

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

590-01630-14

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1 A bill to be entitled
2 An act relating to sexual offenses; amending s.
3 794.011, F.S.; revising and creating offenses
4 involving sexual battery; increasing felony degree of
5 certain sexual battery offenses; amending s. 800.04,
6 F.S.; revising and creating offenses involving lewd or
7 lascivious battery and molestation; increasing felony
8 degree of certain lewd or lascivious battery and
9 molestation offenses; amending s. 921.0022, F.S.;
10 assigning new offense severity rankings for lewd or
11 lascivious molestation and sexual battery offenses;
12 amending s. 921.0024, F.S.; providing that sentence
13 points are multiplied for specified sex offenses
14 committed by an adult upon a minor under certain
15 circumstances; creating s. 921.30, F.S.; authorizing a
16 state attorney to move a court to make a written
17 finding that an offense was a sexually motivated
18 offense under certain circumstances; amending s.
19 944.275, F.S.; prohibiting award of gain-time for
20 certain offenses; amending s. 947.1405, F.S.;
21 providing for tolling of conditional release
22 supervision; providing applicability; amending s.
23 948.012, F.S.; requiring split sentence for certain
24 sexual offenses; providing for tolling of probation or
25 community control; providing applicability; providing
26 severability; providing an effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:
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30 Section 1. Subsections (4), (5), and (6), paragraph (b) of
31 subsection (8), and subsections (9) and (10) of section 794.011,
32 Florida Statutes, are amended to read:

33 794.011 Sexual battery.—

34 (4) (a) A person 18 years of age or older who commits sexual
35 battery upon a person 12 years of age or older but younger than
36 18 years of age without that person's consent, under any of the
37 following circumstances listed in paragraph (e), commits a
38 felony of the first degree, punishable by a term of years not
39 exceeding life or as provided in s. 775.082, s. 775.083, s.
40 775.084, or s. 794.0115.‡

41 (b) A person 18 years of age or older who commits sexual
42 battery upon a person 18 years of age or older without that
43 person's consent, under any of the circumstances listed in
44 paragraph (e), commits a felony of the first degree, punishable
45 as provided in s. 775.082, s. 775.083, s. 775.084, or s.
46 794.0115.

47 (c) A person younger than 18 years of age who commits
48 sexual battery upon a person 12 years of age or older without
49 that person's consent, under any of the circumstances listed in
50 paragraph (e), commits a felony of the first degree, punishable
51 as provided in s. 775.082, s. 775.083, s. 775.084, or s.
52 794.0115.

53 (d) A person commits a felony of the first degree,
54 punishable by a term of years not exceeding life or as provided
55 in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115 if the
56 person commits sexual battery upon a person 12 years of age or
57 older without that person's consent, under any of the
58 circumstances listed in paragraph (e), and such person was

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59 previously convicted of a violation of:

60 1. Section 787.01(2) or s. 787.02(2) when the violation
61 involved a victim who was a minor and, in the course of
62 committing that violation, the defendant committed against the
63 minor a sexual battery under this chapter or a lewd act under s.
64 800.04 or s. 847.0135(5);

65 2. Section 787.01(3)(a)2. or 3.;

66 3. Section 787.02(3)(a)2. or 3.;

67 4. Section 800.04;

68 5. Section 825.1025;

69 6. Section 847.0135(5); or

70 7. This chapter, excluding subsection (10) of this section.

71 (e) The following circumstances apply to paragraphs (a)-
72 (d):

73 1. ~~(a) When~~ The victim is physically helpless to resist.

74 2. ~~(b) When~~ The offender coerces the victim to submit by
75 threatening to use force or violence likely to cause serious
76 personal injury on the victim, and the victim reasonably
77 believes that the offender has the present ability to execute
78 the threat.

79 3. ~~(c) When~~ The offender coerces the victim to submit by
80 threatening to retaliate against the victim, or any other
81 person, and the victim reasonably believes that the offender has
82 the ability to execute the threat in the future.

83 4. ~~(d) When~~ The offender, without the prior knowledge or
84 consent of the victim, administers or has knowledge of someone
85 else administering to the victim any narcotic, anesthetic, or
86 other intoxicating substance that ~~which~~ mentally or physically
87 incapacitates the victim.

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88 5.~~(e)~~ When The victim is mentally defective, and the
89 offender has reason to believe this or has actual knowledge of
90 this fact.

91 6.~~(f)~~ When The victim is physically incapacitated.

92 7.~~(g)~~ When The offender is a law enforcement officer,
93 correctional officer, or correctional probation officer as
94 defined in ~~by~~ s. 943.10(1), (2), (3), (6), (7), (8), or (9), who
95 is certified under ~~the provisions of~~ s. 943.1395 or is an
96 elected official exempt from such certification by virtue of s.
97 943.253, or any other person in a position of control or
98 authority in a probation, community control, controlled release,
99 detention, custodial, or similar setting, and such officer,
100 official, or person is acting in such a manner as to lead the
101 victim to reasonably believe that the offender is in a position
102 of control or authority as an agent or employee of government.

103 (5) (a) A person 18 years of age or older who commits sexual
104 battery upon a person 12 years of age or older but younger than
105 18 years of age, without that person's consent, and in the
106 process ~~thereof~~ does not use physical force and violence likely
107 to cause serious personal injury commits a felony of the first
108 ~~second~~ degree, punishable as provided in s. 775.082, s. 775.083,
109 s. 775.084, or s. 794.0115.

110 (b) A person 18 years of age or older who commits sexual
111 battery upon a person 18 years of age or older, without that
112 person's consent, and in the process does not use physical force
113 and violence likely to cause serious personal injury commits a
114 felony of the second degree, punishable as provided in s.
115 775.082, s. 775.083, s. 775.084, or s. 794.0115.

116 (c) A person younger than 18 years of age who commits

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117 sexual battery upon a person 12 years of age or older, without
118 that person's consent, and in the process does not use physical
119 force and violence likely to cause serious personal injury
120 commits a felony of the second degree, punishable as provided in
121 s. 775.082, s. 775.083, s. 775.084, or s. 794.0115.

122 (d) A person commits a felony of the first degree,
123 punishable as provided in s. 775.082, s. 775.083, s. 775.084, or
124 s. 794.0115 if the person commits sexual battery upon a person
125 12 years of age or older, without that person's consent, and in
126 the process does not use physical force and violence likely to
127 cause serious personal injury and the person was previously
128 convicted of a violation of:

129 1. Section 787.01(2) or s. 787.02(2) when the violation
130 involved a victim who was a minor and, in the course of
131 committing that violation, the defendant committed against the
132 minor a sexual battery under this chapter or a lewd act under s.
133 800.04 or s. 847.0135(5);

134 2. Section 787.01(3)(a)2. or 3.;

135 3. Section 787.02(3)(a)2. or 3.;

136 4. Section 800.04;

137 5. Section 825.1025;

138 6. Section 847.0135(5); or

139 7. This chapter, excluding subsection (10) of this section.

