

By Senator Abruzzo

25-00506B-16

2016656__

1 A bill to be entitled
2 An act relating to transmission of child pornography;
3 amending s. 847.001, F.S.; revising the definitions of
4 the terms "child pornography" and "minor"; amending s.
5 847.0135, F.S.; revising the crime of computer
6 pornography; amending s. 847.0137, F.S.; revising
7 terminology; providing that each act of sending or
8 delivering child pornography is a separate offense;
9 reenacting s. 921.0022(3)(f), F.S., relating to level
10 6 of the offense severity ranking chart, to
11 incorporate the amendment made to s. 847.0135, F.S.,
12 in a reference thereto; reenacting ss. 775.0847(2),
13 856.022(1), 905.34(8), 921.0022(3)(e), 943.0435(1)(a),
14 944.606(1)(b), 944.607(1)(a), 960.03(3)(e), and
15 960.197(1), F.S., relating to possession or promotion
16 of certain images of child pornography and
17 reclassification, loitering or prowling by certain
18 offenders in close proximity to children and
19 penalties, limitations on the subject matter
20 jurisdiction of the statewide grand jury, the Criminal
21 Punishment Code and level 5 of the offense severity
22 ranking chart, sexual offenders required to register
23 with the Department of Law Enforcement, the definition
24 of the term "sexual offender," the definition of the
25 term "crime," and assistance to victims of online
26 sexual exploitation and child pornography,
27 respectively, to incorporate the amendment made to s.
28 847.0137, F.S., in references thereto; reenacting ss.
29 794.056(1), 938.085, and 948.06(8)(c), F.S., relating

25-00506B-16

2016656__

30 to the Rape Crisis Program Trust Fund, additional cost
31 to fund rape crisis centers, and the definition of the
32 term "qualifying offense," respectively, to
33 incorporate the amendments made to ss. 847.0135 and
34 847.0137, F.S., in references thereto; providing an
35 effective date.

36
37 Be It Enacted by the Legislature of the State of Florida:

38
39 Section 1. Subsections (3) and (8) of section 847.001,
40 Florida Statutes, are amended to read:

41 847.001 Definitions.—As used in this chapter, the term:

42 (3) "Child pornography" means an ~~any~~ image depicting a
43 minor engaged in sexual conduct.

44 (8) "Minor" means a ~~any~~ person under the age of 18 years.

45 Section 2. Subsection (2) of section 847.0135, Florida
46 Statutes, is amended to read:

47 847.0135 Computer pornography; prohibited computer usage;
48 traveling to meet minor; penalties.—

49 (2) COMPUTER PORNOGRAPHY.—A person who:

50 (a) Knowingly compiles, enters into, or transmits by use of
51 computer;

52 (b) Makes, prints, publishes, or reproduces by other
53 computerized means;

54 (c) Knowingly causes or allows to be entered into or
55 transmitted by use of computer; or

56 (d) Buys, sells, receives, exchanges, or disseminates,

57
58 a ~~any~~ notice, statement, or advertisement of a ~~any~~ minor's name,

25-00506B-16

2016656__

59 telephone number, place of residence, physical characteristics,
60 or other descriptive or identifying information for purposes of
61 facilitating, encouraging, offering, or soliciting sexual
62 conduct of or with a ~~any~~ minor, or the visual depiction of such
63 conduct, commits a felony of the third degree, punishable as
64 provided in s. 775.082, s. 775.083, or s. 775.084. The fact that
65 an undercover operative or law enforcement officer was involved
66 in the detection and investigation of an offense under this
67 section shall not constitute a defense to a prosecution under
68 this section.

69 Section 3. Section 847.0137, Florida Statutes, is amended
70 to read:

71 847.0137 Transmission of pornography by electronic device
72 or equipment prohibited; penalties.—

73 (1) For purposes of this section, the term:

74 (a) "Minor" or "child" means a ~~any~~ person less than 18
75 years of age.

76 (b) "Transmit" means the act of sending and causing to be
77 delivered an ~~any~~ image, information, or data from one or more
78 persons or places to one or more other persons or places over or
79 through any medium, including the Internet, by use of any
80 electronic equipment or device. Each act of sending and causing
81 to be delivered such image, information, or data is a separate
82 offense.

