

By the Committees on Judiciary; Criminal Justice; and Senator Fasano

590-08223-08

20081128c2

1 A bill to be entitled

2 An act relating to material harmful to minors; amending s.  
3 847.001, F.S.; redefining the term "harmful to minors";  
4 amending s. 847.011, F.S.; providing that it is a third-  
5 degree felony for any person to sell, distribute,  
6 transmit, advertise, or possess with the intent to sell,  
7 distribute, transmit, or advertise certain materials to  
8 minors; providing that ignorance of a minor's age or the  
9 minor's consent is not a defense in a prosecution for such  
10 a violation if the minor is younger than 12 years of age;  
11 providing penalties; amending s. 847.012, F.S.;  
12 prohibiting a person from knowingly using a minor in the  
13 production of certain materials, regardless of whether  
14 those materials are intended for distribution to minors or  
15 actually distributed to minors; providing a penalty;  
16 providing that ignorance of a minor's age or the minor's  
17 consent is not a defense in a prosecution for specified  
18 violations if the minor is younger than 12 years of age;  
19 amending s. 847.013, F.S.; providing that ignorance of a  
20 minor's age or the minor's consent is not a defense in a  
21 prosecution for specified violations if the minor is  
22 younger than 12 years of age; revising legislative intent  
23 concerning the enforcement of such laws with respect to  
24 minors; amending s. 847.0133, F.S.; revising terminology;  
25 amending s. 921.0022, F.S., relating to the offense  
26 severity ranking chart of the Criminal Punishment Code;  
27 establishing offense levels to conform to changes made by  
28 the act; providing an exemption to laws amended by the act  
29 for providers of communications services and providers of

590-08223-08

20081128c2

30 information services in certain circumstances; providing  
31 an effective date.

32  
33 Be It Enacted by the Legislature of the State of Florida:

34  
35 Section 1. Subsection (6) of section 847.001, Florida  
36 Statutes, is amended to read:

37 847.001 Definitions.--As used in this chapter, the term:

38 (6) "Harmful to minors" means any reproduction, imitation,  
39 characterization, description, exhibition, presentation, or  
40 representation, of whatever kind or form, depicting nudity,  
41 sexual conduct, or sexual excitement when it:

42 (a) Predominantly appeals to a ~~the~~ prurient, shameful, or  
43 morbid interest ~~of minors~~;

44 (b) Is patently offensive to prevailing standards in the  
45 adult community as a whole with respect to what is suitable  
46 material or conduct for minors; and

47 (c) Taken as a whole, is without serious literary,  
48 artistic, political, or scientific value for minors.

49  
50 A mother's breastfeeding of her baby is not under any  
51 circumstance "harmful to minors."

52 Section 2. Subsections (1) and (2) of section 847.011,  
53 Florida Statutes, are amended to read:

54 847.011 Prohibition of certain acts in connection with  
55 obscene, lewd, etc., materials; penalty.--

56 (1) (a) Except as provided in paragraph (c), any person who  
57 knowingly sells, lends, gives away, distributes, transmits,  
58 shows, or transmutes, or offers to sell, lend, give away,

590-08223-08

20081128c2

59 | distribute, transmit, show, or transmute, or has in his or her  
60 | possession, custody, or control with intent to sell, lend, give  
61 | away, distribute, transmit, show, transmute, or advertise in any  
62 | manner, any obscene book, magazine, periodical, pamphlet,  
63 | newspaper, comic book, story paper, written or printed story or  
64 | article, writing, paper, card, picture, drawing, photograph,  
65 | motion picture film, figure, image, phonograph record, or wire or  
66 | tape or other recording, or any written, printed, or recorded  
67 | matter of any such character which may or may not require  
68 | mechanical or other means to be transmuted into auditory, visual,  
69 | or sensory representations of such character, or any article or  
70 | instrument for obscene use, or purporting to be for obscene use  
71 | or purpose; or who knowingly designs, copies, draws, photographs,  
72 | poses for, writes, prints, publishes, or in any manner whatsoever  
73 | manufactures or prepares any such material, matter, article, or  
74 | thing of any such character; or who knowingly writes, prints,  
75 | publishes, or utters, or causes to be written, printed,  
76 | published, or uttered, any advertisement or notice of any kind,  
77 | giving information, directly or indirectly, stating, or  
78 | purporting to state, where, how, of whom, or by what means any,  
79 | or what purports to be any, such material, matter, article, or  
80 | thing of any such character can be purchased, obtained, or had;  
81 | or who in any manner knowingly hires, employs, uses, or permits  
82 | any person knowingly to do or assist in doing any act or thing  
83 | mentioned above, commits ~~is guilty of~~ a misdemeanor of the first  
84 | degree, punishable as provided in s. 775.082 or s. 775.083. A  
85 | person who, after having been convicted of a violation of this  
86 | subsection, thereafter violates any of its provisions, commits ~~is~~  
87 | ~~guilty of~~ a felony of the third degree, punishable as provided in