140 (6)(a) The offenses ~~offense~~ described in paragraphs (5)(a)-
141 (c) are ~~subsection (5)is~~ included in any sexual battery offense
142 charged under subsection (3) ~~or subsection (4)~~.

143 (b) The offense described in paragraph (5)(a) is included
144 in an offense charged under paragraph (4)(a).

145 (c) The offense described in paragraph (5)(b) is included

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146 in an offense charged under paragraph (4) (b) .

147 (d) The offense described in paragraph (5) (c) is included
148 in an offense charged under paragraph (4) (c) .

149 (e) The offense described in paragraph (5) (d) is included
150 in an offense charged under paragraph (4) (d) .

151 (8) Without regard to the willingness or consent of the
152 victim, which is not a defense to prosecution under this
153 subsection, a person who is in a position of familial or
154 custodial authority to a person less than 18 years of age and
155 who:

156 (b) Engages in any act with that person while the person is
157 12 years of age or older but younger ~~less~~ than 18 years of age
158 which constitutes sexual battery under paragraph (1) (h) commits
159 a felony of the first degree, punishable by a term of years not
160 exceeding life or as provided in s. 775.082, s. 775.083, or s.
161 775.084.

162 (9) For prosecution under paragraph (4) (a), paragraph
163 (4) (b), paragraph (4) (c), or paragraph (4) (d) which involves an
164 offense committed under any of the circumstances listed in
165 subparagraph (4) (e) 7. ~~paragraph (4) (g),~~ acquiescence to a person
166 reasonably believed by the victim to be in a position of
167 authority or control does not constitute consent, and it is not
168 a defense that the perpetrator was not actually in a position of
169 control or authority if the circumstances were such as to lead
170 the victim to reasonably believe that the person was in such a
171 position.

172 (10) A ~~Any~~ person who falsely accuses a ~~any~~ person listed
173 in subparagraph (4) (e) 7. ~~paragraph (4) (g)~~ or other person in a
174 position of control or authority as an agent or employee of

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175 government of violating paragraph (4) (a), paragraph (4) (b),
176 paragraph (4) (c), or paragraph (4) (d) commits ~~(4) (g) is guilty~~
177 ~~of~~ a felony of the third degree, punishable as provided in s.
178 775.082, s. 775.083, or s. 775.084.

179 Section 2. Subsections (4) and (5) of section 800.04,
180 Florida Statutes, are amended to read:

181 800.04 Lewd or lascivious offenses committed upon or in the
182 presence of persons less than 16 years of age.—

183 (4) LEWD OR LASCIVIOUS BATTERY.—~~A person who:~~

184 (a) A person commits lewd or lascivious battery by:

185 1. Engaging in sexual activity with a person 12 years of
186 age or older but less than 16 years of age; or

187 2. Encouraging, forcing, or enticing any person less than
188 16 years of age to engage in sadomasochistic abuse, sexual
189 bestiality, prostitution, or any other act involving sexual
190 activity.

191 (b) Except as provided in paragraph (c), an offender who
192 commits lewd or lascivious battery commits a felony of the
193 second degree, punishable as provided in s. 775.082, s. 775.083,
194 or s. 775.084.

195 (c) A person commits a felony of the first degree,
196 punishable as provided in s. 775.082, s. 775.083, or s. 775.084
197 if the person is an offender 18 years of age or older who
198 commits lewd or lascivious battery and was previously convicted
199 of a violation of:

200 1. Section 787.01(2) or s. 787.02(2) when the violation
201 involved a victim who was a minor and, in the course of
202 committing that violation, the defendant committed against the
203 minor a sexual battery under chapter 794 or a lewd act under

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204 this section or s. 847.0135(5);
 205 2. Section 787.01(3)(a)2. or 3.;
 206 3. Section 787.02(3)(a)2. or 3.;
 207 4. Chapter 794, excluding s. 794.011(10);
 208 5. Section 825.1025;
 209 6. Section 847.0135(5); or
 210 7. This section.
 211 ~~(a) Engages in sexual activity with a person 12 years of~~
 212 ~~age or older but less than 16 years of age; or~~
 213 ~~(b) Encourages, forces, or entices any person less than 16~~
 214 ~~years of age to engage in sadomasochistic abuse, sexual~~
 215 ~~bestiality, prostitution, or any other act involving sexual~~
 216 ~~activity~~
 217
 218 ~~commits lewd or lascivious battery, a felony of the second~~
 219 ~~degree, punishable as provided in s. 775.082, s. 775.083, or s.~~
 220 ~~775.084.~~
 221 (5) LEWD OR LASCIVIOUS MOLESTATION.—
 222 (a) A person who intentionally touches in a lewd or
 223 lascivious manner the breasts, genitals, genital area, or
 224 buttocks, or the clothing covering them, of a person less than
 225 16 years of age, or forces or entices a person under 16 years of
 226 age to so touch the perpetrator, commits lewd or lascivious
 227 molestation.
 228 (b) An offender 18 years of age or older who commits lewd
 229 or lascivious molestation against a victim less than 12 years of
 230 age commits a life felony, punishable as provided in s.
 231 775.082(3)(a)4.
 232 (c)1. An offender less than 18 years of age who commits

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233 lewd or lascivious molestation against a victim less than 12
234 years of age; or

235 2. An offender 18 years of age or older who commits lewd or
236 lascivious molestation against a victim 12 years of age or older
237 but less than 16 years of age

238
239 commits a felony of the second degree, punishable as provided in
240 s. 775.082, s. 775.083, or s. 775.084.

241 (d) An offender less than 18 years of age who commits lewd
242 or lascivious molestation against a victim 12 years of age or
243 older but less than 16 years of age commits a felony of the
244 third degree, punishable as provided in s. 775.082, s. 775.083,
245 or s. 775.084.

246 (e) A person commits a felony of the first degree,
247 punishable as provided in s. 775.082, s. 775.083, or s. 775.084
248 if the person is 18 years of age or older and commits lewd or
249 lascivious molestation against a victim 12 years of age or older
250 but less than 16 years of age and the person was previously
251 convicted of a violation of:

252 1. Section 787.01(2) or s. 787.02(2) when the violation
253 involved a victim who was a minor and, in the course of
254 committing the violation, the defendant committed against the
255 minor a sexual battery under chapter 794 or a lewd act under
256 this section or s. 847.0135(5);

257 2. Section 787.01(3)(a)2. or 3.;

258 3. Section 787.02(3)(a)2. or 3.;

259 4. Chapter 794, excluding s. 794.011(10);

260 5. Section 825.1025;

261 6. Section 847.0135(5); or

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262 7. This section.

263 Section 3. Paragraphs (g) through (i) of subsection (3) of
 264 section 921.0022, Florida Statutes, are amended to read:

265 921.0022 Criminal Punishment Code; offense severity ranking
 266 chart.—

267 (3) OFFENSE SEVERITY RANKING CHART

268 (g) LEVEL 7

269

Florida Statute	Felony Degree	Description
316.027(1)(b)	1st	Accident involving death, failure to stop; leaving scene.
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
316.1935(3)(b)	1st	Causing serious bodily injury or death to another person; 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.