83 (2) Notwithstanding ss. 847.012 and 847.0133, a ~~any~~ person
84 in this state who knew or reasonably should have known that he
85 or she was transmitting child pornography, as defined in s.
86 847.001, to another person in this state or in another
87 jurisdiction commits a felony of the third degree, punishable as

25-00506B-16

2016656__

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

89 (3) Notwithstanding ss. 847.012 and 847.0133, a ~~any~~ person
90 in any jurisdiction other than this state who knew or reasonably
91 should have known that he or she was transmitting child
92 pornography, as defined in s. 847.001, to a ~~any~~ person in this
93 state commits a felony of the third degree, punishable as
94 provided in s. 775.082, s. 775.083, or s. 775.084.

95 (4) This section may ~~shall~~ not be construed to prohibit
96 prosecution of a person in this state or another jurisdiction
97 for a violation of any law of this state, including a law
98 providing for greater penalties than prescribed in this section,
99 for the transmission of child pornography, as defined in s.
100 847.001, to a ~~any~~ person in this state.

101 (5) A person is subject to prosecution in this state
102 pursuant to chapter 910 for an ~~any~~ act or conduct proscribed by
103 this section, including a person in a jurisdiction other than
104 this state, if the act or conduct violates subsection (3).

105 (6) ~~The provisions of~~ This section does ~~do~~ not apply to
106 subscription-based transmissions such as list servers.

107 Section 4. For the purpose of incorporating the amendment
108 made by this act to section 847.0135, Florida Statutes, in a
109 reference thereto, paragraph (f) of subsection (3) of section
110 921.0022, Florida Statutes, is reenacted to read:

111 921.0022 Criminal Punishment Code; offense severity ranking
112 chart.—

113 (3) OFFENSE SEVERITY RANKING CHART

114 (f) LEVEL 6

115

25-00506B-16

2016656__

	Florida Statute	Felony Degree	Description
116	316.027 (2) (b)	2nd	Leaving the scene of a crash involving serious bodily injury.
117	316.193 (2) (b)	3rd	Felony DUI, 4th or subsequent conviction.
118	400.9935 (4) (c)	2nd	Operating a clinic, or offering services requiring licensure, without a license.
119	499.0051 (3)	2nd	Knowing forgery of pedigree papers.
120	499.0051 (4)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.
121	499.0051 (5)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.
122	775.0875 (1)	3rd	Taking firearm from law enforcement officer.

25-00506B-16

2016656__

123
124
125
126
127
128
129
130

784.021 (1) (a)	3rd	Aggravated assault; deadly weapon without intent to kill.
784.021 (1) (b)	3rd	Aggravated assault; intent to commit felony.
784.041	3rd	Felony battery; domestic battery by strangulation.
784.048 (3)	3rd	Aggravated stalking; credible threat.
784.048 (5)	3rd	Aggravated stalking of person under 16.
784.07 (2) (c)	2nd	Aggravated assault on law enforcement officer.
784.074 (1) (b)	2nd	Aggravated assault on sexually violent predators facility staff.
784.08 (2) (b)	2nd	Aggravated assault on a person 65 years of age or older.

25-00506B-16

2016656__

131	784.081 (2)	2nd	Aggravated assault on specified official or employee.
132	784.082 (2)	2nd	Aggravated assault by detained person on visitor or other detainee.
133	784.083 (2)	2nd	Aggravated assault on code inspector.
134	787.02 (2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
135	790.115 (2) (d)	2nd	Discharging firearm or weapon on school property.
136	790.161 (2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property.
137	790.164 (1)	2nd	False report of deadly explosive, weapon of

25-00506B-16

2016656__

mass destruction, or act
of arson or violence to
state property.

138

790.19

2nd

Shooting or throwing
deadly missiles into
dwellings, vessels, or
vehicles.

139

794.011 (8) (a)

3rd

Solicitation of minor to
participate in sexual
activity by custodial
adult.

140

794.05 (1)

2nd

Unlawful sexual activity
with specified minor.

141

800.04 (5) (d)

3rd

Lewd or lascivious
molestation; victim 12
years of age or older
but less than 16 years
of age; offender less
than 18 years.

142

800.04 (6) (b)

2nd

Lewd or lascivious
conduct; offender 18
years of age or older.

143

806.031 (2)

2nd

Arson resulting in great

25-00506B-16

2016656__

bodily harm to
 firefighter or any other
 person.

144

810.02 (3) (c)

2nd

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

145

810.145 (8) (b)

2nd

Video voyeurism; certain
 minor victims; 2nd or
 subsequent offense.

