

1                   A bill to be entitled  
2           An act relating to sexual offenses; providing a short  
3           title; amending s. 90.404, F.S.; revising offenses that  
4           are considered "child molestation" for purposes of  
5           admitting evidence of other crimes, wrongs, or acts in a  
6           criminal case involving child molestation; providing for  
7           admission of evidence of other crimes, wrongs, or acts in  
8           cases involving a sexual offense; defining the term  
9           "sexual offense"; amending s. 92.55, F.S.; authorizing the  
10          use of service or therapy animals in courts hearing sexual  
11          offense cases under certain circumstances; requiring  
12          certain property or material that is used in a criminal  
13          proceeding to remain in the care, custody, and control of  
14          the law enforcement agency, the state attorney, or the  
15          court; prohibiting the reproduction of such property or  
16          material by the defendant when specified criteria are met  
17          by the state attorney; permitting access to the materials  
18          by the defendant; amending s. 395.1021, F.S.; requiring a  
19          licensed facility that provides emergency room services to  
20          arrange for the gathering of forensic medical evidence  
21          required for investigation and prosecution from a victim  
22          who has reported a sexual battery to a law enforcement  
23          agency or who requests that such evidence be gathered for  
24          a possible future report; amending s. 775.15, F.S.;  
25          providing that a prosecution for video voyeurism in  
26          violation of specified provisions may, in addition to  
27          existing time periods, be commenced within 1 year after  
28          the victim of video voyeurism obtains actual knowledge of

29 | the existence of such a recording or the recording is  
30 | confiscated by a law enforcement agency, whichever occurs  
31 | first; providing that dissemination of a recording before  
32 | such knowledge or confiscation does not affect such a time  
33 | period; amending s. 794.052, F.S.; requiring a law  
34 | enforcement officer to provide or arrange for  
35 | transportation of a victim of sexual battery to an  
36 | appropriate facility for medical treatment or forensic  
37 | examination; providing for a review of a police officer's  
38 | final report by a victim and an opportunity for a  
39 | statement by a victim; amending ss. 794.056 and 938.085,  
40 | F.S.; requiring that an additional court cost or surcharge  
41 | be assessed against a defendant who pleads guilty or nolo  
42 | contendere to, or is found guilty of, regardless of  
43 | adjudication, certain criminal offenses; providing for  
44 | proceeds of the additional court cost or surcharge to be  
45 | deposited into the Rape Crisis Program Trust Fund;  
46 | reenacting s. 20.435(21)(a), F.S., relating to the Rape  
47 | Crisis Program Trust Fund, to incorporate the amendment  
48 | made to s. 794.056, F.S., in a reference thereto;  
49 | reenacting s. 794.055(3)(b), F.S., relating to access to  
50 | services for victims of sexual battery, to incorporate the  
51 | amendment made to s. 938.085, F.S., in a reference  
52 | thereto; amending s. 960.003, F.S.; providing for  
53 | hepatitis testing of persons charged with certain  
54 | offenses; amending s. 1003.42, F.S.; requiring that public  
55 | schools provide comprehensive health education that  
56 | addresses concepts of Internet safety; amending s.

57 | 827.071, F.S.; defining the term "intentionally view";  
58 | prohibiting controlling or intentionally viewing any  
59 | photograph, motion picture, exhibition, show, image, data,  
60 | computer depiction, representation, or other presentation  
61 | that includes sexual conduct by a child; providing an  
62 | exception; providing penalties; amending s. 921.0022,  
63 | F.S.; conforming provisions of the offense severity  
64 | ranking chart of the Criminal Punishment Code to changes  
65 | made to s. 827.071, F.S., by the act; providing effective  
66 | dates.

67 |  
68 | Be It Enacted by the Legislature of the State of Florida:

69 |  
70 | Section 1. This act may be cited as the "Walk in Their  
71 | Shoes Act."

72 | Section 2. Subsection (2) of section 90.404, Florida  
73 | Statutes, is amended to read:

74 | 90.404 Character evidence; when admissible.—

75 | (2) OTHER CRIMES, WRONGS, OR ACTS.—

76 | (a) Similar fact evidence of other crimes, wrongs, or acts  
77 | is admissible when relevant to prove a material fact in issue,  
78 | including, but not limited to, proof of motive, opportunity,  
79 | intent, preparation, plan, knowledge, identity, or absence of  
80 | mistake or accident, but it is inadmissible when the evidence is  
81 | relevant solely to prove bad character or propensity.