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274	590-01630-14 327.35 (3) (c) 2.	3rd	Vessel BUI resulting in serious bodily injury.
275	402.319 (2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
276	409.920 (2) (b) 1.a.	3rd	Medicaid provider fraud; \$10,000 or less.
277	409.920 (2) (b) 1.b.	2nd	Medicaid provider fraud; more than \$10,000, but less than \$50,000.
278	456.065 (2)	3rd	Practicing a health care profession without a license.
279	456.065 (2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
280	458.327 (1)	3rd	Practicing medicine without a license.

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281	459.013 (1)	3rd	Practicing osteopathic medicine without a license.
282	460.411 (1)	3rd	Practicing chiropractic medicine without a license.
283	461.012 (1)	3rd	Practicing podiatric medicine without a license.
284	462.17	3rd	Practicing naturopathy without a license.
285	463.015 (1)	3rd	Practicing optometry without a license.
286	464.016 (1)	3rd	Practicing nursing without a license.
287	465.015 (2)	3rd	Practicing pharmacy without a license.
288	466.026 (1)	3rd	Practicing dentistry or dental hygiene without a license.
	467.201	3rd	Practicing midwifery

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			without a license.
289	468.366	3rd	Delivering respiratory care services without a license.
290	483.828 (1)	3rd	Practicing as clinical laboratory personnel without a license.
291	483.901 (9)	3rd	Practicing medical physics without a license.
292	484.013 (1) (c)	3rd	Preparing or dispensing optical devices without a prescription.
293	484.053	3rd	Dispensing hearing aids without a license.
294	494.0018 (2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
295	560.123 (8) (b) 1.	3rd	Failure to report currency

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or payment instruments
 exceeding \$300 but less
 than \$20,000 by a money
 services business.

296

560.125 (5) (a)

3rd

Money services business by
 unauthorized person,
 currency or payment
 instruments exceeding \$300
 but less than \$20,000.

297

655.50 (10) (b) 1.

3rd

Failure to report
 financial transactions
 exceeding \$300 but less
 than \$20,000 by financial
 institution.

298

775.21 (10) (a)

3rd

Sexual predator; failure
 to register; failure to
 renew driver ~~driver's~~
 license or identification
 card; other registration
 violations.

299

775.21 (10) (b)

3rd

Sexual predator working
 where children regularly
 congregate.

300

775.21 (10) (g)

3rd

Failure to report or

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providing false
information about a sexual
predator; harbor or
conceal a sexual predator.

301

782.051 (3)

2nd

Attempted felony murder of
a person by a person other
than the perpetrator or
the perpetrator of an
attempted felony.

302

782.07 (1)

2nd

Killing of a human being
by the act, procurement,
or culpable negligence of
another (manslaughter).

303

782.071

2nd

Killing of a human being
or viable fetus by the
operation of a motor
vehicle in a reckless
manner (vehicular
homicide).

304

782.072

2nd

Killing of a human being
by the operation of a
vessel in a reckless
manner (vessel homicide).

305

784.045 (1) (a) 1.

2nd

Aggravated battery;

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intentionally causing
great bodily harm or
disfigurement.

306

784.045 (1) (a) 2.

2nd

Aggravated battery; using
deadly weapon.

307

784.045 (1) (b)

2nd

Aggravated battery;
perpetrator aware victim
pregnant.

308

784.048 (4)

3rd

Aggravated stalking;
violation of injunction or
court order.

309

784.048 (7)

3rd

Aggravated stalking;
violation of court order.

310

784.07 (2) (d)

1st

Aggravated battery on law
enforcement officer.

311

784.074 (1) (a)

1st

Aggravated battery on
sexually violent predators
facility staff.

312

784.08 (2) (a)

1st

Aggravated battery on a
person 65 years of age or
older.

313

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314 784.081 (1) 1st Aggravated battery on
specified official or
employee.

315 784.082 (1) 1st Aggravated battery by
detained person on visitor
or other detainee.

316 784.083 (1) 1st Aggravated battery on code
inspector.

317 787.06 (3) (a) 1st Human trafficking using
coercion for labor and
services.

318 787.06 (3) (e) 1st Human trafficking using
coercion for labor and
services by the transfer
or transport of any
individual from outside
Florida to within the
state.

319 790.07 (4) 1st Specified weapons
violation subsequent to
previous conviction of s.
790.07(1) or (2).

790.16 (1) 1st Discharge of a machine gun

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under specified
circumstances.

320

790.165 (2)

2nd

Manufacture, sell,
possess, or deliver hoax
bomb.

321

790.165 (3)

2nd

Possessing, displaying, or
threatening to use any
hoax bomb while committing
or attempting to commit a
felony.

322

790.166 (3)

2nd

Possessing, selling,
using, or attempting to
use a hoax weapon of mass
destruction.

323

790.166 (4)

2nd

Possessing, displaying, or
threatening to use a hoax
weapon of mass destruction
while committing or
attempting to commit a
felony.

324

790.23

1st,PBL

Possession of a firearm by
a person who qualifies for
the penalty enhancements
provided for in s. 874.04.

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325

794.08 (4) 3rd Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.

326

796.03 2nd Procuring any person under 16 years for prostitution.

327

800.04 (5) (c) 1. 2nd Lewd or lascivious molestation; victim younger ~~less~~ than 12 years of age; offender younger ~~less~~ than 18 years.

328

800.04 (5) (c) 2. 2nd Lewd or lascivious molestation; victim 12 years of age or older but younger ~~less~~ than 16 years; offender 18 years or older.

329

800.04 (5) (e) 1st Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years; offender 18 years or

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older; prior conviction
for specified sex offense.

330

806.01 (2)

2nd

Maliciously damage
structure by fire or
explosive.

331

810.02 (3) (a)

2nd

Burglary of occupied
dwelling; unarmed; no
assault or battery.

332

810.02 (3) (b)

2nd

Burglary of unoccupied
dwelling; unarmed; no
assault or battery.

333

810.02 (3) (d)

2nd

Burglary of occupied
conveyance; unarmed; no
assault or battery.

334

810.02 (3) (e)

2nd

Burglary of authorized
emergency vehicle.

335

812.014 (2) (a) 1.

1st

Property stolen, valued at
\$100,000 or more or a
semitrailer deployed by a
law enforcement officer;
property stolen while
causing other property
damage; 1st degree grand

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theft.

336

812.014 (2) (b) 2.

2nd

Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.

337

812.014 (2) (b) 3.

2nd

Property stolen, emergency medical equipment; 2nd degree grand theft.

338

812.014 (2) (b) 4.

2nd

Property stolen, law enforcement equipment from authorized emergency vehicle.

339

812.0145 (2) (a)

1st

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

340

812.019 (2)

1st

Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.

341

812.131 (2) (a)

2nd

Robbery by sudden snatching.

342

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343 812.133 (2) (b) 1st Carjacking; no firearm,
deadly weapon, or other
weapon.

344 817.034 (4) (a) 1. 1st Communications fraud,
value greater than
\$50,000.

345 817.234 (8) (a) 2nd Solicitation of motor
vehicle accident victims
with intent to defraud.