590-08223-08

20081128c2

88 s. 775.082, s. 775.083, or s. 775.084.

89 (b) The knowing possession by any person of three or more  
90 identical or similar materials, matters, articles, or things  
91 coming within the provisions of paragraph (a) is prima facie  
92 evidence of the violation of that ~~said~~ paragraph.

93 (c) A person who commits a violation of paragraph (a) or  
94 subsection (2) which is based on materials that depict a minor  
95 engaged in any act or conduct that is harmful to minors commits a  
96 felony of the third degree, punishable as provided in s. 775.082,  
97 s. 775.083, or s. 775.084.

98 (d) A person's ignorance of a minor's age, a minor's  
99 misrepresentation of his or her age, a bona fide belief of a  
100 minor's age, or a minor's consent may not be raised as a defense  
101 in a prosecution for one or more violations of paragraph (a) or  
102 subsection (2) if the minor is younger than 12 years of age.

103 (2) Except as provided in paragraph (1)(c), a person who  
104 knowingly has in his or her possession, custody, or control any  
105 obscene book, magazine, periodical, pamphlet, newspaper, comic  
106 book, story paper, written or printed story or article, writing,  
107 paper, card, picture, drawing, photograph, motion picture film,  
108 film, any sticker, decal, emblem or other device attached to a  
109 motor vehicle containing obscene descriptions, photographs, or  
110 depictions, any figure, image, phonograph record, or wire or tape  
111 or other recording, or any written, printed, or recorded matter  
112 of any such character which may or may not require mechanical or  
113 other means to be transmuted into auditory, visual, or sensory  
114 representations of such character, or any article or instrument  
115 for obscene use, or purporting to be for obscene use or purpose,  
116 without intent to sell, lend, give away, distribute, transmit,

590-08223-08

20081128c2

117 show, transmute, or advertise the same, commits ~~is guilty of~~ a  
118 misdemeanor of the second degree, punishable as provided in s.  
119 775.082 or s. 775.083. A person who, after having been convicted  
120 of violating this subsection, thereafter violates any of its  
121 provisions commits ~~is guilty of~~ a misdemeanor of the first  
122 degree, punishable as provided in s. 775.082 or s. 775.083. In  
123 any prosecution for such possession, it is ~~shall not be~~ necessary  
124 to allege or prove the absence of such intent.

125 Section 3. Section 847.012, Florida Statutes, is amended to  
126 read:

127 847.012 Harmful materials; Prohibition of sale or other  
128 distribution of harmful materials to minors or using minors in  
129 production prohibited ~~persons under 18 years of age; penalty.--~~

130 (1) As used in this section, "knowingly" means having the  
131 general knowledge of, reason to know, or a belief or ground for  
132 belief which warrants further inspection or inquiry of both:

133 (a) The character and content of any material described in  
134 this section ~~herein~~ which is reasonably susceptible of  
135 examination by the defendant; ~~7~~ and

136 (b) The age of the minor; ~~however, an honest mistake shall~~  
137 ~~constitute an excuse from liability hereunder if the defendant~~  
138 ~~made a reasonable bona fide attempt to ascertain the true age of~~  
139 ~~such minor.~~

140 (2) A person's ignorance of a minor's age, a minor's  
141 misrepresentation of his or her age, a bona fide belief of a  
142 minor's age, or a minor's consent may not be raised as a defense  
143 in a prosecution for a violation of this section if the minor is  
144 younger than 12 years of age.