82 | (b)1. In a criminal case in which the defendant is charged  
83 | with a crime involving child molestation, evidence of the  
84 | defendant's commission of other crimes, wrongs, or acts of child

85 molestation is admissible, and may be considered for its bearing  
 86 on any matter to which it is relevant.

87 2. For the purposes of this paragraph, the term "child  
 88 molestation" means conduct proscribed by s. 787.025(2)(c), s.  
 89 794.011, excluding s. 794.011(10), s. 794.05, s. 796.03, s.  
 90 796.035, s. 796.045, s. 800.04, s. 827.071, ~~or~~ s. 847.0135(5),  
 91 s. 847.0145, or s. 985.701(1) when committed against a person 16  
 92 years of age or younger.

93 (c)1. In a criminal case in which the defendant is charged  
 94 with a sexual offense, evidence of the defendant's commission of  
 95 other crimes, wrongs, or acts involving a sexual offense is  
 96 admissible and may be considered for its bearing on any matter  
 97 to which it is relevant.

98 2. For the purposes of this paragraph, the term "sexual  
 99 offense" means conduct proscribed by s. 787.025(2)(c), s.  
 100 794.011, excluding s. 794.011(10), s. 794.05, s. 796.03, s.  
 101 796.035, s. 796.045, s. 825.1025(2)(b), s. 827.071, s.  
 102 847.0135(5), s. 847.0145, or s. 985.701(1).

103 (d)~~(e)~~1. When the state in a criminal action intends to  
 104 offer evidence of other criminal offenses under paragraph (a),  
 105 ~~or~~ paragraph (b), or paragraph (c), no fewer than 10 days before  
 106 trial, the state shall furnish to the defendant or to the  
 107 defendant's counsel a written statement of the acts or offenses  
 108 it intends to offer, describing them with the particularity  
 109 required of an indictment or information. No notice is required  
 110 for evidence of offenses used for impeachment or on rebuttal.

111 2. When the evidence is admitted, the court shall, if  
 112 requested, charge the jury on the limited purpose for which the

113 evidence is received and is to be considered. After the close of  
114 the evidence, the jury shall be instructed on the limited  
115 purpose for which the evidence was received and that the  
116 defendant cannot be convicted for a charge not included in the  
117 indictment or information.

118 Section 3. Subsection (4) is added to section 92.55,  
119 Florida Statutes, to read:

120 92.55 Judicial or other proceedings involving victim or  
121 witness under the age of 16 or person with mental retardation;  
122 special protections; use of registered service or therapy  
123 animals.—

124 (4) The court may set any other conditions it finds just  
125 and appropriate on the taking of testimony by a child, including  
126 the use of a service or therapy animal that has been evaluated  
127 and registered according to national standards, in any  
128 proceeding involving a sexual offense. When deciding whether to  
129 permit a child to testify with the assistance of a registered  
130 service or therapy animal, the court shall take into  
131 consideration the age of the child, the interests of the child,  
132 the rights of the parties to the litigation, and any other  
133 relevant factor that would facilitate the testimony by the  
134 child.

135 Section 4. Prohibition on reproduction of child  
136 pornography.—

137 (1) In a criminal proceeding, any property or material  
138 that portrays sexual performance by a child as defined in s.  
139 827.071, Florida Statutes, or constitutes child pornography as  
140 defined in s. 847.001, Florida Statutes, must remain secured or

141 locked in the care, custody, and control of a law enforcement  
142 agency, the state attorney, or the court.

143 (2) Notwithstanding any law or rule of court, a court  
144 shall deny, in a criminal proceeding, any request by the  
145 defendant to copy, photograph, duplicate, or otherwise reproduce  
146 any property or material that portrays sexual performance by a  
147 child or constitutes child pornography so long as the state  
148 attorney makes the property or material reasonably available to  
149 the defendant.

150 (3) For purposes of this section, property or material is  
151 deemed to be reasonably available to the defendant if the state  
152 attorney provides ample opportunity at a designated facility for  
153 the inspection, viewing, and examination of the property or  
154 material that portrays sexual performance by a child or  
155 constitutes child pornography by the defendant, his or her  
156 attorney, or any individual whom the defendant uses as an expert  
157 during the discovery process or at a court proceeding.