346 817.234 (9) 2nd Organizing, planning, or
participating in an
intentional motor vehicle
collision.

347 817.234 (11) (c) 1st Insurance fraud; property
value \$100,000 or more.

348 817.2341 1st Making false entries of
(2) (b) & (3) (b) material fact or false
statements regarding
property values relating
to the solvency of an
insuring entity which are
a significant cause of the
insolvency of that entity.

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817.535 (2) (a) 3rd Filing false lien or other unauthorized document.

350

825.102 (3) (b) 2nd Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.

351

825.103 (2) (b) 2nd Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000.

352

827.03 (2) (b) 2nd Neglect of a child causing great bodily harm, disability, or disfigurement.

353

827.04 (3) 3rd Impregnation of a child under 16 years of age by person 21 years of age or older.

837.05 (2) 3rd Giving false information about alleged capital felony to a law enforcement officer.

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838.015	2nd	Bribery.
838.016	2nd	Unlawful compensation or reward for official behavior.
838.021 (3) (a)	2nd	Unlawful harm to a public servant.
838.22	2nd	Bid tampering.
843.0855 (2)	3rd	Impersonation of a public officer or employee.
843.0855 (3)	3rd	Unlawful simulation of legal process.
843.0855 (4)	3rd	Intimidation of a public officer or employee.
847.0135 (3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
847.0135 (4)	2nd	Traveling to meet a minor to commit an unlawful sex act.

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363

872.06 2nd Abuse of a dead human body.

364

874.05 (2) (b) 1st Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.

365

874.10 1st,PBL Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.

366

893.13 (1) (c) 1. 1st Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c) 4.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.

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367

893.13(1)(e)1.	1st	Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., within 1,000 feet of property used for religious services or a specified business site.
----------------	-----	--

368

893.13(4)(a)	1st	Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).
--------------	-----	---

369

893.135(1)(a)1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
-----------------	-----	--

370

893.135 (1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
-----------------------	-----	--

371

893.135 (1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
-----------------------	-----	--

372

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373	893.135 (1) (d) 1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
374	893.135 (1) (e) 1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
375	893.135 (1) (f) 1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
376	893.135 (1) (g) 1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
377	893.135 (1) (h) 1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
378	893.135 (1) (j) 1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
	893.135	1st	Trafficking in

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(1) (k) 2.a.

Phenethylamines, 10 grams or more, less than 200 grams.

379

893.1351 (2)

2nd

Possession of place for trafficking in or manufacturing of controlled substance.

380

896.101 (5) (a)

3rd

Money laundering, financial transactions exceeding \$300 but less than \$20,000.

381

896.104 (4) (a) 1.

3rd

Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.

382

943.0435 (4) (c)

2nd

Sexual offender vacating permanent residence; failure to comply with reporting requirements.

383

943.0435 (8)

2nd

Sexual offender; remains in state after indicating intent to leave; failure

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to comply with reporting requirements.

384

943.0435 (9) (a)

3rd

Sexual offender; failure to comply with reporting requirements.

385

943.0435 (13)

3rd

Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.

386

943.0435 (14)

3rd

Sexual offender; failure to report and reregister; failure to respond to address verification.

387

944.607 (9)

3rd

Sexual offender; failure to comply with reporting requirements.

388

944.607 (10) (a)

3rd

Sexual offender; failure to submit to the taking of a digitized photograph.

389

944.607 (12)

3rd

Failure to report or providing false information about a sexual

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offender; harbor or
conceal a sexual offender.

390

944.607(13)

3rd

Sexual offender; failure
to report and reregister;
failure to respond to
address verification.

391

985.4815(10)

3rd

Sexual offender; failure
to submit to the taking of
a digitized photograph.

392

985.4815(12)

3rd

Failure to report or
providing false
information about a sexual
offender; harbor or
conceal a sexual offender.

393

985.4815(13)

3rd

Sexual offender; failure
to report and reregister;
failure to respond to
address verification.

394

395

396 (h) LEVEL 8

397

Florida
Statute

Felony
Degree

Description

398

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	316.193	2nd	DUI manslaughter.
399	(3) (c) 3.a.		
	316.1935 (4) (b)	1st	Aggravated fleeing or attempted eluding with serious bodily injury or death.
400			
	327.35 (3) (c) 3.	2nd	Vessel BUI manslaughter.
401			
	499.0051 (7)	1st	Knowing trafficking in contraband prescription drugs.
402			
	499.0051 (8)	1st	Knowing forgery of prescription labels or prescription drug labels.
403			
	560.123 (8) (b) 2.	2nd	Failure to report currency or payment instruments totaling or exceeding \$20,000, but less than \$100,000 by money transmitter.
404			
	560.125 (5) (b)	2nd	Money transmitter business by unauthorized person, currency or payment instruments

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totaling or exceeding
\$20,000, but less than
\$100,000.

405

655.50 (10) (b) 2.

2nd

Failure to report
financial transactions
totaling or exceeding
\$20,000, but less than
\$100,000 by financial
institutions.

406

777.03 (2) (a)

1st

Accessory after the fact,
capital felony.

407

782.04 (4)

2nd

Killing of human without
design when engaged in
act or attempt of any
felony other than arson,
sexual battery, robbery,
burglary, kidnapping,
aggravated fleeing or
eluding with serious
bodily injury or death,
aircraft piracy, or
unlawfully discharging
bomb.

408

782.051 (2)

1st

Attempted felony murder
while perpetrating or

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attempting to perpetrate
a felony not enumerated
in s. 782.04(3).

409

782.071 (1) (b)

1st

Committing vehicular
homicide and failing to
render aid or give
information.

410

782.072 (2)

1st

Committing vessel
homicide and failing to
render aid or give
information.

411

787.06 (3) (b)

1st

Human trafficking using
coercion for commercial
sexual activity.

412

787.06 (3) (c)

1st

Human trafficking using
coercion for labor and
services of an
unauthorized alien.

413

787.06 (3) (f)

1st

Human trafficking using
coercion for commercial
sexual activity by the
transfer or transport of
any individual from
outside Florida to within

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2014526c2

the state.

414

790.161 (3)

1st

Discharging a destructive device which results in bodily harm or property damage.

415

794.011 (5) (a)

1st

Sexual battery; victim 12 years of age or older but younger than 18 years; offender 18 years or older; offender does not use physical force likely to cause serious injury.

416

794.011 (5) (b)

2nd

Sexual battery; victim and offender 18 years of age or older; offender does not use physical force likely to cause serious injury.

417

794.011 (5) (c)

2nd

Sexual battery; victim 12 years of age or older; offender younger than 18 years; offender does not use physical force likely to cause injury.

418

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794.011(5)(d)

1st

Sexual battery; victim 12 years of age or older; offender does not use physical force likely to cause serious injury; prior conviction for specified sex offense.

419

~~794.011(5)~~

~~2nd~~

~~Sexual battery, victim 12 years or over, offender does not use physical force likely to cause serious injury.~~

420

794.08(3)

2nd

Female genital mutilation, removal of a victim younger than 18 years of age from this state.

