

1 A bill to be entitled
 2 An act relating to lewd or lascivious exhibition; amending
 3 s. 800.04, F.S.; deletes the requirements that victims of
 4 specified offenses be less than 16 years of age; revises
 5 age requirements for the offender classification for
 6 specified offenses; amending s. 901.15, F.S.; permitting
 7 arrests without warrants for specified lewd and lascivious
 8 offenses; amending s. 921.0022, F.S.; conforming the
 9 offense severity ranking chart of the Criminal Punishment
 10 Code; providing an effective date.

11
 12 Be It Enacted by the Legislature of the State of Florida:

13
 14 Section 1. Subsection (7) of section 800.04, Florida
 15 Statutes, is amended to read:

16 800.04 Lewd or lascivious offenses ~~committed upon or in~~
 17 ~~the presence of persons less than 16 years of age.--~~

18 (7) LEWD OR LASCIVIOUS EXHIBITION.--

19 (a) A person who:

20 1. Intentionally masturbates;

21 2. Intentionally exposes the genitals in a lewd or
 22 lascivious manner; or

23 3. Intentionally commits any other sexual act that does
 24 not involve actual physical or sexual contact with the victim,
 25 including, but not limited to, sadomasochistic abuse, sexual
 26 bestiality, or the simulation of any act involving sexual
 27 activity

28

29 | in the presence of a victim ~~who is less than 16 years of age,~~
 30 | commits lewd or lascivious exhibition.

31 | (b) A person who:

32 | 1. Intentionally masturbates;

33 | 2. Intentionally exposes the genitals in a lewd or
 34 | lascivious manner; or

35 | 3. Intentionally commits any other sexual act that does
 36 | not involve actual physical or sexual contact with the victim,
 37 | including, but not limited to, sadomasochistic abuse, sexual
 38 | bestiality, or the simulation of any act involving sexual
 39 | activity

40 |
 41 | live over a computer on-line service, Internet service, or local
 42 | bulletin board service and who knows or should know or has
 43 | reason to believe that the transmission is viewed on a computer
 44 | or television monitor by a victim in this state ~~who is less than~~
 45 | ~~16 years of age,~~ commits lewd or lascivious exhibition. The fact
 46 | that an undercover operative or law enforcement officer was
 47 | involved in the detection and investigation of an offense under
 48 | this paragraph shall not constitute a defense to a prosecution
 49 | under this paragraph.

50 | (c) An offender 16 ~~18~~ years of age or older who commits a
 51 | lewd or lascivious exhibition commits a felony of the second
 52 | degree, punishable as provided in s. 775.082, s. 775.083, or s.
 53 | 775.084.

54 | (d) An offender less than 16 ~~18~~ years of age who commits a
 55 | lewd or lascivious exhibition commits a felony of the third

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56 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 57 775.084.

58 Section 2. Subsection (16) is added to section 901.15,
 59 Florida Statutes, to read:

60 901.15 When arrest by officer without warrant is
 61 lawful.--A law enforcement officer may arrest a person without a
 62 warrant when:

63 (16) There is probable cause to believe that the person
 64 has committed an act that violates s. 800.04(7).

65 Section 3. Paragraphs (d) and (e) of subsection (3) of
 66 section 921.0022, Florida Statutes, are amended to read:

67 (3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
		(d) LEVEL 4
316.1935(3)(a)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
499.0051(1)	3rd	Failure to maintain or deliver pedigree papers.

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72	499.0051 (2)	3rd	Failure to authenticate pedigree papers.
73	499.0051 (6)	2nd	Sale or delivery, or possession with intent to sell, contraband legend drugs.
74	784.07 (2) (b)	3rd	Battery of law enforcement officer, firefighter, intake officer, etc.
75	784.074 (1) (c)	3rd	Battery of sexually violent predators facility staff.
76	784.075	3rd	Battery on detention or commitment facility staff.
77	784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.
78	784.08 (2) (c)	3rd	Battery on a person 65 years of age or older.
79	784.081 (3)	3rd	Battery on specified official or employee.

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80	784.082 (3)	3rd	Battery by detained person on visitor or other detainee.
81	784.083 (3)	3rd	Battery on code inspector.
82	784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.
83	787.03 (1)	3rd	Interference with custody; wrongly takes minor from appointed guardian.
84	787.04 (2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.
85	787.04 (3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.
86	790.115 (1)	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.

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87	790.115 (2) (b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
88	790.115 (2) (c)	3rd	Possessing firearm on school property.
89	800.04 (7) (d)	3rd	Lewd or lascivious exhibition; offender less than <u>16</u> 18 years.
90	810.02 (4) (a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
91	810.02 (4) (b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.
92	810.06	3rd	Burglary; possession of tools.
93	810.08 (2) (c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
94	812.014 (2) (c) 3.	3rd	Grand theft, 3rd degree \$10,000 or more but less than \$20,000.
	812.014 (2) (c) 4.-10.	3rd	Grand theft, 3rd degree, a will,

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firearm, motor vehicle,
livestock, etc.

95

812.0195 (2) 3rd Dealing in stolen property by
use of the Internet; property
stolen \$300 or more.

96

817.563 (1) 3rd Sell or deliver substance other
than controlled substance agreed
upon, excluding s. 893.03 (5)
drugs.

97

817.568 (2) (a) 3rd Fraudulent use of personal
identification information.

98

817.625 (2) (a) 3rd Fraudulent use of scanning
device or reencoder.

99

828.125 (1) 2nd Kill, maim, or cause great
bodily harm or permanent
breeding disability to any
registered horse or cattle.

100

837.02 (1) 3rd Perjury in official proceedings.