158 Section 5. Subsection (2) of section 395.1021, Florida  
159 Statutes, is amended to read:

160 395.1021 Treatment of sexual assault victims.—Any licensed  
161 facility which provides emergency room services shall arrange  
162 for the rendering of appropriate medical attention and treatment  
163 of victims of sexual assault through:

164 (2) ~~The administration of medical examinations, tests, and~~  
165 ~~analyses required by law enforcement personnel in the gathering~~  
166 ~~of forensic medical evidence required for investigation and~~  
167 ~~prosecution from a victim who has reported a sexual battery to a~~  
168 ~~law enforcement agency or who requests that such evidence be~~

169 gathered for a possible future report.

170

171 Such licensed facility shall also arrange for the protection of  
 172 the victim's anonymity while complying with the laws of this  
 173 state and may encourage the victim to notify law enforcement  
 174 personnel and to cooperate with them in apprehending the  
 175 suspect.

176 Section 6. Subsection (17) is added to section 775.15,  
 177 Florida Statutes, to read:

178 775.15 Time limitations; general time limitations;  
 179 exceptions.—

180 (17) In addition to the time periods prescribed in this  
 181 section, a prosecution for video voyeurism in violation of s.  
 182 810.145 may be commenced within 1 year after the date on which  
 183 the victim of video voyeurism obtains actual knowledge of the  
 184 existence of such a recording or the date on which the recording  
 185 is confiscated by a law enforcement agency, whichever occurs  
 186 first. Any dissemination of such a recording before the victim  
 187 obtains actual knowledge thereof or before its confiscation by a  
 188 law enforcement agency does not affect any provision of this  
 189 subsection.

190 Section 7. Subsection (1) of section 794.052, Florida  
 191 Statutes, is amended to read:

192 794.052 Sexual battery; notification of victim's rights  
 193 and services.—

194 (1) A law enforcement officer who investigates an alleged  
 195 sexual battery shall:

196 (a) Assist the victim in obtaining medical treatment, if

197 medical treatment is necessary as a result of the alleged  
 198 incident, a forensic examination, and advocacy and crisis-  
 199 intervention services from a certified rape crisis center and  
 200 provide or arrange for transportation to the appropriate  
 201 facility.

202 (b) Advise the victim that he or she may contact a  
 203 certified rape crisis center from which the victim may receive  
 204 services.

205 (c) Prior to submitting a final report, permit the victim  
 206 to review the final report and provide a statement as to the  
 207 accuracy of the final report.

208 Section 8. Section 794.056, Florida Statutes, is amended  
 209 to read:

210 794.056 Rape Crisis Program Trust Fund.—

211 (1) The Rape Crisis Program Trust Fund is created within  
 212 the Department of Health for the purpose of providing funds for  
 213 rape crisis centers in this state. Trust fund moneys shall be  
 214 used exclusively for the purpose of providing services for  
 215 victims of sexual assault. Funds credited to the trust fund  
 216 consist of those funds collected as an additional court  
 217 assessment in each case in which a defendant pleads guilty or  
 218 nolo contendere to, or is found guilty of, regardless of  
 219 adjudication, an offense provided ~~defined~~ in s. 775.21(6) and  
 220 (10)(a), (b), and (g), s. 784.011, s. 784.021, s. 784.03, s.  
 221 784.041, s. 784.045, s. 784.048, s. 784.07, s. 784.08, s.  
 222 784.081, s. 784.082, s. 784.083, s. 784.085, s. 787.01(3), s.  
 223 787.02(3), s. 787.025, s. 787.06, s. 787.07, ~~or~~ s. 794.011, s.  
 224 794.05, s. 794.08, s. 796.03, s. 796.035, s. 796.04, s. 796.045,



225 s. 796.05, s. 796.06, s. 796.07(2)(a)-(d) and (i), s. 800.03, s.  
 226 800.04, s. 810.14, s. 810.145, s. 812.135, s. 817.025, s.  
 227 825.102, s. 825.1025, s. 827.071, s. 836.10, s. 847.0133, s.  
 228 847.0135(2), s. 847.0137, s. 847.0145, s. 943.0435(4)(c), (7),  
 229 (8), (9)(a), (13), and (14)(c), or s. 985.701(1). Funds credited  
 230 to the trust fund also shall include revenues provided by law,  
 231 moneys appropriated by the Legislature, and grants from public  
 232 or private entities.

233 (2) The Department of Health shall establish by rule  
 234 criteria consistent with the provisions of s. 794.055(3)(a) for  
 235 distributing moneys from the trust fund to rape crisis centers.