421

800.04(4)(b)

2nd

Lewd or lascivious battery.

422

800.04(4)(c)

1st

Lewd or lascivious battery; offender 18 years of age or older; prior conviction for specified sex offense.

423

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424
425
426
427
428
429
430

~~800.04(4)~~

2nd

~~Lewd or lascivious
battery.~~

806.01(1)

1st

Maliciously damage
dwelling or structure by
fire or explosive,
believing person in
structure.

810.02(2)(a)

1st,PBL

Burglary with assault or
battery.

810.02(2)(b)

1st,PBL

Burglary; armed with
explosives or dangerous
weapon.

810.02(2)(c)

1st

Burglary of a dwelling or
structure causing
structural damage or
\$1,000 or more property
damage.

812.014(2)(a)2.

1st

Property stolen; cargo
valued at \$50,000 or
more, grand theft in 1st
degree.

812.13(2)(b)

1st

Robbery with a weapon.

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431 812.135 (2) (c) 1st Home-invasion robbery, no
firearm, deadly weapon,
or other weapon.

432 817.535 (2) (b) 2nd Filing false lien or
other unauthorized
document; second or
subsequent offense.

433 817.535 (3) (a) 2nd Filing false lien or
other unauthorized
document; property owner
is a public officer or
employee.

434 817.535 (4) (a) 1. 2nd Filing false lien or
other unauthorized
document; defendant is
incarcerated or under
supervision.

435 817.535 (5) (a) 2nd Filing false lien or
other unauthorized
document; owner of the
property incurs financial
loss as a result of the
false instrument.

817.568 (6) 2nd Fraudulent use of

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personal identification
information of an
individual under the age
of 18.

436

825.102 (2)

1st

Aggravated abuse of an
elderly person or
disabled adult.

437

825.1025 (2)

2nd

Lewd or lascivious
battery upon an elderly
person or disabled adult.

438

825.103 (2) (a)

1st

Exploiting an elderly
person or disabled adult
and property is valued at
\$100,000 or more.

439

837.02 (2)

2nd

Perjury in official
proceedings relating to
prosecution of a capital
felony.

440

837.021 (2)

2nd

Making contradictory
statements in official
proceedings relating to
prosecution of a capital
felony.

441

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442	860.121(2)(c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.
443	860.16	1st	Aircraft piracy.
444	893.13(1)(b)	1st	Sell or deliver in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
445	893.13(2)(b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
446	893.13(6)(c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
447	893.135(1)(a)2. 893.135(1)(b)1.b.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs. Trafficking in cocaine, more than 200 grams, less

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than 400 grams.

448

893.135
(1) (c) 1.b.

1st

Trafficking in illegal
drugs, more than 14
grams, less than 28
grams.

449

893.135
(1) (d) 1.b.

1st

Trafficking in
phencyclidine, more than
200 grams, less than 400
grams.

450

893.135
(1) (e) 1.b.

1st

Trafficking in
methaqualone, more than 5
kilograms, less than 25
kilograms.

451

893.135
(1) (f) 1.b.

1st

Trafficking in
amphetamine, more than 28
grams, less than 200
grams.

452

893.135
(1) (g) 1.b.

1st

Trafficking in
flunitrazepam, 14 grams
or more, less than 28
grams.

453

893.135
(1) (h) 1.b.

1st

Trafficking in gamma-
hydroxybutyric acid

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(GHB), 5 kilograms or more, less than 10 kilograms.

454

893.135
(1) (j) 1.b.

1st

Trafficking in 1,4-Butanediol, 5 kilograms or more, less than 10 kilograms.

455

893.135
(1) (k) 2.b.

1st

Trafficking in Phenethylamines, 200 grams or more, less than 400 grams.

456

893.1351 (3)

1st

Possession of a place used to manufacture controlled substance when minor is present or resides there.

457

895.03 (1)

1st

Use or invest proceeds derived from pattern of racketeering activity.

458

895.03 (2)

1st

Acquire or maintain through racketeering activity any interest in or control of any enterprise or real

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property.

459

895.03 (3)

1st

Conduct or participate in any enterprise through pattern of racketeering activity.

460

896.101 (5) (b)

2nd

Money laundering, financial transactions totaling or exceeding \$20,000, but less than \$100,000.

461

896.104 (4) (a) 2.

2nd

Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding \$20,000 but less than \$100,000.

462

463

464

(i) LEVEL 9

465

Florida
Statute

Felony
Degree

Description

466

316.193
(3) (c) 3.b.

1st

DUI manslaughter;
failing to render aid or

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467

give information.

327.35 (3) (c) 3.b.

1st

BUI manslaughter;
failing to render aid or
give information.

468

409.920
(2) (b) 1.c.

1st

Medicaid provider fraud;
\$50,000 or more.

469

499.0051 (9)

1st

Knowing sale or purchase
of contraband
prescription drugs
resulting in great
bodily harm.

470

560.123 (8) (b) 3.

1st

Failure to report
currency or payment
instruments totaling or
exceeding \$100,000 by
money transmitter.

471

560.125 (5) (c)

1st

Money transmitter
business by unauthorized
person, currency, or
payment instruments
totaling or exceeding
\$100,000.

472

655.50 (10) (b) 3.

1st

Failure to report

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financial transactions
totaling or exceeding
\$100,000 by financial
institution.

473

775.0844

1st

Aggravated white collar
crime.

474

782.04 (1)

1st

Attempt, conspire, or
solicit to commit
premeditated murder.

475

782.04 (3)

1st, PBL

Accomplice to murder in
connection with arson,
sexual battery, robbery,
burglary, aggravated
fleeing or eluding with
serious bodily injury or
death, and other
specified felonies.

476

782.051 (1)

1st

Attempted felony murder
while perpetrating or
attempting to perpetrate
a felony enumerated in
s. 782.04 (3).

477

782.07 (2)

1st

Aggravated manslaughter
of an elderly person or

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disabled adult.

478

787.01 (1) (a) 1.

1st, PBL

Kidnapping; hold for ransom or reward or as a shield or hostage.

479

787.01 (1) (a) 2.

1st, PBL

Kidnapping with intent to commit or facilitate commission of any felony.

480

787.01 (1) (a) 4.

1st, PBL

Kidnapping with intent to interfere with performance of any governmental or political function.

481

787.02 (3) (a)

1st

False imprisonment; child under age 13; perpetrator also commits aggravated child abuse, sexual battery, or lewd or lascivious battery, molestation, conduct, or exhibition.

482

787.06 (3) (d)

1st

Human trafficking using coercion for commercial sexual activity of an

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unauthorized alien.

483

787.06(3)(g)

1st,PBL

Human trafficking for commercial sexual activity of a child under the age of 18.

484

787.06(4)

1st

Selling or buying of minors into human trafficking.

485

790.161

1st

Attempted capital destructive device offense.

486

790.166(2)

1st,PBL

Possessing, selling, using, or attempting to use a weapon of mass destruction.

487

794.011(2)

1st

Attempted sexual battery; victim less than 12 years of age.

