conduct by</u>
4			<u>a child.</u>
5	839.13(2)(b)	2nd	Falsifying records of an
6			individual in the care and
7			custody of a state agency
8			involving great bodily harm or
9			death.
10	843.01	3rd	Resist officer with violence to
11			person; resist arrest with
12			violence.
13	<u>847.0137(2) & (3)</u>	3rd	<u>Transmission of pornography by</u>
14			<u>electronic device or equipment.</u>
15	<u>847.0138(2) & (3)</u>	3rd	<u>Transmission of material harmful</u>
16			<u>to minors to a minor by</u>
17			<u>electronic device or equipment.</u>
18	874.05(2)	2nd	Encouraging or recruiting another
19			to join a criminal street gang;
20			second or subsequent offense.
21	893.13(1)(a)1.	2nd	Sell, manufacture, or deliver
22			cocaine (or other s.
23			893.03(1)(a), (1)(b), (1)(d),
24			(2)(a), (2)(b), or (2)(c)4.
25			drugs).
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1	893.13(1)(c)2.	2nd	Sell, manufacture, or deliver
2			cannabis (or other s.
3			893.03(1)(c), (2)(c)1., (2)(c)2.,
4			(2)(c)3., (2)(c)5., (2)(c)6.,
5			(2)(c)7., (2)(c)8., (2)(c)9.,
6			(3), or (4) drugs) within 1,000
7			feet of a child care facility,
8			school, or state, county, or
9			municipal park or publicly owned
10			recreational facility or
11			community center.
12	893.13(1)(d)1.	1st	Sell, manufacture, or deliver
13			cocaine (or other s.
14			893.03(1)(a), (1)(b), (1)(d),
15			(2)(a), (2)(b), or (2)(c)4.
16			drugs) within 1,000 feet of
17			university.
18	893.13(1)(e)2.	2nd	Sell, manufacture, or deliver
19			cannabis or other drug prohibited
20			under s. 893.03(1)(c), (2)(c)1.,
21			(2)(c)2., (2)(c)3., (2)(c)5.,
22			(2)(c)6., (2)(c)7., (2)(c)8.,
23			(2)(c)9., (3), or (4) within
24			1,000 feet of property used for
25			religious services or a specified
26			business site.
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1	893.13(1)(f)1.	1st	Sell, manufacture, or deliver
2			cocaine (or other s.
3			893.03(1)(a), (1)(b), (1)(d), or
4			(2)(a), (2)(b), or (2)(c)4.
5			drugs) within 1,000 feet of
6			public housing facility.
7	893.13(4)(b)	2nd	Deliver to minor cannabis (or
8			other s. 893.03(1)(c), (2)(c)1.,
9			(2)(c)2., (2)(c)3., (2)(c)5.,
10			(2)(c)6., (2)(c)7., (2)(c)8.,
11			(2)(c)9., (3), or (4) drugs).
12			(f) LEVEL 6
13	316.193(2)(b)	3rd	Felony DUI, 4th or subsequent
14			conviction.
15	499.0051(3)	2nd	Forgery of pedigree papers.
16	499.0051(4)	2nd	Purchase or receipt of legend
17			drug from unauthorized person.
18	499.0051(5)	2nd	Sale of legend drug to
19			unauthorized person.
20	775.0875(1)	3rd	Taking firearm from law
21			enforcement officer.
22	775.21(10)	3rd	Sexual predators; failure to
23			register; failure to renew
24			driver's license or
25			identification card.
26	784.021(1)(a)	3rd	Aggravated assault; deadly weapon
27			without intent to kill.
28	784.021(1)(b)	3rd	Aggravated assault; intent to
29			commit felony.
30	784.041	3rd	Felony battery.
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1	784.048(3)	3rd	Aggravated stalking; credible
2			threat.
3	784.048(5)	3rd	Aggravated stalking of person
4			under 16.
5	784.07(2)(c)	2nd	Aggravated assault on law
6			enforcement officer.
7	784.074(1)(b)	2nd	Aggravated assault on sexually
8			violent predators facility staff.
9	784.08(2)(b)	2nd	Aggravated assault on a person 65
10			years of age or older.
11	784.081(2)	2nd	Aggravated assault on specified
12			official or employee.
13	784.082(2)	2nd	Aggravated assault by detained
14			person on visitor or other
15			detainee.
16	784.083(2)	2nd	Aggravated assault on code
17			inspector.