236 Section 9. Section 938.085, Florida Statutes, is amended  
 237 to read:

238 938.085 Additional cost to fund rape crisis centers.—In  
 239 addition to any sanction imposed when a person pleads guilty or  
 240 nolo contendere to, or is found guilty of, regardless of  
 241 adjudication, a violation of s. 775.21(6) and (10)(a), (b), and  
 242 (g), s. 784.011, s. 784.021, s. 784.03, s. 784.041, s. 784.045,  
 243 s. 784.048, s. 784.07, s. 784.08, s. 784.081, s. 784.082, s.  
 244 784.083, s. 784.085, s. 787.01(3), s. 787.02(3), 787.025, s.  
 245 787.06, s. 787.07, ~~s.~~ s. 794.011, s. 794.05, s. 794.08, s.  
 246 796.03, s. 796.035, s. 796.04, s. 796.045, s. 796.05, s. 796.06,  
 247 s. 796.07(2)(a)-(d) and (i), s. 800.03, s. 800.04, s. 810.14, s.  
 248 810.145, s. 812.135, s. 817.025, s. 825.102, s. 825.1025, s.  
 249 827.071, s. 836.10, s. 847.0133, s. 847.0135(2), s. 847.0137, s.  
 250 847.0145, s. 943.0435(4)(c), (7), (8), (9)(a), (13), and  
 251 (14)(c), or s. 985.701(1), the court shall impose a surcharge of  
 252 \$151. Payment of the surcharge shall be a condition of

253 probation, community control, or any other court-ordered  
 254 supervision. The sum of \$150 of the surcharge shall be deposited  
 255 into the Rape Crisis Program Trust Fund established within the  
 256 Department of Health by chapter 2003-140, Laws of Florida. The  
 257 clerk of the court shall retain \$1 of each surcharge that the  
 258 clerk of the court collects as a service charge of the clerk's  
 259 office.

260 Section 10. For the purpose of incorporating the amendment  
 261 made by this act to section 794.056, Florida Statutes, in a  
 262 reference thereto, paragraph (a) of subsection (21) of section  
 263 20.435, Florida Statutes, is reenacted to read:

264 20.435 Department of Health; trust funds.—The following  
 265 trust funds shall be administered by the Department of Health:

266 (21) Rape Crisis Program Trust Fund.

267 (a) Funds to be credited to and uses of the trust fund  
 268 shall be administered in accordance with the provisions of s.  
 269 794.056.

270 Section 11. For the purpose of incorporating the amendment  
 271 made by this act to section 938.085, Florida Statutes, in a  
 272 reference thereto, paragraph (b) of subsection (3) of section  
 273 794.055, Florida Statutes, is reenacted to read:

274 794.055 Access to services for victims of sexual battery.—  
 275 (3)

276 (b) Funds received under s. 938.085 shall be used to  
 277 provide sexual battery recovery services to victims and their  
 278 families. Funds shall be distributed to rape crisis centers  
 279 based on an allocation formula that takes into account the  
 280 population and rural characteristics of each county. No more

281 than 15 percent of the funds shall be used by the statewide  
 282 nonprofit association for statewide initiatives. No more than 5  
 283 percent of the funds may be used by the department for  
 284 administrative costs.

285 Section 12. Section 960.003, Florida Statutes, is amended  
 286 to read:

287 960.003 Hepatitis and HIV testing for persons charged with  
 288 or alleged by petition for delinquency to have committed certain  
 289 offenses; disclosure of results to victims.—

290 (1) LEGISLATIVE INTENT.—The Legislature finds that a  
 291 victim of a criminal offense which involves the transmission of  
 292 body fluids, or which involves certain sexual offenses in which  
 293 the victim is a minor, disabled adult, or elderly person, is  
 294 entitled to know at the earliest possible opportunity whether  
 295 the person charged with or alleged by petition for delinquency  
 296 to have committed the offense has tested positive for hepatitis  
 297 or human immunodeficiency virus (HIV) infection. The Legislature  
 298 finds that to deny victims access to hepatitis and HIV test  
 299 results causes unnecessary mental anguish in persons who have  
 300 already suffered trauma. The Legislature further finds that  
 301 since medical science now recognizes that early diagnosis is a  
 302 critical factor in the treatment of hepatitis and HIV infection,  
 303 both the victim and the person charged with or alleged by  
 304 petition for delinquency to have committed the offense benefit  
 305 from prompt disclosure of hepatitis and HIV test results.