488

794.011(2)

Life

Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.

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489
490
491
492
493
494

794.011(4)(a)

1st, PBL

Sexual battery, certain
circumstances; victim 12
years of age or older
but younger than 18
years; offender 18 years
or older.

794.011(4)(b)

1st

Sexual battery, certain
circumstances; victim
and offender 18 years of
age or older.

794.011(4)(c)

1st

Sexual battery, certain
circumstances; victim 12
years of age or older;
offender younger than 18
years.

794.011(4)(d)

1st, PBL

Sexual battery, certain
circumstances; victim 12
years of age or older;
prior conviction for
specified sex offenses.

~~794.011(4)~~

~~1st~~

~~Sexual battery; victim
12 years or older,
certain circumstances.~~

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495	794.011 (8) (b)	1st, <u>PBL</u>	Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.
496	794.08 (2)	1st	Female genital mutilation; victim younger than 18 years of age.
497	796.035	1st	Selling or buying of minors into prostitution.
498	800.04 (5) (b)	Life	Lewd or lascivious molestation; victim less than 12 years; offender 18 years or older.
499	812.13 (2) (a)	1st, PBL	Robbery with firearm or other deadly weapon.
500	812.133 (2) (a)	1st, PBL	Carjacking; firearm or other deadly weapon.
501	812.135 (2) (b)	1st	Home-invasion robbery with weapon.

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817.535 (3) (b)

1st

Filing false lien or other unauthorized document; second or subsequent offense; property owner is a public officer or employee.

502

817.535 (4) (a) 2.

1st

Filing false claim or other unauthorized document; defendant is incarcerated or under supervision.

503

817.535 (5) (b)

1st

Filing false lien or other unauthorized document; second or subsequent offense; owner of the property incurs financial loss as a result of the false instrument.

504

817.568 (7)

2nd,
PBL

Fraudulent use of personal identification information of an individual under the age of 18 by his or her parent, legal guardian,

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or person exercising
custodial authority.

505

827.03(2)(a)

1st

Aggravated child abuse.

506

847.0145(1)

1st

Selling, or otherwise
transferring custody or
control, of a minor.

507

847.0145(2)

1st

Purchasing, or otherwise
obtaining custody or
control, of a minor.

508

859.01

1st

Poisoning or introducing
bacteria, radioactive
materials, viruses, or
chemical compounds into
food, drink, medicine,
or water with intent to
kill or injure another
person.

509

893.135

1st

Attempted capital
trafficking offense.

510

893.135(1)(a)3.

1st

Trafficking in cannabis,
more than 10,000 lbs.

511

893.135

1st

Trafficking in cocaine,

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(1) (b) 1.c.

more than 400 grams,
less than 150 kilograms.

512

893.135

1st

Trafficking in illegal
drugs, more than 28
grams, less than 30
kilograms.

(1) (c) 1.c.

513

893.135

1st

Trafficking in
phencyclidine, more than
400 grams.

(1) (d) 1.c.

514

893.135

1st

Trafficking in
methaqualone, more than
25 kilograms.

(1) (e) 1.c.

515

893.135

1st

Trafficking in
amphetamine, more than
200 grams.

(1) (f) 1.c.

516

893.135

1st

Trafficking in gamma-
hydroxybutyric acid
(GHB), 10 kilograms or
more.

(1) (h) 1.c.

517

893.135

1st

Trafficking in 1,4-
Butanediol, 10 kilograms
or more.

(1) (j) 1.c.

518

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893.135
(1) (k) 2.c.

1st

Trafficking in
Phenethylamines, 400
grams or more.

519

896.101 (5) (c)

1st

Money laundering,
financial instruments
totaling or exceeding
\$100,000.

520

896.104 (4) (a) 3.

1st

Structuring transactions
to evade reporting or
registration
requirements, financial
transactions totaling or
exceeding \$100,000.

521

522

523 Section 4. Section 921.0024, Florida Statutes, is amended
524 to read:

525 921.0024 Criminal Punishment Code; worksheet computations;
526 scoresheets.-

527 (1) (a) The Criminal Punishment Code worksheet is used to
528 compute the subtotal and total sentence points as follows:

529

530 FLORIDA CRIMINAL PUNISHMENT CODE

531 WORKSHEET

532

533 OFFENSE SCORE

534

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Primary Offense

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Level	Sentence Points		Total
10	116	=
9	92	=
8	74	=
7	56	=
6	36	=
5	28	=
4	22	=
3	16	=
2	10	=
1	4	=
			Total

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Additional Offenses

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564

Level	Sentence Points		Counts		Total
10	58	x	=
9	46	x	=
8	37	x	=
7	28	x	=
6	18	x	=
5	5.4	x	=
4	3.6	x	=
3	2.4	x	=
2	1.2	x	=
1	0.7	x	=
M	0.2	x	=

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Total

Victim Injury

Level	Sentence Points		Number		Total
2nd degree murder-death	240	x	=
Death	120	x	=
Severe	40	x	=
Moderate	18	x	=
Slight	4	x	=
Sexual penetration	80	x	=
Sexual contact	40	x	=

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Total

578
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594

Primary Offense + Additional Offenses + Victim Injury =

TOTAL OFFENSE SCORE

PRIOR RECORD SCORE

Prior Record

Level	Sentence Points		Number		Total
10	29	x	=
9	23	x	=
8	19	x	=
7	14	x	=
6	9	x	=
5	3.6	x	=
4	2.4	x	=
3	1.6	x	=
2	0.8	x	=

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1	0.5	x	=
M	0.2	x	=

Total

TOTAL OFFENSE SCORE.....

TOTAL PRIOR RECORD SCORE.....

LEGAL STATUS.....

COMMUNITY SANCTION VIOLATION.....

PRIOR SERIOUS FELONY.....

PRIOR CAPITAL FELONY.....

FIREARM OR SEMIAUTOMATIC WEAPON.....

SUBTOTAL.....

PRISON RELEASEE REOFFENDER (no) (yes).....

VIOLENT CAREER CRIMINAL (no) (yes).....

HABITUAL VIOLENT OFFENDER (no) (yes).....

HABITUAL OFFENDER (no) (yes).....

DRUG TRAFFICKER (no) (yes) (x multiplier).....

LAW ENF. PROTECT. (no) (yes) (x multiplier).....

MOTOR VEHICLE THEFT (no) (yes) (x multiplier).....

CRIMINAL GANG OFFENSE (no) (yes) (x multiplier).....

DOMESTIC VIOLENCE IN THE PRESENCE OF RELATED CHILD (no) (yes)

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620 (x multiplier).....

621 ADULT-ON-MINOR SEX OFFENSE (no)(yes) (x multiplier).....

622

623 TOTAL SENTENCE POINTS.....

(b) WORKSHEET KEY:

627 Legal status points are assessed when any form of legal status

628 existed at the time the offender committed an offense before the

629 court for sentencing. Four (4) sentence points are assessed for

630 an offender's legal status.

632 Community sanction violation points are assessed when a

633 community sanction violation is before the court for sentencing.