146

812.014 (2) (b) 1.

2nd

Property stolen \$20,000
 or more, but less than
 \$100,000, grand theft in
 2nd degree.

147

812.014 (6)

2nd

Theft; property stolen
 \$3,000 or more;
 coordination of others.

148

812.015 (9) (a)

2nd

Retail theft; property
 stolen \$300 or more;
 second or subsequent
 conviction.

149

812.015 (9) (b)

2nd

Retail theft; property
 stolen \$3,000 or more;
 coordination of others.

25-00506B-16

2016656__

150

812.13 (2) (c) 2nd Robbery, no firearm or other weapon (strong-arm robbery).

151

817.4821 (5) 2nd Possess cloning paraphernalia with intent to create cloned cellular telephones.

152

825.102 (1) 3rd Abuse of an elderly person or disabled adult.

153

825.102 (3) (c) 3rd Neglect of an elderly person or disabled adult.

154

825.1025 (3) 3rd Lewd or lascivious molestation of an elderly person or disabled adult.

155

825.103 (3) (c) 3rd Exploiting an elderly person or disabled adult and property is valued at less than \$10,000.

156

827.03 (2) (c) 3rd Abuse of a child.

25-00506B-16

2016656__

157

827.03 (2) (d) 3rd Neglect of a child.

158

827.071 (2) & (3) 2nd Use or induce a child in a sexual performance, or promote or direct such performance.

159

836.05 2nd Threats; extortion.

160

836.10 2nd Written threats to kill or do bodily injury.

161

843.12 3rd Aids or assists person to escape.

162

847.011 3rd Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors.

163

847.012 3rd Knowingly using a minor in the production of materials harmful to minors.

164

847.0135 (2) 3rd Facilitates sexual

25-00506B-16

2016656__

conduct of or with a
 minor or the visual
 depiction of such
 conduct.

165

914.23

2nd

Retaliation against a
 witness, victim, or
 informant, with bodily
 injury.

166

944.35 (3) (a) 2.

3rd

Committing malicious
 battery upon or
 inflicting cruel or
 inhuman treatment on an
 inmate or offender on
 community supervision,
 resulting in great
 bodily harm.

167

944.40

2nd

Escapes.

168

944.46

3rd

Harboring, concealing,
 aiding escaped
 prisoners.

169

944.47 (1) (a) 5.

2nd

Introduction of
 contraband (firearm,
 weapon, or explosive)
 into correctional

25-00506B-16

2016656__

facility.

170

951.22(1)

3rd

Intoxicating drug,
firearm, or weapon
introduced into county
facility.

171

172 Section 5. For the purpose of incorporating the amendment
173 made by this act to section 847.0137, Florida Statutes, in a
174 reference thereto, subsection (2) of section 775.0847, Florida
175 Statutes, is reenacted to read:

176 775.0847 Possession or promotion of certain images of child
177 pornography; reclassification.—

178 (2) A violation of s. 827.071, s. 847.0135, s. 847.0137, or
179 s. 847.0138 shall be reclassified to the next higher degree as
180 provided in subsection (3) if:

181 (a) The offender possesses 10 or more images of any form of
182 child pornography regardless of content; and

183 (b) The content of at least one image contains one or more
184 of the following:

185 1. A child who is younger than the age of 5.

186 2. Sadomasochistic abuse involving a child.

187 3. Sexual battery involving a child.

188 4. Sexual bestiality involving a child.

189 5. Any movie involving a child, regardless of length and
190 regardless of whether the movie contains sound.

191 Section 6. For the purpose of incorporating the amendment
192 made by this act to section 847.0137, Florida Statutes, in a
193 reference thereto, subsection (1) of section 856.022, Florida

25-00506B-16

2016656__

194 Statutes, is reenacted to read:

195 856.022 Loitering or prowling by certain offenders in close
196 proximity to children; penalty.—

197 (1) Except as provided in subsection (2), this section
198 applies to a person convicted of committing, or attempting,
199 soliciting, or conspiring to commit, any of the criminal
200 offenses proscribed in the following statutes in this state or
201 similar offenses in another jurisdiction against a victim who
202 was under 18 years of age at the time of the offense: s. 787.01,
203 s. 787.02, or s. 787.025(2)(c), where the victim is a minor and
204 the offender was not the victim's parent or guardian; s.
205 787.06(3)(g); s. 794.011, excluding s. 794.011(10); s. 794.05;
206 former s. 796.03; former s. 796.035; s. 800.04; s. 825.1025; s.
207 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s.
208 847.0137; s. 847.0138; s. 847.0145; s. 985.701(1); or any
209 similar offense committed in this state which has been
210 redesignated from a former statute number to one of those listed
211 in this subsection, if the person has not received a pardon for
212 any felony or similar law of another jurisdiction necessary for
213 the operation of this subsection and a conviction of a felony or
214 similar law of another jurisdiction necessary for the operation
215 of this subsection has not been set aside in any postconviction
216 proceeding.