306 (2) TESTING OF PERSON CHARGED WITH OR ALLEGED BY PETITION  
 307 FOR DELINQUENCY TO HAVE COMMITTED CERTAIN OFFENSES.—

308 (a) In any case in which a person has been charged by

309 information or indictment with or alleged by petition for  
310 delinquency to have committed any offense enumerated in s.  
311 775.0877(1)(a)-(n), which involves the transmission of body  
312 fluids from one person to another, upon request of the victim or  
313 the victim's legal guardian, or of the parent or legal guardian  
314 of the victim if the victim is a minor, the court shall order  
315 such person to undergo hepatitis and HIV testing within 48 hours  
316 after ~~of~~ the information, indictment, or petition for  
317 delinquency is filed ~~court order~~. In the event the victim or, if  
318 the victim is a minor, the victim's parent or legal guardian  
319 requests hepatitis and HIV testing after 48 hours have elapsed  
320 from the filing of the indictment, information, or petition for  
321 delinquency, the testing shall be done within 48 hours after the  
322 request.

323 (b) However, when a victim of any sexual offense  
324 enumerated in s. 775.0877(1)(a)-(n) is under the age of 18 at  
325 the time the offense was committed or when a victim of any  
326 sexual offense enumerated in s. 775.0877(1)(a)-(n) or s.  
327 825.1025 is a disabled adult or elderly person as defined in s.  
328 825.1025 regardless of whether the offense involves the  
329 transmission of bodily fluids from one person to another, then  
330 upon the request of the victim or the victim's legal guardian,  
331 or of the parent or legal guardian, the court shall order such  
332 person to undergo hepatitis and HIV testing within 48 hours  
333 after ~~of~~ the information, indictment, or petition for  
334 delinquency is filed ~~court order~~. In the event the victim or, if  
335 the victim is a minor, the victim's parent or legal guardian  
336 requests hepatitis and HIV testing after 48 hours have elapsed

337 from the filing of the indictment, information, or petition for  
338 delinquency, the testing shall be done within 48 hours after the  
339 request. The testing shall be performed under the direction of  
340 the Department of Health in accordance with s. 381.004. The  
341 results of a hepatitis and ~~an~~ HIV test performed on a defendant  
342 or juvenile offender pursuant to this subsection shall not be  
343 admissible in any criminal or juvenile proceeding arising out of  
344 the alleged offense.

345 (c) If medically appropriate, followup HIV testing shall  
346 be provided when testing has been ordered under paragraph (a) or  
347 paragraph (b). The medical propriety of followup HIV testing  
348 shall be based upon a determination by a physician and does not  
349 require an additional court order. Notification to the victim,  
350 or to the victim's parent or legal guardian, and to the  
351 defendant of the results of each followup test shall made be as  
352 soon as practicable in accordance with this section.

353 (3) DISCLOSURE OF RESULTS.—

354 (a) The results of the test shall be disclosed no later  
355 than 2 weeks after the court receives such results, under the  
356 direction of the Department of Health, to the person charged  
357 with or alleged by petition for delinquency to have committed or  
358 to the person convicted of or adjudicated delinquent for any  
359 offense enumerated in s. 775.0877(1)(a)-(n), which involves the  
360 transmission of body fluids from one person to another, and,  
361 upon request, to the victim or the victim's legal guardian, or  
362 the parent or legal guardian of the victim if the victim is a  
363 minor, and to public health agencies pursuant to s. 775.0877. If  
364 the alleged offender is a juvenile, the test results shall also

365 be disclosed to the parent or guardian. When the victim is a  
366 victim as described in paragraph (2)(b), the test results must  
367 also be disclosed no later than 2 weeks after the court receives  
368 such results, to the person charged with or alleged by petition  
369 for delinquency to have committed or to the person convicted of  
370 or adjudicated delinquent for any offense enumerated in s.  
371 775.0877(1)(a)-(n), or s. 825.1025 regardless of whether the  
372 offense involves the transmission of bodily fluids from one  
373 person to another, and, upon request, to the victim or the  
374 victim's legal guardian, or the parent or legal guardian of the  
375 victim, and to public health agencies pursuant to s. 775.0877.  
376 Otherwise, hepatitis and HIV test results obtained pursuant to  
377 this section are confidential and exempt from the provisions of  
378 s. 119.07(1) and s. 24(a), Art. I of the State Constitution and  
379 shall not be disclosed to any other person except as expressly  
380 authorized by law or court order.

