

By Senator Book

32-00510-18

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1 A bill to be entitled
2 An act relating to prohibited acts in connection with
3 obscene or lewd materials; amending s. 847.011, F.S.;
4 prohibiting a person from knowingly selling, lending,
5 giving away, distributing, transmitting, showing, or
6 transmuting; offering to commit such actions; having
7 in his or her possession, custody, or control with the
8 intent to commit such actions; or advertising in any
9 manner, an obscene child-like sex doll; providing
10 criminal penalties; reenacting ss. 772.102(1)(a),
11 847.02, 847.03, 847.09(2), 895.02(8)(a),
12 921.0022(3)(f), 933.02(2), 933.03, and 943.325(2)(g),
13 F.S., relating to the definition of the term "criminal
14 activity," the confiscation of obscene material, an
15 officer seizing obscene material, legislative intent,
16 the definition of the term "racketeering activity,"
17 level 6 of the offense severity ranking chart, grounds
18 for the issuance of a search warrant, destruction of
19 obscene prints and literature, and the definition of
20 the term "qualifying offender," respectively, to
21 incorporate the amendment made to s. 847.011, F.S., in
22 references thereto; providing an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. Present subsections (5) through (10) of section
27 847.011, Florida Statutes, are redesignated as subsections (6)
28 through (11), respectively, and a new subsection (5) is added to
29 that section, to read:

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30 847.011 Prohibition of certain acts in connection with
31 obscene, lewd, etc., materials; penalty.—

32 (5) (a) A person may not knowingly sell, lend, give away,
33 distribute, transmit, show, or transmute; offer to sell, lend,
34 give away, distribute, transmit, show, or transmute; have in his
35 or her possession, custody, or control with the intent to sell,
36 lend, give away, distribute, transmit, show, or transmute; or
37 advertise in any manner an obscene child-like sex doll. A person
38 who violates this paragraph commits a misdemeanor of the first
39 degree, punishable as provided in s. 775.082 or s. 775.083.

40 (b) A person who is convicted of violating paragraph (a) a
41 second or subsequent time commits a felony of the third degree,
42 punishable as provided in s. 775.082, 775.083, or 775.084.

43 Section 2. For the purpose of incorporating the amendment
44 made by this act to section 847.011, Florida Statutes, in a
45 reference thereto, paragraph (a) of subsection (1) of section
46 772.102, Florida Statutes, is reenacted to read:

47 772.102 Definitions.—As used in this chapter, the term:

48 (1) "Criminal activity" means to commit, to attempt to
49 commit, to conspire to commit, or to solicit, coerce, or
50 intimidate another person to commit:

51 (a) Any crime that is chargeable by indictment or
52 information under the following provisions:

53 1. Section 210.18, relating to evasion of payment of
54 cigarette taxes.

55 2. Section 414.39, relating to public assistance fraud.

56 3. Section 440.105 or s. 440.106, relating to workers'
57 compensation.

58 4. Part IV of chapter 501, relating to telemarketing.

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- 59 5. Chapter 517, relating to securities transactions.
- 60 6. Section 550.235 or s. 550.3551, relating to dogracing
61 and horseracing.
- 62 7. Chapter 550, relating to jai alai frontons.
- 63 8. Chapter 552, relating to the manufacture, distribution,
64 and use of explosives.
- 65 9. Chapter 562, relating to beverage law enforcement.
- 66 10. Section 624.401, relating to transacting insurance
67 without a certificate of authority, s. 624.437(4)(c)1., relating
68 to operating an unauthorized multiple-employer welfare
69 arrangement, or s. 626.902(1)(b), relating to representing or
70 aiding an unauthorized insurer.
- 71 11. Chapter 687, relating to interest and usurious
72 practices.
- 73 12. Section 721.08, s. 721.09, or s. 721.13, relating to
74 real estate timeshare plans.
- 75 13. Chapter 782, relating to homicide.
- 76 14. Chapter 784, relating to assault and battery.
- 77 15. Chapter 787, relating to kidnapping or human
78 trafficking.
- 79 16. Chapter 790, relating to weapons and firearms.
- 80 17. Former s. 796.03, s. 796.04, s. 796.05, or s. 796.07,
81 relating to prostitution.
- 82 18. Chapter 806, relating to arson.
- 83 19. Section 810.02(2)(c), relating to specified burglary of
84 a dwelling or structure.
- 85 20. Chapter 812, relating to theft, robbery, and related
86 crimes.
- 87 21. Chapter 815, relating to computer-related crimes.

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88 22. Chapter 817, relating to fraudulent practices, false
89 pretenses, fraud generally, and credit card crimes.