634 Six (6) sentence points are assessed for each community sanction

635 violation and each successive community sanction violation,

636 unless any of the following apply:

637 1. If the community sanction violation includes a new

638 felony conviction before the sentencing court, twelve (12)

639 community sanction violation points are assessed for the

640 violation, and for each successive community sanction violation

641 involving a new felony conviction.

642 2. If the community sanction violation is committed by a

643 violent felony offender of special concern as defined in s.

644 948.06:

645 a. Twelve (12) community sanction violation points are

646 assessed for the violation and for each successive violation of

647 felony probation or community control where:

648 I. The violation does not include a new felony conviction;

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649 and

650 II. The community sanction violation is not based solely on
651 the probationer or offender's failure to pay costs or fines or
652 make restitution payments.

653 b. Twenty-four (24) community sanction violation points are
654 assessed for the violation and for each successive violation of
655 felony probation or community control where the violation
656 includes a new felony conviction.

657

658 Multiple counts of community sanction violations before the
659 sentencing court shall not be a basis for multiplying the
660 assessment of community sanction violation points.

661

662 Prior serious felony points: If the offender has a primary
663 offense or any additional offense ranked in level 8, level 9, or
664 level 10, and one or more prior serious felonies, a single
665 assessment of thirty (30) points shall be added. For purposes of
666 this section, a prior serious felony is an offense in the
667 offender's prior record that is ranked in level 8, level 9, or
668 level 10 under s. 921.0022 or s. 921.0023 and for which the
669 offender is serving a sentence of confinement, supervision, or
670 other sanction or for which the offender's date of release from
671 confinement, supervision, or other sanction, whichever is later,
672 is within 3 years before the date the primary offense or any
673 additional offense was committed.

674

675 Prior capital felony points: If the offender has one or more
676 prior capital felonies in the offender's criminal record, points
677 shall be added to the subtotal sentence points of the offender

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678 equal to twice the number of points the offender receives for
679 the primary offense and any additional offense. A prior capital
680 felony in the offender's criminal record is a previous capital
681 felony offense for which the offender has entered a plea of nolo
682 contendere or guilty or has been found guilty; or a felony in
683 another jurisdiction which is a capital felony in that
684 jurisdiction, or would be a capital felony if the offense were
685 committed in this state.

686

687 Possession of a firearm, semiautomatic firearm, or machine gun:
688 If the offender is convicted of committing or attempting to
689 commit any felony other than those enumerated in s. 775.087(2)
690 while having in his or her possession: a firearm as defined in
691 s. 790.001(6), an additional eighteen (18) sentence points are
692 assessed; or if the offender is convicted of committing or
693 attempting to commit any felony other than those enumerated in
694 s. 775.087(3) while having in his or her possession a
695 semiautomatic firearm as defined in s. 775.087(3) or a machine
696 gun as defined in s. 790.001(9), an additional twenty-five (25)
697 sentence points are assessed.

698

699 Sentencing multipliers:

700

701 Drug trafficking: If the primary offense is drug trafficking
702 under s. 893.135, the subtotal sentence points are multiplied,
703 at the discretion of the court, for a level 7 or level 8
704 offense, by 1.5. The state attorney may move the sentencing
705 court to reduce or suspend the sentence of a person convicted of
706 a level 7 or level 8 offense, if the offender provides

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707 substantial assistance as described in s. 893.135(4).

708

709 Law enforcement protection: If the primary offense is a
710 violation of the Law Enforcement Protection Act under s.
711 775.0823(2), (3), or (4), the subtotal sentence points are
712 multiplied by 2.5. If the primary offense is a violation of s.
713 775.0823(5), (6), (7), (8), or (9), the subtotal sentence points
714 are multiplied by 2.0. If the primary offense is a violation of
715 s. 784.07(3) or s. 775.0875(1), or of the Law Enforcement
716 Protection Act under s. 775.0823(10) or (11), the subtotal
717 sentence points are multiplied by 1.5.

718

719 Grand theft of a motor vehicle: If the primary offense is grand
720 theft of the third degree involving a motor vehicle and in the
721 offender's prior record, there are three or more grand thefts of
722 the third degree involving a motor vehicle, the subtotal
723 sentence points are multiplied by 1.5.

724

725 Offense related to a criminal gang: If the offender is convicted
726 of the primary offense and committed that offense for the
727 purpose of benefiting, promoting, or furthering the interests of
728 a criminal gang as defined in s. 874.03, the subtotal sentence
729 points are multiplied by 1.5. If applying the multiplier results
730 in the lowest permissible sentence exceeding the statutory
731 maximum sentence for the primary offense under chapter 775, the
732 court may not apply the multiplier and must sentence the
733 defendant to the statutory maximum sentence.

734

735 Domestic violence in the presence of a child: If the offender is

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736 convicted of the primary offense and the primary offense is a
737 crime of domestic violence, as defined in s. 741.28, which was
738 committed in the presence of a child under 16 years of age who
739 is a family or household member as defined in s. 741.28(3) with
740 the victim or perpetrator, the subtotal sentence points are
741 multiplied by 1.5.

742

743 Adult-on-minor sex offense: If the offender was 18 years of age
744 or older and the victim was younger than 18 years of age at the
745 time the offender committed the primary offense, and if the
746 primary offense was an offense committed on or after October 1,
747 2014, and is a violation of s. 787.01(2) or s. 787.02(2), if the
748 violation involved a victim who was a minor and, in the course
749 of committing that violation, the defendant committed a sexual
750 battery under chapter 794 or a lewd act under s. 800.04 or s.
751 847.0135(5) against the minor; s. 787.01(3)(a)2. or 3.; s.
752 787.02(3)(a)2. or 3.; s. 794.011, excluding s. 794.011(10); s.
753 794.05; s. 800.04; or s. 847.0135(5), the subtotal sentence
754 points are multiplied by 2.0. If applying the multiplier results
755 in the lowest permissible sentence exceeding the statutory
756 maximum sentence for the primary offense under chapter 775, the
757 court may not apply the multiplier and must sentence the
758 defendant to the statutory maximum sentence.

759 (2) The lowest permissible sentence is the minimum sentence
760 that may be imposed by the trial court, absent a valid reason
761 for departure. The lowest permissible sentence is any nonstate
762 prison sanction in which the total sentence points equals or is
763 less than 44 points, unless the court determines within its
764 discretion that a prison sentence, which may be up to the

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765 statutory maximums for the offenses committed, is appropriate.
766 When the total sentence points exceeds 44 points, the lowest
767 permissible sentence in prison months shall be calculated by
768 subtracting 28 points from the total sentence points and
769 decreasing the remaining total by 25 percent. The total sentence
770 points shall be calculated only as a means of determining the
771 lowest permissible sentence. The permissible range for
772 sentencing shall be the lowest permissible sentence up to and
773 including the statutory maximum, as defined in s. 775.082, for
774 the primary offense and any additional offenses before the court
775 for sentencing. The sentencing court may impose such sentences
776 concurrently or consecutively. However, any sentence to state
777 prison must exceed 1 year. If the lowest permissible sentence
778 under the code exceeds the statutory maximum sentence as
779 provided in s. 775.082, the sentence required by the code must
780 be imposed. If the total sentence points are greater than or
781 equal to 363, the court may sentence the offender to life
782 imprisonment. An offender sentenced to life imprisonment under
783 this section is not eligible for any form of discretionary early
784 release, except executive clemency or conditional medical
785 release under s. 947.149.