381 (b) At the time that the results are disclosed to the  
382 victim or the victim's legal guardian, or to the parent or legal  
383 guardian of a victim if the victim is a minor, the same  
384 immediate opportunity for face-to-face counseling which must be  
385 made available under s. 381.004 to those who undergo hepatitis  
386 and HIV testing shall also be afforded to the victim or the  
387 victim's legal guardian, or to the parent or legal guardian of  
388 the victim if the victim is a minor.

389 (4) POSTCONVICTION TESTING.—If, for any reason, the  
390 testing requested under subsection (2) has not been undertaken,  
391 then upon request of the victim or the victim's legal guardian,  
392 or the parent or legal guardian of the victim if the victim is a

393 | minor, the court shall order the offender to undergo hepatitis  
 394 | and HIV testing following conviction or delinquency  
 395 | adjudication. The testing shall be performed under the direction  
 396 | of the Department of Health, and the results shall be disclosed  
 397 | in accordance with the provisions of subsection (3).

398 | (5) EXCEPTIONS.—~~The provisions of~~ Subsections (2) and (4)  
 399 | do not apply if:

400 | (a) The person charged with or convicted of or alleged by  
 401 | petition for delinquency to have committed or been adjudicated  
 402 | delinquent for an offense described in subsection (2) has  
 403 | undergone hepatitis and HIV testing voluntarily or pursuant to  
 404 | procedures established in s. 381.004(3)(h)6. or s. 951.27, or  
 405 | any other applicable law or rule providing for hepatitis and HIV  
 406 | testing of criminal defendants, inmates, or juvenile offenders,  
 407 | subsequent to his or her arrest, conviction, or delinquency  
 408 | adjudication for the offense for which he or she was charged or  
 409 | alleged by petition for delinquency to have committed; and

410 | (b) The results of such hepatitis and HIV testing have  
 411 | been furnished to the victim or the victim's legal guardian, or  
 412 | the parent or legal guardian of the victim if the victim is a  
 413 | minor.

414 | (6) TESTING DURING INCARCERATION, DETENTION, OR PLACEMENT;  
 415 | DISCLOSURE.—In any case in which a person convicted of or  
 416 | adjudicated delinquent for an offense described in subsection  
 417 | (2) has not been tested under subsection (2), but undergoes  
 418 | hepatitis and HIV testing during his or her incarceration,  
 419 | detention, or placement, the results of the initial hepatitis  
 420 | and HIV testing shall be disclosed in accordance with ~~the~~

421 ~~provisions of~~ subsection (3). Except as otherwise requested by  
422 the victim or the victim's legal guardian, or the parent or  
423 guardian of the victim if the victim is a minor, if the initial  
424 test is conducted within the first year of the imprisonment,  
425 detention, or placement, the request for disclosure shall be  
426 considered a standing request for any subsequent hepatitis and  
427 HIV test results obtained within 1 year after the initial  
428 hepatitis and HIV test are performed, and need not be repeated  
429 for each test administration. Where the inmate or juvenile  
430 offender has previously been tested pursuant to subsection (2)  
431 the request for disclosure under this subsection shall be  
432 considered a standing request for subsequent hepatitis and HIV  
433 results conducted within 1 year of the test performed pursuant  
434 to subsection (2). If the hepatitis and HIV testing is performed  
435 by an agency other than the Department of Health, that agency  
436 shall be responsible for forwarding the test results to the  
437 Department of Health for disclosure in accordance with the  
438 provisions of subsection (3). This subsection shall not be  
439 limited to results of hepatitis and HIV tests administered  
440 subsequent to June 27, 1990, but shall also apply to the results  
441 of all hepatitis and HIV tests performed on inmates convicted of  
442 or juvenile offenders adjudicated delinquent for sex offenses as  
443 described in subsection (2) during their incarceration,  
444 detention, or placement prior to June 27, 1990.