217 Section 7. For the purpose of incorporating the amendment
218 made by this act to section 847.0137, Florida Statutes, in a
219 reference thereto, subsection (8) of section 905.34, Florida
220 Statutes, is reenacted to read:

221 905.34 Powers and duties; law applicable.—The jurisdiction
222 of a statewide grand jury impaneled under this chapter shall

25-00506B-16

2016656__

223 extend throughout the state. The subject matter jurisdiction of
224 the statewide grand jury shall be limited to the offenses of:

225 (8) Any violation of s. 847.0135, s. 847.0137, or s.
226 847.0138 relating to computer pornography and child exploitation
227 prevention, or any offense related to a violation of s.
228 847.0135, s. 847.0137, or s. 847.0138 or any violation of
229 chapter 827 where the crime is facilitated by or connected to
230 the use of the Internet or any device capable of electronic data
231 storage or transmission;

232
233 or any attempt, solicitation, or conspiracy to commit any
234 violation of the crimes specifically enumerated above, when any
235 such offense is occurring, or has occurred, in two or more
236 judicial circuits as part of a related transaction or when any
237 such offense is connected with an organized criminal conspiracy
238 affecting two or more judicial circuits. The statewide grand
239 jury may return indictments and presentments irrespective of the
240 county or judicial circuit where the offense is committed or
241 triable. If an indictment is returned, it shall be certified and
242 transferred for trial to the county where the offense was
243 committed. The powers and duties of, and law applicable to,
244 county grand juries shall apply to a statewide grand jury except
245 when such powers, duties, and law are inconsistent with the
246 provisions of ss. 905.31-905.40.

247 Section 8. For the purpose of incorporating the amendment
248 made by this act to section 847.0137, Florida Statutes, in a
249 reference thereto, paragraph (e) of subsection (3) of section
250 921.0022, Florida Statutes, is reenacted to read:

251 921.0022 Criminal Punishment Code; offense severity ranking

25-00506B-16

2016656__

252
253
254
255
256
257
258
259
260

chart.—

(3) OFFENSE SEVERITY RANKING CHART

(e) LEVEL 5

Florida Statute	Felony Degree	Description
316.027 (2) (a)	3rd	Accidents involving personal injuries other than serious bodily injury, 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.
327.30 (5)	3rd	Vessel accidents involving personal injury; leaving scene.
379.367 (4)	3rd	Willful molestation of a commercial harvester's spiny lobster trap,

25-00506B-16

2016656__

line, or buoy.

261

379.3671
(2) (c) 3.

3rd

Willful molestation,
possession, or removal
of a commercial
harvester's trap
contents or trap gear by
another harvester.

262

381.0041 (11) (b)

3rd

Donate blood, plasma, or
organs knowing HIV
positive.

263

440.10 (1) (g)

2nd

Failure to obtain
workers' compensation
coverage.

264

440.105 (5)

2nd

Unlawful solicitation
for the purpose of
making workers'
compensation claims.

265

440.381 (2)

2nd

Submission of false,
misleading, or
incomplete information
with the purpose of
avoiding or reducing
workers' compensation
premiums.

25-00506B-16

2016656__

266

624.401 (4) (b) 2.

2nd

Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.

267

626.902 (1) (c)

2nd

Representing an unauthorized insurer; repeat offender.

268

790.01 (2)

3rd

Carrying a concealed firearm.

269

790.162

2nd

Threat to throw or discharge destructive device.

270

790.163 (1)

2nd

False report of deadly explosive or weapon of mass destruction.

271

790.221 (1)

2nd

Possession of short-barreled shotgun or machine gun.

272

790.23

2nd

Felons in possession of firearms, ammunition, or

25-00506B-16

2016656__

273
274
275
276
277
278
279

796.05 (1)

2nd

electronic weapons or devices.

Live on earnings of a prostitute; 1st offense.