18	787.02(2)	3rd	False imprisonment; restraining
19			with purpose other than those in
20			s. 787.01.
21	790.115(2)(d)	2nd	Discharging firearm or weapon on
22			school property.
23	790.161(2)	2nd	Make, possess, or throw
24			destructive device with intent to
25			do bodily harm or damage
26			property.
27	790.164(1)	2nd	False report of deadly explosive,
28			weapon of mass destruction, or
29			act of arson or violence to state
30			property.
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1	790.19	2nd	Shooting or throwing deadly
2			missiles into dwellings, vessels,
3			or vehicles.
4	794.011(8)(a)	3rd	Solicitation of minor to
5			participate in sexual activity by
6			custodial adult.
7	794.05(1)	2nd	Unlawful sexual activity with
8			specified minor.
9	800.04(5)(d)	3rd	Lewd or lascivious molestation;
10			victim 12 years of age or older
11			but less than 16 years; offender
12			less than 18 years.
13	800.04(6)(b)	2nd	Lewd or lascivious conduct;
14			offender 18 years of age or
15			older.
16	806.031(2)	2nd	Arson resulting in great bodily
17			harm to firefighter or any other
18			person.
19	810.02(3)(c)	2nd	Burglary of occupied structure;
20			unarmed; no assault or battery.
21	812.014(2)(b)1.	2nd	Property stolen \$20,000 or more,
22			but less than \$100,000, grand
23			theft in 2nd degree.
24	812.015(9)	2nd	Retail theft; property stolen
25			\$300 or more; second or
26			subsequent conviction.
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.
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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 less than \$20,000.
14	827.03(1)	3rd	Abuse of a child.
15	827.03(3)(c)	3rd	Neglect of a child.
16	827.071(2)&(3)	2nd	Use or induce a child in a sexual
17			performance, or promote or direct
18			such performance.
19	836.05	2nd	Threats; extortion.
20	836.10	2nd	Written threats to kill or do
21			bodily injury.
22	843.12	3rd	Aids or assists person to escape.
23	847.0135(2)(3)	3rd	<u>Facilitates sexual conduct of or</u>
24			<u>with a minor or the visual</u>
25			<u>depiction of such conduct.</u>
26			Solicitation of a child, via a
27			computer service, to commit an
28			unlawful sex act.
29	914.23	2nd	Retaliation against a witness,
30			victim, or informant, with bodily
31			injury.

1	943.0435(9)	3rd	Sex offenders; failure to comply
2			with reporting requirements.
3	944.35(3)(a)2.	3rd	Committing malicious battery upon
4			or inflicting cruel or inhuman
5			treatment on an inmate or
6			offender on community
7			supervision, resulting in great
8			bodily harm.
9	944.40	2nd	Escapes.
10	944.46	3rd	Harboring, concealing, aiding
11			escaped prisoners.
12	944.47(1)(a)5.	2nd	Introduction of contraband
13			(firearm, weapon, or explosive)
14			into correctional facility.
15	951.22(1)	3rd	Intoxicating drug, firearm, or
16			weapon introduced into county
17			facility.
18			(g) LEVEL 7
19	316.027(1)(b)	2nd	Accident involving death, failure
20			to stop; leaving scene.
21	316.193(3)(c)2.	3rd	DUI resulting in serious bodily
22			injury.
23	316.1935(3)(b)	1st	Causing serious bodily injury or
24			death to another person; driving
25			at high speed or with wanton
26			disregard for safety while
27			fleeing or attempting to elude
28			law enforcement officer who is in
29			a patrol vehicle with siren and
30			lights activated.
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1	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious
2			bodily injury.
3	402.319(2)	2nd	Misrepresentation and negligence
4			or intentional act resulting in
5			great bodily harm, permanent
6			disfiguration, permanent
7			disability, or death.
8	409.920(2)	3rd	Medicaid provider fraud.
9	456.065(2)	3rd	Practicing a health care
10			profession without a license.
11	456.065(2)	2nd	Practicing a health care
12			profession without a license
13			which results in serious bodily
14			injury.
15	458.327(1)	3rd	Practicing medicine without a
16			license.
17	459.013(1)	3rd	Practicing osteopathic medicine
18			without a license.
19	460.411(1)	3rd	Practicing chiropractic medicine
20			without a license.
21	461.012(1)	3rd	Practicing podiatric medicine
22			without a license.
23	462.17	3rd	Practicing naturopathy without a
24			license.