145 (3) ~~(2)~~ A ~~It is unlawful for any person may not~~ knowingly ~~to~~

590-08223-08

20081128c2

146 sell, rent, or loan for monetary consideration to a minor:

147 (a) Any picture, photograph, drawing, sculpture, motion  
148 picture film, videocassette, or similar visual representation or  
149 image of a person or portion of the human body which depicts  
150 nudity or sexual conduct, sexual excitement, sexual battery,  
151 bestiality, or sadomasochistic abuse and which is harmful to  
152 minors;7 or

153 (b) Any book, pamphlet, magazine, printed matter however  
154 reproduced, or sound recording that ~~which~~ contains any matter  
155 defined in s. 847.001, explicit and detailed verbal descriptions  
156 or narrative accounts of sexual excitement, or sexual conduct and  
157 that ~~which~~ is harmful to minors.

158 (4) A person may not knowingly use a minor in the  
159 production of any material described in subsection (3),  
160 regardless of whether the material is intended for distribution  
161 to minors or is actually distributed to minors.

162 (5)~~(3)~~ Any person violating any provision of this section  
163 commits ~~is guilty of~~ a felony of the third degree, punishable as  
164 provided in s. 775.082, s. 775.083, or s. 775.084.

165 (6)~~(4)~~ Every act, thing, or transaction forbidden by this  
166 section constitutes a separate offense and is punishable as such.

167 (7)~~(5)~~(a) The circuit court has jurisdiction to enjoin a  
168 violation of this section upon complaint filed by the state  
169 attorney in the name of the state upon the relation of such state  
170 attorney.

171 (b) After the filing of the ~~such a~~ complaint, the judge to  
172 whom it is presented may grant an order restraining the person  
173 complained of until final hearing or further order of the court.  
174 If ~~Whenever~~ the relator state attorney requests a judge of such

590-08223-08

20081128c2

175 court to set a hearing upon an application for ~~such~~ a restraining  
176 order, the ~~such~~ judge shall set the ~~such~~ hearing for a time  
177 within 3 days after the making of the ~~such~~ request. The ~~No such~~  
178 order may not ~~shall~~ be made unless the ~~such~~ judge is satisfied  
179 that sufficient notice of the application ~~therefor~~ has been given  
180 to the party restrained of the time when and place where the  
181 application for the ~~such~~ restraining order is to be made.

182 (c) The person sought to be enjoined is ~~shall be~~ entitled  
183 to a trial of the issues within 1 day after joinder of issue, and  
184 a decision shall be rendered by the court within 2 days after ~~of~~  
185 the conclusion of the trial.

186 (d) If ~~In the event that~~ a final decree of injunction is  
187 entered, it must ~~shall~~ contain a provision directing the  
188 defendant having the possession, custody, or control of the  
189 materials, matters, articles, or things affected by the  
190 injunction to surrender the same to the sheriff and requiring the  
191 sheriff to seize and destroy the same. The sheriff shall file a  
192 certificate of her or his compliance.

193 (e) In any action brought under ~~as provided in~~ this  
194 section, a ~~no~~ bond or undertaking may not ~~shall~~ be required of  
195 the state or the state attorney before the issuance of a  
196 restraining order provided for by paragraph (b), and ~~there shall~~  
197 ~~be no liability on the part of~~ the state or the state attorney is  
198 not liable for costs or for damages sustained by reason of the  
199 ~~such~~ restraining order in any case where a final decree is  
200 rendered in favor of the person sought to be enjoined.

201 (f) Every person who has possession, custody, or control  
202 of, or otherwise deals with, any of the materials, matters,  
203 articles, or things described in this section, after the service

590-08223-08

20081128c2

204 upon her or him of a summons and complaint in an action for  
205 injunction brought under this section, is chargeable with  
206 knowledge of the contents and character thereof.

207 (8)~~(6)~~ The several sheriffs and state attorneys shall  
208 vigorously enforce this section within their respective  
209 jurisdictions.