800.04 (6) (c)

3rd

Lewd or lascivious conduct; offender less than 18 years of age.

800.04 (7) (b)

2nd

Lewd or lascivious exhibition; offender 18 years of age or older.

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.

812.015 (8)

3rd

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

25-00506B-16 2016656__

280	812.019(1)	2nd	Stolen property; dealing in or trafficking in.
281	812.131(2)(b)	3rd	Robbery by sudden snatching.
282	812.16(2)	3rd	Owning, operating, or conducting a chop shop.
283	817.034(4)(a)2.	2nd	Communications fraud, value \$20,000 to \$50,000.
284	817.234(11)(b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
285	817.2341(1), (2)(a) & (3)(a)	3rd	Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.
285	817.568(2)(b)	2nd	Fraudulent use of personal identification

25-00506B-16

2016656__

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 persons.

286

817.625 (2) (b)

2nd

Second or subsequent fraudulent use of scanning device or reencoder.

287

825.1025 (4)

3rd

Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.

288

827.071 (4)

2nd

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

289

827.071 (5)

3rd

Possess, control, or

25-00506B-16

2016656__

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

290

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.

291

843.01

3rd

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

292

847.0135 (5) (b)

2nd

Lewd or lascivious
 exhibition using
 computer; offender 18
 years or older.

293

847.0137
 (2) & (3)

3rd

Transmission of
 pornography by
 electronic device or
 equipment.

294

847.0138
 (2) & (3)

3rd

Transmission of material
 harmful to minors to a

25-00506B-16

2016656__

295

874.05 (1) (b)

2nd

minor by electronic device or equipment.

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

296

874.05 (2) (a)

2nd

Encouraging or recruiting person under 13 years of age to join a criminal gang.

297

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).

298

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

25-00506B-16

2016656__

1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.

299

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.

300

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.

301

25-00506B-16

2016656__

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.

302

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).

303

893.1351(1)

3rd

Ownership, lease, or rental for trafficking in or manufacturing of controlled substance.

304

305 Section 9. For the purpose of incorporating the amendment
 306 made by this act to section 847.0137, Florida Statutes, in a
 307 reference thereto, paragraph (a) of subsection (1) of section
 308 943.0435, Florida Statutes, is reenacted to read:

309 943.0435 Sexual offenders required to register with the
 310 department; penalty.-

25-00506B-16

2016656__

311 (1) As used in this section, the term:

312 (a)1. "Sexual offender" means a person who meets the
313 criteria in sub-subparagraph a., sub-subparagraph b., sub-
314 subparagraph c., or sub-subparagraph d., as follows:

315 a.(I) Has been convicted of committing, or attempting,
316 soliciting, or conspiring to commit, any of the criminal
317 offenses proscribed in the following statutes in this state or
318 similar offenses in another jurisdiction: s. 393.135(2); s.
319 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where
320 the victim is a minor and the defendant is not the victim's
321 parent or guardian; s. 787.06(3)(b), (d), (f), or (g); former s.
322 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s. 794.05;
323 former s. 796.03; former s. 796.035; s. 800.04; s. 810.145(8);
324 s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s.
325 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; s.
326 916.1075(2); or s. 985.701(1); or any similar offense committed
327 in this state which has been redesignated from a former statute
328 number to one of those listed in this sub-sub-subparagraph; and

329 (II) Has been released on or after October 1, 1997, from
330 the sanction imposed for any conviction of an offense described
331 in sub-sub-subparagraph (I). For purposes of sub-sub-
332 subparagraph (I), a sanction imposed in this state or in any
333 other jurisdiction includes, but is not limited to, a fine,
334 probation, community control, parole, conditional release,
335 control release, or incarceration in a state prison, federal
336 prison, private correctional facility, or local detention
337 facility;

338 b. Establishes or maintains a residence in this state and
339 who has not been designated as a sexual predator by a court of

25-00506B-16

2016656__

340 this state but who has been designated as a sexual predator, as
341 a sexually violent predator, or by another sexual offender
342 designation in another state or jurisdiction and was, as a
343 result of such designation, subjected to registration or
344 community or public notification, or both, or would be if the
345 person were a resident of that state or jurisdiction, without
346 regard to whether the person otherwise meets the criteria for
347 registration as a sexual offender;