101

837.021 (1) 3rd Make contradictory statements in
official proceedings.

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103	838.022	3rd	Official misconduct.
104	839.13 (2) (a)	3rd	Falsifying records of an individual in the care and custody of a state agency.
105	839.13 (2) (c)	3rd	Falsifying records of the Department of Children and Family Services.
106	843.021	3rd	Possession of a concealed handcuff key by a person in custody.
107	843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
108	843.15 (1) (a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
109	874.05 (1)	3rd	Encouraging or recruiting another to join a criminal street gang.

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110	893.13 (2) (a) 1.	2nd	Purchase of cocaine (or other s. 893.03(1) (a), (b), or (d), (2) (a), (2) (b), or (2) (c) 4. drugs).
111	914.14 (2)	3rd	Witnesses accepting bribes.
112	914.22 (1)	3rd	Force, threaten, etc., witness, victim, or informant.
113	914.23 (2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.
114	918.12	3rd	Tampering with jurors.
115	934.215	3rd	Use of two-way communications device to facilitate commission of a crime.
116			(e) LEVEL 5
117	316.027 (1) (a)	3rd	Accidents involving personal injuries, failure to stop; leaving scene.
118	316.1935 (4) (a)	2nd	Aggravated fleeing or eluding.

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119	322.34 (6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
120	327.30 (5)	3rd	Vessel accidents involving personal injury; leaving scene.
121	381.0041 (11) (b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
122	440.10 (1) (g)	2nd	Failure to obtain workers' compensation coverage.
123	440.105 (5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
124	440.381 (2)	2nd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
	624.401 (4) (b) 2.	2nd	Transacting insurance without a certificate or authority; premium collected \$20,000 or

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			more but less than \$100,000.
125	626.902 (1) (c)	2nd	Representing an unauthorized insurer; repeat offender.
126	790.01 (2)	3rd	Carrying a concealed firearm.
127	790.162	2nd	Threat to throw or discharge destructive device.
128	790.163 (1)	2nd	False report of deadly explosive or weapon of mass destruction.
129	790.221 (1)	2nd	Possession of short-barreled shotgun or machine gun.
130	790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
131	800.04 (6) (c)	3rd	Lewd or lascivious conduct; offender less than 18 years.
132	800.04 (7) (c)	2nd	Lewd or lascivious exhibition; offender <u>16</u> 18 years or older.
133	806.111 (1)	3rd	Possess, manufacture, or

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dispense fire bomb with intent
to damage any structure or
property.

134

812.0145 (2) (b) 2nd

Theft from person 65 years of
age or older; \$10,000 or more
but less than \$50,000.

135

812.015 (8) 3rd

Retail theft; property stolen is
valued at \$300 or more and one
or more specified acts.

136

812.019 (1) 2nd

Stolen property; dealing in or
trafficking in.

137

812.131 (2) (b) 3rd

Robbery by sudden snatching.

138

812.16 (2) 3rd

Owning, operating, or conducting
a chop shop.

139

817.034 (4) (a) 2. 2nd

Communications fraud, value
\$20,000 to \$50,000.

140

817.234 (11) (b) 2nd

Insurance fraud; property value
\$20,000 or more but less than
\$100,000.

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142	817.2341 (1), (2) (a) & (3) (a)	3rd	Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.
143	817.568 (2) (b)	2nd	Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, \$5,000 or more or use of personal identification information of 10 or more individuals.
144	817.625 (2) (b)	2nd	Second or subsequent fraudulent use of scanning device or reencoder.
145	825.1025 (4)	3rd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
	827.071 (4)	2nd	Possess with intent to promote any photographic material,

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motion picture, etc., which includes sexual conduct by a child.

146

827.071(5)

3rd

Possess any photographic material, motion picture, etc., which includes sexual conduct by a child.

147

839.13(2)(b)

2nd

Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.

148

843.01

3rd

Resist officer with violence to person; resist arrest with violence.

149

847.0137(2) & (3)

3rd

Transmission of pornography by electronic device or equipment.

150

847.0138(2) & (3)

3rd

Transmission of material harmful to minors to a minor by electronic device or equipment.

151

874.05(2)

2nd

Encouraging or recruiting

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another to join a criminal street gang; second or subsequent offense.

152

893.13 (1) (a) 1. 2nd

Sell, manufacture, or deliver cocaine (or other s. 893.03 (1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c) 4. drugs).

153

893.13 (1) (c) 2. 2nd

Sell, manufacture, or deliver cannabis (or other s. 893.03 (1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 5., (2) (c) 6., (2) (c) 7., (2) (c) 8., (2) (c) 9., (3), or (4) drugs) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.

154

893.13 (1) (d) 1. 1st

Sell, manufacture, or deliver cocaine (or other s. 893.03 (1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c) 4. drugs) within 1,000 feet of

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university.

155

893.13 (1) (e) 2. 2nd

Sell, manufacture, or deliver cannabis or other drug prohibited under s. 893.03 (1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 5., (2) (c) 6., (2) (c) 7., (2) (c) 8., (2) (c) 9., (3), or (4) within 1,000 feet of property used for religious services or a specified business site.

156

893.13 (1) (f) 1. 1st

Sell, manufacture, or deliver cocaine (or other s. 893.03 (1) (a), (1) (b), (1) (d), or (2) (a), (2) (b), or (2) (c) 4. drugs) within 1,000 feet of public housing facility.

157

893.13 (4) (b) 2nd

Deliver to minor cannabis (or other s. 893.03 (1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 5., (2) (c) 6., (2) (c) 7., (2) (c) 8., (2) (c) 9., (3), or (4) drugs).

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Section 4. This act shall take effect October 1, 2007.