210 (9)~~(7)~~ This section does not apply to the exhibition of  
211 motion pictures, shows, presentations, or other representations  
212 regulated under ~~the provisions of~~ s. 847.013.

213 Section 4. Section 847.013, Florida Statutes, is amended to  
214 read:

215 847.013 Exposing minors to harmful motion pictures,  
216 exhibitions, shows, presentations, or representations.--

217 (1) "KNOWINGLY" DEFINED.--As used in this section  
218 "knowingly" means having general knowledge of, reason to know, or  
219 a belief or ground for belief which warrants further inspection  
220 or inquiry of both:

221 (a) The character and content of any motion picture  
222 described herein which is reasonably susceptible of examination  
223 by the defendant, or the character of any exhibition,  
224 presentation, representation, or show described herein, other  
225 than a motion picture show, which is reasonably susceptible of  
226 being ascertained by the defendant;r and

227 (b) The age of the minor; ~~however, an honest mistake shall~~  
228 ~~constitute an excuse from liability hereunder if the defendant~~  
229 ~~made a reasonable bona fide attempt to ascertain the true age of~~  
230 ~~such minor.~~

231 (2) MINOR'S AGE.--A person's ignorance of a minor's age, a  
232 minor's misrepresentation of his or her age, a bona fide belief

590-08223-08

20081128c2

233 of a minor's age, or a minor's consent may not be raised as a  
234 defense in a prosecution for a violation of this section if the  
235 minor is younger than 12 years of age.

236 (3)~~(2)~~ OFFENSES AND PENALTIES.--

237 (a) A ~~It is unlawful for any person~~ may not knowingly ~~to~~  
238 exhibit for a monetary consideration to a minor or knowingly ~~to~~  
239 sell or rent a videotape of a motion picture to a minor or  
240 knowingly sell to a minor an admission ticket or pass or  
241 knowingly admit a minor for a monetary consideration to premises  
242 whereon there is exhibited a motion picture, exhibition, show,  
243 representation, or other presentation which, in whole or in part,  
244 depicts nudity, sexual conduct, sexual excitement, sexual  
245 battery, bestiality, or sadomasochistic abuse and which is  
246 harmful to minors.

247 (b) A ~~It is unlawful for any person~~ may not knowingly ~~to~~  
248 rent or sell, or loan to a minor for monetary consideration, a  
249 videocassette or a videotape of a motion picture, or similar  
250 presentation, which, in whole or in part, depicts nudity, sexual  
251 conduct, sexual excitement, sexual battery, bestiality, or  
252 sadomasochistic abuse and which is harmful to minors.

253 (c) The provisions of paragraph (a) do not apply to a minor  
254 when the minor is accompanied by his or her parents or either of  
255 them.

256 (d) A ~~It is unlawful for any~~ minor may not ~~to~~ falsely  
257 represent to the owner of any premises mentioned in paragraph  
258 (a), or to the owner's agent, or to any person mentioned in  
259 paragraph (b), that the ~~such~~ minor is 17 years of age or older,  
260 with the intent to procure the ~~such~~ minor's admission to the ~~such~~  
261 premises, or the ~~such~~ minor's purchase or rental of a videotape,

590-08223-08

20081128c2

262 for a monetary consideration.

263 (e) A ~~It is unlawful for any person~~ may not ~~to~~ knowingly  
264 make a false representation to the owner of any premises  
265 mentioned in paragraph (a), or to the owner's agent, or to any  
266 person mentioned in paragraph (b), that he or she is the parent  
267 of any minor or that any minor is 17 years of age or older, with  
268 intent to procure the ~~such~~ minor's admission to the ~~such~~ premises  
269 or to aid the ~~such~~ minor in procuring admission thereto, or to  
270 aid or enable the ~~such~~ minor's purchase or rental of a videotape,  
271 for a monetary consideration.

272 (f) A violation of any provision of this subsection  
273 constitutes a misdemeanor of the first degree, punishable as  
274 provided in s. 775.082 or s. 775.083.