348 c. Establishes or maintains a residence in this state who
349 is in the custody or control of, or under the supervision of,
350 any other state or jurisdiction as a result of a conviction for
351 committing, or attempting, soliciting, or conspiring to commit,
352 any of the criminal offenses proscribed in the following
353 statutes or similar offense in another jurisdiction: s.
354 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s.
355 787.025(2)(c), where the victim is a minor and the defendant is
356 not the victim's parent or guardian; s. 787.06(3)(b), (d), (f),
357 or (g); former s. 787.06(3)(h); s. 794.011, excluding s.
358 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s.
359 800.04; s. 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s.
360 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s.
361 847.0145; s. 916.1075(2); or s. 985.701(1); or any similar
362 offense committed in this state which has been redesignated from
363 a former statute number to one of those listed in this sub-
364 subparagraph; or

365 d. On or after July 1, 2007, has been adjudicated
366 delinquent for committing, or attempting, soliciting, or
367 conspiring to commit, any of the criminal offenses proscribed in
368 the following statutes in this state or similar offenses in

25-00506B-16

2016656__

369 another jurisdiction when the juvenile was 14 years of age or
370 older at the time of the offense:

371 (I) Section 794.011, excluding s. 794.011(10);

372 (II) Section 800.04(4)(a)2. where the victim is under 12
373 years of age or where the court finds sexual activity by the use
374 of force or coercion;

375 (III) Section 800.04(5)(c)1. where the court finds
376 molestation involving unclothed genitals; or

377 (IV) Section 800.04(5)(d) where the court finds the use of
378 force or coercion and unclothed genitals.

379 2. For all qualifying offenses listed in sub-subparagraph
380 (1)(a)1.d., the court shall make a written finding of the age of
381 the offender at the time of the offense.

382

383 For each violation of a qualifying offense listed in this
384 subsection, except for a violation of s. 794.011, the court
385 shall make a written finding of the age of the victim at the
386 time of the offense. For a violation of s. 800.04(4), the court
387 shall also make a written finding indicating whether the offense
388 involved sexual activity and indicating whether the offense
389 involved force or coercion. For a violation of s. 800.04(5), the
390 court shall also make a written finding that the offense did or
391 did not involve unclothed genitals or genital area and that the
392 offense did or did not involve the use of force or coercion.

393 Section 10. For the purpose of incorporating the amendment
394 made by this act to section 847.0137, Florida Statutes, in a
395 reference thereto, paragraph (b) of subsection (1) of section
396 944.606, Florida Statutes, is reenacted to read:

397 944.606 Sexual offenders; notification upon release.-

25-00506B-16

2016656__

398 (1) As used in this section:

399 (b) "Sexual offender" means a person who has been convicted
400 of committing, or attempting, soliciting, or conspiring to
401 commit, any of the criminal offenses proscribed in the following
402 statutes in this state or similar offenses in another
403 jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01, s.
404 787.02, or s. 787.025(2)(c), where the victim is a minor and the
405 defendant is not the victim's parent or guardian; s.
406 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s.
407 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03;
408 former s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; s.
409 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s.
410 847.0137; s. 847.0138; s. 847.0145; s. 916.1075(2); or s.
411 985.701(1); or any similar offense committed in this state which
412 has been redesignated from a former statute number to one of
413 those listed in this subsection, when the department has
414 received verified information regarding such conviction; an
415 offender's computerized criminal history record is not, in and
416 of itself, verified information.

417 Section 11. For the purpose of incorporating the amendment
418 made by this act to section 847.0137, Florida Statutes, in a
419 reference thereto, paragraph (a) of subsection (1) of section
420 944.607, Florida Statutes, is reenacted to read:

421 944.607 Notification to Department of Law Enforcement of
422 information on sexual offenders.—

423 (1) As used in this section, the term:

424 (a) "Sexual offender" means a person who is in the custody
425 or control of, or under the supervision of, the department or is
426 in the custody of a private correctional facility:

25-00506B-16

2016656__

427 1. On or after October 1, 1997, as a result of a conviction
428 for committing, or attempting, soliciting, or conspiring to
429 commit, any of the criminal offenses proscribed in the following
430 statutes in this state or similar offenses in another
431 jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01, s.
432 787.02, or s. 787.025(2)(c), where the victim is a minor and the
433 defendant is not the victim's parent or guardian; s.
434 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s.
435 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03;
436 former s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; s.
437 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s.
438 847.0137; s. 847.0138; s. 847.0145; s. 916.1075(2); or s.
439 985.701(1); or any similar offense committed in this state which
440 has been redesignated from a former statute number to one of
441 those listed in this paragraph; or

442 2. Who establishes or maintains a residence in this state
443 and who has not been designated as a sexual predator by a court
444 of this state but who has been designated as a sexual predator,
445 as a sexually violent predator, or by another sexual offender
446 designation in another state or jurisdiction and was, as a
447 result of such designation, subjected to registration or
448 community or public notification, or both, or would be if the
449 person were a resident of that state or jurisdiction, without
450 regard as to whether the person otherwise meets the criteria for
451 registration as a sexual offender.