90 23. Section 827.071, relating to commercial sexual
91 exploitation of children.

92 24. Chapter 831, relating to forgery and counterfeiting.

93 25. Chapter 832, relating to issuance of worthless checks
94 and drafts.

95 26. Section 836.05, relating to extortion.

96 27. Chapter 837, relating to perjury.

97 28. Chapter 838, relating to bribery and misuse of public
98 office.

99 29. Chapter 843, relating to obstruction of justice.

100 30. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or
101 s. 847.07, relating to obscene literature and profanity.

102 31. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s.
103 849.25, relating to gambling.

104 32. Chapter 893, relating to drug abuse prevention and
105 control.

106 33. Section 914.22 or s. 914.23, relating to witnesses,
107 victims, or informants.

108 34. Section 918.12 or s. 918.13, relating to tampering with
109 jurors and evidence.

110 Section 3. For the purpose of incorporating the amendment
111 made by this act to section 847.011, Florida Statutes, in a
112 reference thereto, section 847.02, Florida Statutes, is
113 reenacted to read:

114 847.02 Confiscation of obscene material.—Whenever anyone is
115 convicted under s. 847.011, the court in awarding sentence shall
116 make an order confiscating said obscene material and authorize

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117 the sheriff of the county in which the material is held to
118 destroy the same. The sheriff shall file with the court a
119 certificate of his or her compliance.

120 Section 4. For the purpose of incorporating the amendment
121 made by this act to section 847.011, Florida Statutes, in a
122 reference thereto, section 847.03, Florida Statutes, is
123 reenacted to read:

124 847.03 Officer to seize obscene material.—Whenever any
125 officer arrests any person charged with any offense under s.
126 847.011, the officer shall seize said obscene material and take
127 the same into his or her custody to await the sentence of the
128 court upon the trial of the offender.

129 Section 5. For the purpose of incorporating the amendment
130 made by this act to section 847.011, Florida Statutes, in a
131 reference thereto, subsection (2) of section 847.09, Florida
132 Statutes, is reenacted to read:

133 847.09 Legislative intent.—

134 (2) Nothing in ss. 847.07-847.09 shall be construed to
135 repeal or in any way supersede the provisions of s. 847.011, s.
136 847.012, or s. 847.013.

137 Section 6. For the purpose of incorporating the amendment
138 made by this act to section 847.011, Florida Statutes, in a
139 reference thereto, paragraph (a) of subsection (8) of section
140 895.02, Florida Statutes, is reenacted to read:

141 895.02 Definitions.—As used in ss. 895.01-895.08, the term:

142 (8) "Racketeering activity" means to commit, to attempt to
143 commit, to conspire to commit, or to solicit, coerce, or
144 intimidate another person to commit:

145 (a) Any crime that is chargeable by petition, indictment,

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146 or information under the following provisions of the Florida
147 Statutes:

- 148 1. Section 210.18, relating to evasion of payment of
149 cigarette taxes.
- 150 2. Section 316.1935, relating to fleeing or attempting to
151 elude a law enforcement officer and aggravated fleeing or
152 eluding.
- 153 3. Section 403.727(3)(b), relating to environmental
154 control.
- 155 4. Section 409.920 or s. 409.9201, relating to Medicaid
156 fraud.
- 157 5. Section 414.39, relating to public assistance fraud.
- 158 6. Section 440.105 or s. 440.106, relating to workers'
159 compensation.
- 160 7. Section 443.071(4), relating to creation of a fictitious
161 employer scheme to commit reemployment assistance fraud.
- 162 8. Section 465.0161, relating to distribution of medicinal
163 drugs without a permit as an Internet pharmacy.
- 164 9. Section 499.0051, relating to crimes involving
165 contraband, adulterated, or misbranded drugs.
- 166 10. Part IV of chapter 501, relating to telemarketing.
- 167 11. Chapter 517, relating to sale of securities and
168 investor protection.
- 169 12. Section 550.235 or s. 550.3551, relating to dogracing
170 and horseracing.
- 171 13. Chapter 550, relating to jai alai frontons.
- 172 14. Section 551.109, relating to slot machine gaming.
- 173 15. Chapter 552, relating to the manufacture, distribution,
174 and use of explosives.