275 (4) ~~(3)~~ INJUNCTIVE PROCEEDINGS.--

276 (a) The circuit court has jurisdiction to enjoin a  
277 threatened violation of subsection (2) upon complaint filed by  
278 the state attorney in the name of the state upon the relation of  
279 such state attorney.

280 (b) After the filing of the ~~such~~ a complaint, the judge to  
281 whom it is presented may grant an order restraining the person or  
282 persons complained of until final hearing or further order of the  
283 court. Whenever the relator requests a judge of the ~~such~~ court to  
284 set a hearing upon an application for ~~such~~ a restraining order,  
285 the ~~such~~ judge shall set the ~~such~~ hearing for a time within 3  
286 days after the making of the ~~such~~ request. An ~~No~~ ~~such~~ order may  
287 not ~~shall~~ be made unless the ~~such~~ judge is satisfied that  
288 sufficient notice of the application ~~therefor~~ has been given to  
289 the person or persons restrained of the time when and place where  
290 the application for the ~~such~~ restraining order is to be heard.

590-08223-08

20081128c2

291 | However, the ~~such~~ notice shall be dispensed with when it is  
292 | manifest to the ~~such~~ judge, from the allegations of a sworn  
293 | complaint or independent affidavit, sworn to by the relator or by  
294 | some person associated with him or her in the field of law  
295 | enforcement and filed by the relator, that the apprehended  
296 | violation will be committed if an immediate remedy is not  
297 | afforded.

298 |         (c) The person or persons sought to be enjoined are ~~shall~~  
299 | ~~be~~ entitled to a trial of the issues within 1 day after joinder  
300 | of issue, and a decision shall be rendered by the court within 2  
301 | days after the conclusion of the trial.

302 |         (d) In any action brought as provided in this section, a ~~no~~  
303 | bond or undertaking is not ~~shall be~~ required of the state or the  
304 | relator state attorney before the issuance of a restraining order  
305 | provided for by this section, and there is ~~shall be~~ no liability  
306 | on the part of the state or the relator state attorney for costs  
307 | or damages sustained by reason of such restraining order in any  
308 | case in which a final decree is rendered in favor of the person  
309 | or persons sought to be enjoined.

310 |         (e) Every person who has possession, custody, or control  
311 | of, or otherwise deals with, any motion picture, exhibition,  
312 | show, representation, or presentation described in this section,  
313 | after the service upon him or her of a summons and complaint in  
314 | an action for injunction brought under this section, is  
315 | chargeable with knowledge of the contents or character thereof.

316 |         (5) ~~(4)~~ LEGISLATIVE INTENT.--In order to make the  
317 | application and enforcement of this section uniform throughout  
318 | the state, it is the intent of the Legislature to preempt the  
319 | field, to the exclusion of counties and municipalities, insofar

590-08223-08

20081128c2

320 as it concerns exposing persons under 17 years of age to harmful  
321 motion pictures, exhibitions, shows, representations, ~~and~~  
322 presentations, and commercial or sexual exploitation. To that  
323 end, it is hereby declared that every county ordinance and every  
324 municipal ordinance adopted prior to July 1, 1969, and relating  
325 to such subject shall stand abrogated and unenforceable on and  
326 after such date and that no county, municipality, or consolidated  
327 county-municipal government shall have the power to adopt any  
328 ordinance relating to that subject on or after such effective  
329 date.

330 Section 5. Subsection (1) of section 847.0133, Florida  
331 Statutes, is amended to read:

332 847.0133 Protection of minors; prohibition of certain acts  
333 in connection with obscenity; penalty.--

334 (1) A ~~It is unlawful for any person~~ may not knowingly ~~to~~  
335 sell, rent, loan, give away, distribute, transmit, or show any  
336 obscene material to a minor. For purposes of this section  
337 "obscene material" means any obscene book, magazine, periodical,  
338 pamphlet, newspaper, comic book, story paper, written or printed  
339 story or article, writing paper, card, picture, drawing,  
340 photograph, motion picture film, figure, image, videotape,  
341 videocassette, phonograph record, or wire or tape or other  
342 recording, or any written, printed, or recorded matter of any  
343 such character which may or may not require mechanical or other  
344 means to be transmuted into auditory, visual, or sensory  
345 representations of such character, or any article or instrument  
346 for obscene use, or purporting to be for obscene use or purpose.  
347 The term "obscene" has ~~shall have~~ the same meaning as set forth  
348 in s. 847.001.