445 Section 13. Paragraph (n) of subsection (2) of section  
446 1003.42, Florida Statutes, is amended to read:

447 1003.42 Required instruction.—

448 (2) Members of the instructional staff of the public



449 schools, subject to the rules of the State Board of Education  
450 and the district school board, shall teach efficiently and  
451 faithfully, using the books and materials required that meet the  
452 highest standards for professionalism and historic accuracy,  
453 following the prescribed courses of study, and employing  
454 approved methods of instruction, the following:

455 (n) Comprehensive health education that addresses concepts  
456 of community health; consumer health; environmental health;  
457 family life, including an awareness of the benefits of sexual  
458 abstinence as the expected standard and the consequences of  
459 teenage pregnancy; mental and emotional health; injury  
460 prevention and safety; Internet safety; nutrition; personal  
461 health; prevention and control of disease; and substance use and  
462 abuse. The health education curriculum for students in grades 7  
463 through 12 shall include a teen dating violence and abuse  
464 component that includes, but is not limited to, the definition  
465 of dating violence and abuse, the warning signs of dating  
466 violence and abusive behavior, the characteristics of healthy  
467 relationships, measures to prevent and stop dating violence and  
468 abuse, and community resources available to victims of dating  
469 violence and abuse.

470  
471 The State Board of Education is encouraged to adopt standards  
472 and pursue assessment of the requirements of this subsection.

473 Section 14. Effective October 1, 2011, subsections (1) and  
474 (5) of section 827.071, Florida Statutes, are amended to read:

475 827.071 Sexual performance by a child; penalties.—

476 (1) As used in this section, the following definitions

477 shall apply:

478 (a) "Deviate sexual intercourse" means sexual conduct  
479 between persons not married to each other consisting of contact  
480 between the penis and the anus, the mouth and the penis, or the  
481 mouth and the vulva.

482 (b) "Intentionally view" means to deliberately,  
483 purposefully, and voluntarily view. Proof of intentional viewing  
484 requires establishing more than a single image, motion picture,  
485 exhibition, show, image, data, computer depiction,  
486 representation, or other presentation over any period of time.

487 (c) ~~(b)~~ "Performance" means any play, motion picture,  
488 photograph, or dance or any other visual representation  
489 exhibited before an audience.

490 (d) ~~(e)~~ "Promote" means to procure, manufacture, issue,  
491 sell, give, provide, lend, mail, deliver, transfer, transmute,  
492 publish, distribute, circulate, disseminate, present, exhibit,  
493 or advertise or to offer or agree to do the same.

494 (e) ~~(d)~~ "Sadomasochistic abuse" means flagellation or  
495 torture by or upon a person, or the condition of being fettered,  
496 bound, or otherwise physically restrained, for the purpose of  
497 deriving sexual satisfaction from inflicting harm on another or  
498 receiving such harm oneself.

499 (f) ~~(e)~~ "Sexual battery" means oral, anal, or vaginal  
500 penetration by, or union with, the sexual organ of another or  
501 the anal or vaginal penetration of another by any other object;  
502 however, "sexual battery" does not include an act done for a  
503 bona fide medical purpose.

504 (g) ~~(f)~~ "Sexual bestiality" means any sexual act between a

505 person and an animal involving the sex organ of the one and the  
 506 mouth, anus, or vagina of the other.

507 (h)~~(g)~~ "Sexual conduct" means actual or simulated sexual  
 508 intercourse, deviate sexual intercourse, sexual bestiality,  
 509 masturbation, or sadomasochistic abuse; actual lewd exhibition  
 510 of the genitals; actual physical contact with a person's clothed  
 511 or unclothed genitals, pubic area, buttocks, or, if such person  
 512 is a female, breast, with the intent to arouse or gratify the  
 513 sexual desire of either party; or any act or conduct which  
 514 constitutes sexual battery or simulates that sexual battery is  
 515 being or will be committed. A mother's breastfeeding of her baby  
 516 does not under any circumstance constitute "sexual conduct."

517 (i)~~(h)~~ "Sexual performance" means any performance or part  
 518 thereof which includes sexual conduct by a child of less than 18  
 519 years of age.

520 (j)~~(i)~~ "Simulated" means the explicit depiction of conduct  
 521 set forth in paragraph (h) ~~(g)~~ which creates the appearance of  
 522 such conduct and which exhibits any uncovered portion of the  
 523 breasts, genitals, or buttocks.

524 (5) (a) It is unlawful for any person to knowingly possess,  
 525 control, or intentionally view a photograph, motion picture,  
 526 exhibition, show, representation, image, data, computer  
 527 depiction, or other presentation which, in whole or in part, he  
 528 or she knows to include any sexual conduct by a child. The  
 529 possession, control, or intentional viewing of each such  
 530 photograph, motion picture, exhibition, show, image, data,  
 531 computer depiction, representation, or presentation is a  
 532 separate offense. A person who ~~Whoever~~ violates this subsection

533 ~~commits is guilty of~~ a felony of the third degree, punishable as  
 534 provided in s. 775.082, s. 775.083, or s. 775.084.