452 Section 12. For the purpose of incorporating the amendment
453 made by this act to section 847.0137, Florida Statutes, in a
454 reference thereto, paragraph (e) of subsection (3) of section
455 960.03, Florida Statutes, is reenacted to read:

25-00506B-16

2016656__

456 960.03 Definitions; ss. 960.01-960.28.—As used in ss.
457 960.01-960.28, unless the context otherwise requires, the term:

458 (3) "Crime" means:

459 (e) A violation of s. 827.071, s. 847.0135, s. 847.0137, or
460 s. 847.0138, related to online sexual exploitation and child
461 pornography.

462 Section 13. For the purpose of incorporating the amendment
463 made by this act to section 847.0137, Florida Statutes, in a
464 reference thereto, subsection (1) of section 960.197, Florida
465 Statutes, is reenacted to read:

466 960.197 Assistance to victims of online sexual exploitation
467 and child pornography.—

468 (1) Notwithstanding the criteria set forth in s. 960.13 for
469 crime victim compensation awards, the department may award
470 compensation for counseling and other mental health services to
471 treat psychological injury or trauma to:

472 (a) A child younger than 18 years of age who suffers
473 psychiatric or psychological injury as a direct result of online
474 sexual exploitation under any provision of s. 827.071, s.
475 847.0135, s. 847.0137, or s. 847.0138, and who does not
476 otherwise sustain a personal injury or death; or

477 (b) Any person who, while younger than age 18, was depicted
478 in any image or movie, regardless of length, of child
479 pornography as defined in s. 847.001, who has been identified by
480 a law enforcement agency or the National Center for Missing and
481 Exploited Children as an identified victim of child pornography,
482 who suffers psychiatric or psychological injury as a direct
483 result of the crime, and who does not otherwise sustain a
484 personal injury or death.

25-00506B-16

2016656__

485 Section 14. For the purpose of incorporating the amendments
486 made by this act to sections 847.0135 and 847.0137, Florida
487 Statutes, in references thereto, subsection (1) of section
488 794.056, Florida Statutes, is reenacted to read:

489 794.056 Rape Crisis Program Trust Fund.—

490 (1) The Rape Crisis Program Trust Fund is created within
491 the Department of Health for the purpose of providing funds for
492 rape crisis centers in this state. Trust fund moneys shall be
493 used exclusively for the purpose of providing services for
494 victims of sexual assault. Funds credited to the trust fund
495 consist of those funds collected as an additional court
496 assessment in each case in which a defendant pleads guilty or
497 nolo contendere to, or is found guilty of, regardless of
498 adjudication, an offense provided in s. 775.21(6) and (10)(a),
499 (b), and (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s.
500 784.045; s. 784.048; s. 784.07; s. 784.08; s. 784.081; s.
501 784.082; s. 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); s.
502 787.025; s. 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08;
503 former s. 796.03; former s. 796.035; s. 796.04; s. 796.05; s.
504 796.06; s. 796.07(2)(a)-(d) and (i); s. 800.03; s. 800.04; s.
505 810.14; s. 810.145; s. 812.135; s. 817.025; s. 825.102; s.
506 825.1025; s. 827.071; s. 836.10; s. 847.0133; s. 847.0135(2); s.
507 847.0137; s. 847.0145; s. 943.0435(4)(c), (7), (8), (9)(a),
508 (13), and (14)(c); or s. 985.701(1). Funds credited to the trust
509 fund also shall include revenues provided by law, moneys
510 appropriated by the Legislature, and grants from public or
511 private entities.