590-08223-08

20081128c2

349 Section 6. Paragraph (f) of subsection (3) of section  
 350 921.0022, Florida Statutes, is amended to read:

351 921.0022 Criminal Punishment Code; offense severity ranking  
 352 chart.--

353 (3) OFFENSE SEVERITY RANKING CHART

354 (f) LEVEL 6

355

| Florida<br>Statute | Felony<br>Degree | Description |
|--------------------|------------------|-------------|
|--------------------|------------------|-------------|

356

|                 |     |   |
|-----------------|-----|---|
| 316.193 (2) (b) | 3rd | Felony DUI, 4th or subsequent conviction. |
|-----------------|-----|---|

357

|              |     |                             |
|--------------|-----|-----------------------------|
| 499.0051 (3) | 2nd | Forgery of pedigree papers. |
|--------------|-----|-----------------------------|

358

|              |     |  |
|--------------|-----|--|
| 499.0051 (4) | 2nd | Purchase or receipt of legend drug from unauthorized person. |
|--------------|-----|--|

359

|              |     |   |
|--------------|-----|---|
| 499.0051 (5) | 2nd | Sale of legend drug to unauthorized person. |
|--------------|-----|---|

360

|              |     |  |
|--------------|-----|--|
| 775.0875 (1) | 3rd | Taking firearm from law enforcement officer. |
|--------------|-----|--|

361

|                 |     |   |
|-----------------|-----|---|
| 784.021 (1) (a) | 3rd | Aggravated assault; deadly weapon without intent to kill. |
|-----------------|-----|---|

362

|                 |     |  |
|-----------------|-----|--|
| 784.021 (1) (b) | 3rd | Aggravated assault; intent to commit felony. |
|-----------------|-----|--|

590-08223-08

20081128c2

|     |                 |     |   |
|-----|-----------------|-----|---|
| 363 | 784.041         | 3rd | Felony battery; domestic battery by strangulation.                          |
| 364 | 784.048 (3)     | 3rd | Aggravated stalking; credible threat.                                       |
| 365 | 784.048 (5)     | 3rd | Aggravated stalking of person under 16.                                     |
| 366 | 784.07 (2) (c)  | 2nd | Aggravated assault on law enforcement officer.                              |
| 367 | 784.074 (1) (b) | 2nd | Aggravated assault on sexually violent predators facility staff.            |
| 368 | 784.08 (2) (b)  | 2nd | Aggravated assault on a person 65 years of age or older.                    |
| 369 | 784.081 (2)     | 2nd | Aggravated assault on specified official or employee.                       |
| 370 | 784.082 (2)     | 2nd | Aggravated assault by detained person on visitor or other detainee.         |
| 371 | 784.083 (2)     | 2nd | Aggravated assault on code inspector.                                       |
| 372 | 787.02 (2)      | 3rd | False imprisonment; restraining with purpose other than those in s. 787.01. |
| 373 | 790.115 (2) (d) | 2nd | Discharging firearm or weapon on school                                     |

590-08223-08

20081128c2

property.

374

790.161 (2) 2nd Make, possess, or throw destructive device with intent to do bodily harm or damage property.

375

790.164 (1) 2nd False report of deadly explosive, weapon of mass destruction, or act of arson or violence to state property.

376

790.19 2nd Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.

377

794.011 (8) (a) 3rd Solicitation of minor to participate in sexual activity by custodial adult.

378

794.05 (1) 2nd Unlawful sexual activity with specified minor.

379

800.04 (5) (d) 3rd Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender less than 18 years.

380

800.04 (6) (b) 2nd Lewd or lascivious conduct; offender 18 years of age or older.

381

806.031 (2) 2nd Arson resulting in great bodily harm to firefighter or any other person.