25	463.015(1)	3rd	Practicing optometry without a
26			license.
27	464.016(1)	3rd	Practicing nursing without a
28			license.
29	465.015(2)	3rd	Practicing pharmacy without a
30			license.
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1	466.026(1)	3rd	Practicing dentistry or dental
2			hygiene without a license.
3	467.201	3rd	Practicing midwifery without a
4			license.
5	468.366	3rd	Delivering respiratory care
6			services without a license.
7	483.828(1)	3rd	Practicing as clinical laboratory
8			personnel without a license.
9	483.901(9)	3rd	Practicing medical physics
10			without a license.
11	484.013(1)(c)	3rd	Preparing or dispensing optical
12			devices without a prescription.
13	484.053	3rd	Dispensing hearing aids without a
14			license.
15	494.0018(2)	1st	Conviction of any violation of
16			ss. 494.001-494.0077 in which the
17			total money and property
18			unlawfully obtained exceeded
19			\$50,000 and there were five or
20			more victims.
21	560.123(8)(b)1.	3rd	Failure to report currency or
22			payment instruments exceeding
23			\$300 but less than \$20,000 by
24			money transmitter.
25	560.125(5)(a)	3rd	Money transmitter business by
26			unauthorized person, currency or
27			payment instruments exceeding
28			\$300 but less than \$20,000.
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1	655.50(10)(b)1.	3rd	Failure to report financial
2			transactions exceeding \$300 but
3			less than \$20,000 by financial
4			institution.
5	782.051(3)	2nd	Attempted felony murder of a
6			person by a person other than the
7			perpetrator or the perpetrator of
8			an attempted felony.
9	782.07(1)	2nd	Killing of a human being by the
10			act, procurement, or culpable
11			negligence of another
12			(manslaughter).
13	782.071	2nd	Killing of human being or viable
14			fetus by the operation of a motor
15			vehicle in a reckless manner
16			(vehicular homicide).
17	782.072	2nd	Killing of a human being by the
18			operation of a vessel in a
19			reckless manner (vessel
20			homicide).
21	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
22			causing great bodily harm or
23			disfigurement.
24	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
25			weapon.
26	784.045(1)(b)	2nd	Aggravated battery; perpetrator
27			aware victim pregnant.
28	784.048(4)	3rd	Aggravated stalking; violation of
29			injunction or court order.
30	784.048(7)	3rd	Aggravated stalking; violation of
31			court order.

1	784.07(2)(d)	1st	Aggravated battery on law
2			enforcement officer.
3	784.074(1)(a)	1st	Aggravated battery on sexually
4			violent predators facility staff.
5	784.08(2)(a)	1st	Aggravated battery on a person 65
6			years of age or older.
7	784.081(1)	1st	Aggravated battery on specified
8			official or employee.
9	784.082(1)	1st	Aggravated battery by detained
10			person on visitor or other
11			detainee.
12	784.083(1)	1st	Aggravated battery on code
13			inspector.
14	790.07(4)	1st	Specified weapons violation
15			subsequent to previous conviction
16			of s. 790.07(1) or (2).
17	790.16(1)	1st	Discharge of a machine gun under
18			specified circumstances.
19	790.165(2)	2nd	Manufacture, sell, possess, or
20			deliver hoax bomb.
21	790.165(3)	2nd	Possessing, displaying, or
22			threatening to use any hoax bomb
23			while committing or attempting to
24			commit a felony.
25	790.166(3)	2nd	Possessing, selling, using, or
26			attempting to use a hoax weapon
27			of mass destruction.
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1	790.166(4)	2nd	Possessing, displaying, or
2			threatening to use a hoax weapon
3			of mass destruction while
4			committing or attempting to
5			commit a felony.
6	796.03	2nd	Procuring any person under 16
7			years for prostitution.
8	800.04(5)(c)1.	2nd	Lewd or lascivious molestation;
9			victim less than 12 years of age;
10			offender less than 18 years.
11	800.04(5)(c)2.	2nd	Lewd or lascivious molestation;
12			victim 12 years of age or older
13			but less than 16 years; offender
14			18 years or older.
15	806.01(2)	2nd	Maliciously damage structure by
16			fire or explosive.
17	810.02(3)(a)	2nd	Burglary of occupied dwelling;
18			unarmed; no assault or battery.
19	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
20			unarmed; no assault or battery.
21	810.02(3)(d)	2nd	Burglary of occupied conveyance;
22			unarmed; no assault or battery.