786 (3) A single scoresheet shall be prepared for each
787 defendant to determine the permissible range for the sentence
788 that the court may impose, except that if the defendant is
789 before the court for sentencing for more than one felony and the
790 felonies were committed under more than one version or revision
791 of the guidelines or the code, separate scoresheets must be
792 prepared. The scoresheet or scoresheets must cover all the
793 defendant's offenses pending before the court for sentencing.

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794 The state attorney shall prepare the scoresheet or scoresheets,
795 which must be presented to the defense counsel for review for
796 accuracy in all cases unless the judge directs otherwise. The
797 defendant's scoresheet or scoresheets must be approved and
798 signed by the sentencing judge.

799 (4) The Department of Corrections, in consultation with the
800 Office of the State Courts Administrator, state attorneys, and
801 public defenders, must develop and submit the revised Criminal
802 Punishment Code scoresheet to the Supreme Court for approval by
803 June 15 of each year, as necessary. Upon the Supreme Court's
804 approval of the revised scoresheet, the Department of
805 Corrections shall produce and provide sufficient copies of the
806 revised scoresheets by September 30 of each year, as necessary.
807 Scoresheets must include item entries for the scoresheet
808 preparer's use in indicating whether any prison sentence imposed
809 includes a mandatory minimum sentence or the sentence imposed
810 was a downward departure from the lowest permissible sentence
811 under the Criminal Punishment Code.

812 (5) The Department of Corrections shall distribute
813 sufficient copies of the Criminal Punishment Code scoresheets to
814 those persons charged with the responsibility for preparing
815 scoresheets.

816 (6) The clerk of the circuit court shall transmit a
817 complete, accurate, and legible copy of the Criminal Punishment
818 Code scoresheet used in each sentencing proceeding to the
819 Department of Corrections. Scoresheets must be transmitted no
820 less frequently than monthly, by the first of each month, and
821 may be sent collectively.

822 (7) A sentencing scoresheet must be prepared for every

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823 defendant who is sentenced for a felony offense. A copy of the
824 individual offender's Criminal Punishment Code scoresheet and
825 any attachments thereto prepared pursuant to Rule 3.701, Rule
826 3.702, or Rule 3.703, Florida Rules of Criminal Procedure, or
827 any other rule pertaining to the preparation and submission of
828 felony sentencing scoresheets, must be attached to the copy of
829 the uniform judgment and sentence form provided to the
830 Department of Corrections.

831 Section 5. Section 921.30, Florida Statutes, is created to
832 read:

833 921.30 Court finding that offense was sexually motivated.-
834 For offenses other than those specifically defined as a sexually
835 violent offense in s. 394.912(9)(a)-(f), the state attorney may
836 move the court to make a written finding on the record that,
837 based on the circumstances of the case, including consideration
838 of a victim impact statement, the person's offense was sexually
839 motivated.

840 Section 6. Paragraph (e) is added to subsection (4) of
841 section 944.275, Florida Statutes, to read:

842 944.275 Gain-time.-

843 (4)

844 (e) Notwithstanding subparagraph (b)3., for sentences
845 imposed for offenses committed on or after October 1, 2014, the
846 department may not grant incentive gain-time if the offense is a
847 violation of s. 782.04(1)(a)2.c.; s. 787.01(3)(a)2. or 3.; s.
848 787.02(3)(a)2. or 3.; s. 794.011, excluding s. 794.011(10); s.
849 794.05; s. 800.04; s. 825.1025; or s. 847.0135(5).

850 Section 7. Subsection (13) is added to section 947.1405,
851 Florida Statutes, to read:

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852 947.1405 Conditional release program.-

853 (13) If a person who is transferred to the custody of the
854 Department of Children and Families pursuant to part V of
855 chapter 394 is subject to conditional release supervision, the
856 period of conditional release supervision is tolled until such
857 person is no longer in the custody of the Department of Children
858 and Families. This subsection applies to all periods of
859 conditional release supervision which begin on or after October
860 1, 2014, regardless of the date of the underlying offense.

861 Section 8. Subsection (1) of section 948.012, Florida
862 Statutes, is amended, and subsections (5) and (6) are added to
863 that section, to read:

864 948.012 Split sentence of probation or community control
865 and imprisonment.-

866 (1) If ~~Whenever~~ punishment by imprisonment for a
867 misdemeanor or a felony, except for a capital felony, is
868 prescribed, the court, ~~in its discretion,~~ may, at the time of
869 sentencing, impose a split sentence whereby the defendant is to
870 be placed on probation or, with respect to any such felony, into
871 community control upon completion of any specified period of
872 such sentence which may include a term of years or less. In such
873 case, the court shall stay and withhold the imposition of the
874 remainder of sentence imposed upon the defendant and direct that
875 the defendant be placed upon probation or into community control
876 after serving such period as may be imposed by the court. Except
877 as provided in subsection (6), the period of probation or
878 community control shall commence immediately upon the release of
879 the defendant from incarceration, whether by parole or gain-time
880 allowances.

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881 (5) (a) Effective for offenses committed on or after October
882 1, 2014, if the court imposes a term of years in accordance with
883 s. 775.082 which is less than the maximum sentence for the
884 offense, the court must impose a split sentence pursuant to
885 subsection (1) for any person who is convicted of a violation
886 of:

- 887 1. Section 782.04(1) (a) 2.c.;
- 888 2. Section 787.01(3) (a) 2. or 3.;
- 889 3. Section 787.02(3) (a) 2. or 3.;
- 890 4. Section 794.011, excluding s. 794.011(10);
- 891 5. Section 794.05;
- 892 6. Section 800.04;
- 893 7. Section 825.1025; or
- 894 8. Section 847.0135(5).

895 (b) The probation or community control portion of the split
896 sentence imposed by the court must extend for at least 2 years.
897 However, if the term of years imposed by the court extends to
898 within 2 years of the maximum sentence for the offense, the
899 probation or community control portion of the split sentence
900 must extend for the remainder of the maximum sentence.

901 (6) If a defendant who has been sentenced to a split
902 sentence pursuant to subsection (1) is transferred to the
903 custody of the Department of Children and Families pursuant to
904 part V of chapter 394, the period of probation or community
905 control is tolled until such person is no longer in the custody
906 of the Department of Children and Families. This subsection
907 applies to all sentences of probation or community control which
908 begin on or after October 1, 2014, regardless of the date of the
909 underlying offense.

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910 Section 9. If any provision of this act or its application
911 to any person or circumstance is held invalid, the invalidity
912 does not affect other provisions or applications of this act
913 which can be given effect without the invalid provision or
914 application, and to this end the provisions of this act are
915 severable.

916 Section 10. This act shall take effect October 1, 2014.