382

590-08223-08

20081128c2

|     |                    |     |   |
|-----|--------------------|-----|---|
| 383 | 810.02 (3) (c)     | 2nd | Burglary of occupied structure;<br>unarmed; no assault or battery.                          |
| 384 | 812.014 (2) (b) 1. | 2nd | Property stolen \$20,000 or more, but<br>less than \$100,000, grand theft in 2nd<br>degree. |
| 385 | 812.014 (6)        | 2nd | Theft; property stolen \$3,000 or more;<br>coordination of others.                          |
| 386 | 812.015 (9) (a)    | 2nd | Retail theft; property stolen \$300 or<br>more; second or subsequent conviction.            |
| 387 | 812.015 (9) (b)    | 2nd | Retail theft; property stolen \$3,000 or<br>more; coordination of others.                   |
| 388 | 812.13 (2) (c)     | 2nd | Robbery, no firearm or other weapon<br>(strong-arm robbery).                                |
| 389 | 817.034 (4) (a) 1. | 1st | Communications fraud, value greater<br>than \$50,000.                                       |
| 390 | 817.4821 (5)       | 2nd | Possess cloning paraphernalia with<br>intent to create cloned cellular<br>telephones.       |
| 391 | 825.102 (1)        | 3rd | Abuse of an elderly person or disabled<br>adult.  |

590-08223-08

20081128c2

|     |                   |            |  |
|-----|-------------------|------------|--|
| 392 | 825.102 (3) (c)   | 3rd        | Neglect of an elderly person or disabled adult.  |
| 393 | 825.1025 (3)      | 3rd        | Lewd or lascivious molestation of an elderly person or disabled adult.   |
| 394 | 825.103 (2) (c)   | 3rd        | Exploiting an elderly person or disabled adult and property is valued at less than \$20,000.                             |
| 395 | 827.03 (1)        | 3rd        | Abuse of a child.  |
| 396 | 827.03 (3) (c)    | 3rd        | Neglect of a child.  |
| 397 | 827.071 (2) & (3) | 2nd        | Use or induce a child in a sexual performance, or promote or direct such performance.                                    |
| 398 | 836.05            | 2nd        | Threats; extortion.  |
| 399 | 836.10            | 2nd        | Written threats to kill or do bodily injury.   |
| 400 | 843.12            | 3rd        | Aids or assists person to escape.  |
| 401 | <u>847.011</u>    | <u>3rd</u> | <u>Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors.</u> |

590-08223-08

20081128c2

|     |                |            |   |
|-----|----------------|------------|---|
| 402 | <u>847.012</u> | <u>3rd</u> | <u>Knowingly using a minor in the production of materials harmful to minors.</u>  |
| 403 | 847.0135(2)    | 3rd        | Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.  |
| 404 | 914.23         | 2nd        | Retaliation against a witness, victim, or informant, with bodily injury.  |
| 405 | 944.35(3)(a)2. | 3rd        | Committing malicious battery upon or inflicting cruel or inhuman treatment on an inmate or offender on community supervision, resulting in great bodily harm. |
| 406 | 944.40         | 2nd        | Escapes.  |
| 407 | 944.46         | 3rd        | Harboring, concealing, aiding escaped prisoners.  |
| 408 | 944.47(1)(a)5. | 2nd        | Introduction of contraband (firearm, weapon, or explosive) into correctional facility.  |
| 409 | 951.22(1)      | 3rd        | Intoxicating drug, firearm, or weapon introduced into county facility.  |

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410           Section 7. The amendments to ss. 847.012, 847.011, 847.013,  
411 and 847.0133, Florida Statutes, made by this act do not apply to  
412 providers of communications services as defined in s. 202.11,  
413 Florida Statutes, or to providers of information services,  
414 including, but not limited to, Internet access service providers  
415 and hosting service providers, when they provide only the  
416 transmission, storage, or caching of electronic communications or  
417 messages of others or provide other related communications or  
418 information services used by others in violation of such amended  
419 provisions. This exemption does not apply to providers of  
420 communications services as defined in s. 202.11, Florida  
421 Statutes, or providers of information services that knowingly for  
422 commercial advantage or private financial gain facilitate the  
423 specific violation of such amended provisions by others.

424           Section 8. This act shall take effect July 1, 2008.