512 Section 15. For the purpose of incorporating the amendments
513 made by this act to sections 847.0135 and 847.0137, Florida

25-00506B-16

2016656__

514 Statutes, in references thereto, section 938.085, Florida
515 Statutes, is reenacted to read:

516 938.085 Additional cost to fund rape crisis centers.—In
517 addition to any sanction imposed when a person pleads guilty or
518 nolo contendere to, or is found guilty of, regardless of
519 adjudication, a violation of s. 775.21(6) and (10)(a), (b), and
520 (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s. 784.045;
521 s. 784.048; s. 784.07; s. 784.08; s. 784.081; s. 784.082; s.
522 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); 787.025; s.
523 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08; former s.
524 796.03; former s. 796.035; s. 796.04; s. 796.05; s. 796.06; s.
525 796.07(2)(a)–(d) and (i); s. 800.03; s. 800.04; s. 810.14; s.
526 810.145; s. 812.135; s. 817.025; s. 825.102; s. 825.1025; s.
527 827.071; s. 836.10; s. 847.0133; s. 847.0135(2); s. 847.0137; s.
528 847.0145; s. 943.0435(4)(c), (7), (8), (9)(a), (13), and
529 (14)(c); or s. 985.701(1), the court shall impose a surcharge of
530 \$151. Payment of the surcharge shall be a condition of
531 probation, community control, or any other court-ordered
532 supervision. The sum of \$150 of the surcharge shall be deposited
533 into the Rape Crisis Program Trust Fund established within the
534 Department of Health by chapter 2003-140, Laws of Florida. The
535 clerk of the court shall retain \$1 of each surcharge that the
536 clerk of the court collects as a service charge of the clerk's
537 office.

538 Section 16. For the purpose of incorporating the amendments
539 made by this act to sections 847.0135 and 847.0137, Florida
540 Statutes, in references thereto, paragraph (c) of subsection (8)
541 of section 948.06, Florida Statutes, is reenacted to read:

542 948.06 Violation of probation or community control;

25-00506B-16

2016656__

543 revocation; modification; continuance; failure to pay
544 restitution or cost of supervision.—

545 (8)

546 (c) For purposes of this section, the term "qualifying
547 offense" means any of the following:

548 1. Kidnapping or attempted kidnapping under s. 787.01,
549 false imprisonment of a child under the age of 13 under s.
550 787.02(3), or luring or enticing a child under s. 787.025(2) (b)
551 or (c).

552 2. Murder or attempted murder under s. 782.04, attempted
553 felony murder under s. 782.051, or manslaughter under s. 782.07.

554 3. Aggravated battery or attempted aggravated battery under
555 s. 784.045.

556 4. Sexual battery or attempted sexual battery under s.
557 794.011(2), (3), (4), or (8) (b) or (c).

558 5. Lewd or lascivious battery or attempted lewd or
559 lascivious battery under s. 800.04(4), lewd or lascivious
560 molestation under s. 800.04(5) (b) or (c)2., lewd or lascivious
561 conduct under s. 800.04(6) (b), lewd or lascivious exhibition
562 under s. 800.04(7) (b), or lewd or lascivious exhibition on
563 computer under s. 847.0135(5) (b).

564 6. Robbery or attempted robbery under s. 812.13, carjacking
565 or attempted carjacking under s. 812.133, or home invasion
566 robbery or attempted home invasion robbery under s. 812.135.

567 7. Lewd or lascivious offense upon or in the presence of an
568 elderly or disabled person or attempted lewd or lascivious
569 offense upon or in the presence of an elderly or disabled person
570 under s. 825.1025.

571 8. Sexual performance by a child or attempted sexual

25-00506B-16

2016656__

572 performance by a child under s. 827.071.

573 9. Computer pornography under s. 847.0135(2) or (3),
574 transmission of child pornography under s. 847.0137, or selling
575 or buying of minors under s. 847.0145.

576 10. Poisoning food or water under s. 859.01.

577 11. Abuse of a dead human body under s. 872.06.

578 12. Any burglary offense or attempted burglary offense that
579 is either a first degree felony or second degree felony under s.
580 810.02(2) or (3).

581 13. Arson or attempted arson under s. 806.01(1).

582 14. Aggravated assault under s. 784.021.

583 15. Aggravated stalking under s. 784.048(3), (4), (5), or
584 (7).

585 16. Aircraft piracy under s. 860.16.

586 17. Unlawful throwing, placing, or discharging of a
587 destructive device or bomb under s. 790.161(2), (3), or (4).

588 18. Treason under s. 876.32.

589 19. Any offense committed in another jurisdiction which
590 would be an offense listed in this paragraph if that offense had
591 been committed in this state.

592 Section 17. This act shall take effect October 1, 2016.