535 (b) This subsection does not apply to material possessed,  
 536 controlled, or intentionally viewed as part of a law enforcement  
 537 investigation.

538 Section 15. Effective October 1, 2011, paragraph (e) of  
 539 subsection (3) of section 921.0022, Florida Statutes, is amended  
 540 to read:

541 921.0022 Criminal Punishment Code; offense severity  
 542 ranking chart.—

543 (3) OFFENSE SEVERITY RANKING CHART

544 (e) LEVEL 5

545

Florida Statute	Felony Degree	Description
316.027(1)(a)	3rd	Accidents involving personal injuries, failure to stop; leaving scene.
316.1935(4)(a)	2nd	Aggravated fleeing or eluding.
322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.

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550	327.30 (5)	3rd	Vessel accidents involving personal injury; leaving scene.
551	381.0041 (11) (b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
552	440.10 (1) (g)	2nd	Failure to obtain workers' compensation coverage.
553	440.105 (5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
554	440.381 (2)	2nd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
555	624.401 (4) (b) 2.	2nd	Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.
556	626.902 (1) (c)	2nd	Representing an unauthorized insurer; repeat offender.

557	790.01 (2)	3rd	Carrying a concealed firearm.
558	790.162	2nd	Threat to throw or discharge destructive device.
559	790.163 (1)	2nd	False report of deadly explosive or weapon of mass destruction.
560	790.221 (1)	2nd	Possession of short-barreled shotgun or machine gun.
561	790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
562	800.04 (6) (c)	3rd	Lewd or lascivious conduct; offender less than 18 years.
563	800.04 (7) (b)	2nd	Lewd or lascivious exhibition; offender 18 years or older.
564	806.111 (1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
	812.0145 (2) (b)	2nd	Theft from person 65 years of

age or older; \$10,000 or more  
but less than \$50,000.

565

812.015 (8) 3rd Retail theft; property stolen is  
valued at \$300 or more and one  
or more specified acts.

566

812.019 (1) 2nd Stolen property; dealing in or  
trafficking in.

567

812.131 (2) (b) 3rd Robbery by sudden snatching.

568

812.16 (2) 3rd Owning, operating, or conducting  
a chop shop.

569

817.034 (4) (a) 2. 2nd Communications fraud, value  
\$20,000 to \$50,000.

570

817.234 (11) (b) 2nd Insurance fraud; property value  
\$20,000 or more but less than  
\$100,000.

571

817.2341 (1), (2) (a) 3rd Filing false financial  
& (3) (a) statements, making false  
entries of material fact or  
false statements regarding  
property values relating to the

solvency of an insuring entity.

572

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.

573

817.625 (2) (b)                      2nd      Second or subsequent fraudulent  
 use of scanning device or  
 reencoder.

574

825.1025 (4)                          3rd      Lewd or lascivious exhibition in  
 the presence of an elderly  
 person or disabled adult.

575

827.071 (4)                          2nd      Possess with intent to promote  
 any photographic material,  
 motion picture, etc., which  
 includes sexual conduct by a  
 child.

576

827.071 (5)                          3rd      Possess, control, or



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

577

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.

578

843.01                                      3rd      Resist officer with violence to  
 person; resist arrest with  
 violence.

579

847.0135 (5) (b)                      2nd      Lewd or lascivious exhibition  
 using computer; offender 18  
 years or older.

580

847.0137 (2) &                      3rd      Transmission of pornography by  
 (3)    electronic device or equipment.

581

847.0138 (2) &                      3rd      Transmission of material harmful  
 (3)    to minors to a minor by  
 electronic device or equipment.

582

874.05 (2)                                      2nd      Encouraging or recruiting

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

583

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).

584

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.

585

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  
university.

586

587 893.13(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.

588 893.13(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.

589 893.13(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).

590 893.1351(1) 3rd Ownership, lease, or rental for  
trafficking in or manufacturing  
of controlled substance.

CS/CS/CS/HB 251, Engrossed 1

2011

591 |           Section 16. Except as otherwise expressly provided in this  
592 | act, this act shall take effect July 1, 2011.