23	812.014(2)(a)1.	1st	Property stolen, valued at
24			\$100,000 or more; property stolen
25			while causing other property
26			damage; 1st degree grand theft.
27	812.014(2)(b)2.	2nd	Property stolen, cargo valued at
28			less than \$50,000, grand theft in
29			2nd degree.
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1	812.014(2)(b)3.	2nd	Property stolen, emergency
2			medical equipment; 2nd degree
3			grand theft.
4	812.0145(2)(a)	1st	Theft from person 65 years of age
5			or older; \$50,000 or more.
6	812.019(2)	1st	Stolen property; initiates,
7			organizes, plans, etc., the theft
8			of property and traffics in
9			stolen property.
10	812.131(2)(a)	2nd	Robbery by sudden snatching.
11	812.133(2)(b)	1st	Carjacking; no firearm, deadly
12			weapon, or other weapon.
13	817.234(8)(a)	2nd	Solicitation of motor vehicle
14			accident victims with intent to
15			defraud.
16	817.234(9)	2nd	Organizing, planning, or
17			participating in an intentional
18			motor vehicle collision.
19	817.234(11)(c)	1st	Insurance fraud; property value
20			\$100,000 or more.
21	817.2341(2)(b)&		
22	(3)(b)	1st	Making false entries of material
23			fact or false statements
24			regarding property values
25			relating to the solvency of an
26			insuring entity which are a
27			significant cause of the
28			insolvency of that entity.
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1	825.102(3)(b)	2nd	Neglecting an elderly person or
2			disabled adult causing great
3			bodily harm, disability, or
4			disfigurement.
5	825.103(2)(b)	2nd	Exploiting an elderly person or
6			disabled adult and property is
7			valued at \$20,000 or more, but
8			less than \$100,000.
9	827.03(3)(b)	2nd	Neglect of a child causing great
10			bodily harm, disability, or
11			disfigurement.
12	827.04(3)	3rd	Impregnation of a child under 16
13			years of age by person 21 years
14			of age or older.
15	837.05(2)	3rd	Giving false information about
16			alleged capital felony to a law
17			enforcement officer.
18	838.015	2nd	Bribery.
19	838.016	2nd	Unlawful compensation or reward
20			for official behavior.
21	838.021(3)(a)	2nd	Unlawful harm to a public
22			servant.
23	838.22	2nd	Bid tampering.
24	<u>847.0135(3)</u>	<u>3rd</u>	<u>Solicitation of a child, via a</u>
25			<u>computer service, to commit an</u>
26			<u>unlawful sex act.</u>
27	872.06	2nd	Abuse of a dead human body.
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1	893.13(1)(c)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 a
6			child care facility, school, or
7			state, county, or municipal park
8			or publicly owned recreational
9			facility or community center.
10	893.13(1)(e)1.	1st	Sell, manufacture, or deliver
11			cocaine or other drug prohibited
12			under s. 893.03(1)(a), (1)(b),
13			(1)(d), (2)(a), (2)(b), or
14			(2)(c)4., within 1,000 feet of
15			property used for religious
16			services or a specified business
17			site.
18	893.13(4)(a)	1st	Deliver to minor cocaine (or
19			other s. 893.03(1)(a), (1)(b),
20			(1)(d), (2)(a), (2)(b), or
21			(2)(c)4. drugs).
22	893.135(1)(a)1.	1st	Trafficking in cannabis, more
23			than 25 lbs., less than 2,000
24			lbs.
25	893.135		
26	(1)(b)1.a.	1st	Trafficking in cocaine, more than
27			28 grams, less than 200 grams.
28	893.135		
29	(1)(c)1.a.	1st	Trafficking in illegal drugs,
30			more than 4 grams, less than 14
31			grams.

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)(j)1.a.	1st	Trafficking in 1,4-Butanediol, 1
22			kilogram or more, less than 5
23			kilograms.
24	893.135		
25	(1)(k)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.
31			

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 Section 2. This act shall take effect July 1, 2005.

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9 SENATE SUMMARY

10 Places the offenses of possessing photographic material
11 that includes sexual conduct by a child, transmitting
12 pornography by electronic device, and transmitting
13 harmful material to a child by electronic device on the
14 offense severity ranking chart. Reclassifies the offense
15 of soliciting a child by a computer service to commit an
16 unlawful sexual act under the offense severity ranking
17 chart of the Criminal Punishment Code to increase the
18 penalty imposed for that offense.
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