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- 175 16. Chapter 560, relating to money transmitters, if the
176 violation is punishable as a felony.
- 177 17. Chapter 562, relating to beverage law enforcement.
- 178 18. Section 624.401, relating to transacting insurance
179 without a certificate of authority, s. 624.437(4)(c)1., relating
180 to operating an unauthorized multiple-employer welfare
181 arrangement, or s. 626.902(1)(b), relating to representing or
182 aiding an unauthorized insurer.
- 183 19. Section 655.50, relating to reports of currency
184 transactions, when such violation is punishable as a felony.
- 185 20. Chapter 687, relating to interest and usurious
186 practices.
- 187 21. Section 721.08, s. 721.09, or s. 721.13, relating to
188 real estate timeshare plans.
- 189 22. Section 775.13(5)(b), relating to registration of
190 persons found to have committed any offense for the purpose of
191 benefiting, promoting, or furthering the interests of a criminal
192 gang.
- 193 23. Section 777.03, relating to commission of crimes by
194 accessories after the fact.
- 195 24. Chapter 782, relating to homicide.
- 196 25. Chapter 784, relating to assault and battery.
- 197 26. Chapter 787, relating to kidnapping or human
198 trafficking.
- 199 27. Chapter 790, relating to weapons and firearms.
- 200 28. Chapter 794, relating to sexual battery, but only if
201 such crime was committed with the intent to benefit, promote, or
202 further the interests of a criminal gang, or for the purpose of
203 increasing a criminal gang member's own standing or position

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204 within a criminal gang.

205 29. Former s. 796.03, former s. 796.035, s. 796.04, s.

206 796.05, or s. 796.07, relating to prostitution.

207 30. Chapter 806, relating to arson and criminal mischief.

208 31. Chapter 810, relating to burglary and trespass.

209 32. Chapter 812, relating to theft, robbery, and related

210 crimes.

211 33. Chapter 815, relating to computer-related crimes.

212 34. Chapter 817, relating to fraudulent practices, false

213 pretenses, fraud generally, credit card crimes, and patient

214 brokering.

215 35. Chapter 825, relating to abuse, neglect, or

216 exploitation of an elderly person or disabled adult.

217 36. Section 827.071, relating to commercial sexual

218 exploitation of children.

219 37. Section 828.122, relating to fighting or baiting

220 animals.

221 38. Chapter 831, relating to forgery and counterfeiting.

222 39. Chapter 832, relating to issuance of worthless checks

223 and drafts.

224 40. Section 836.05, relating to extortion.

225 41. Chapter 837, relating to perjury.

226 42. Chapter 838, relating to bribery and misuse of public

227 office.

228 43. Chapter 843, relating to obstruction of justice.

229 44. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or

230 s. 847.07, relating to obscene literature and profanity.

231 45. Chapter 849, relating to gambling, lottery, gambling or

232 gaming devices, slot machines, or any of the provisions within

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233 that chapter.

234 46. Chapter 874, relating to criminal gangs.

235 47. Chapter 893, relating to drug abuse prevention and
236 control.

237 48. Chapter 896, relating to offenses related to financial
238 transactions.

239 49. Sections 914.22 and 914.23, relating to tampering with
240 or harassing a witness, victim, or informant, and retaliation
241 against a witness, victim, or informant.

242 50. Sections 918.12 and 918.13, relating to tampering with
243 jurors and evidence.

244 Section 7. For the purpose of incorporating the amendment
245 made by this act to section 847.011, Florida Statutes, in a
246 reference thereto, paragraph (f) of subsection (3) of section
247 921.0022, Florida Statutes, is reenacted to read:

248 921.0022 Criminal Punishment Code; offense severity ranking
249 chart.—

250 (3) OFFENSE SEVERITY RANKING CHART

251 (f) LEVEL 6

252

Florida Statute	Felony Degree	Description
316.027(2)(b)	2nd	Leaving the scene of a crash involving serious bodily injury.
316.193(2)(b)	3rd	Felony DUI, 4th or subsequent conviction.

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400.9935 (4) (c) 2nd Operating a clinic, or offering services requiring licensure, without a license.

256

499.0051 (2) 2nd Knowing forgery of transaction history, transaction information, or transaction statement.

257

499.0051 (3) 2nd Knowing purchase or receipt of prescription drug from unauthorized person.

258

499.0051 (4) 2nd Knowing sale or transfer of prescription drug to unauthorized person.

259

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

260

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

261

784.021 (1) (b) 3rd Aggravated assault;

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intent to commit felony.

262

784.041

3rd

Felony battery; domestic battery by strangulation.

263

784.048 (3)

3rd

Aggravated stalking; credible threat.

264

784.048 (5)

3rd

Aggravated stalking of person under 16.

265

784.07 (2) (c)

2nd

Aggravated assault on law enforcement officer.

266

784.074 (1) (b)

2nd

Aggravated assault on sexually violent predators facility staff.

267

784.08 (2) (b)

2nd

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

268

784.081 (2)

2nd

Aggravated assault on specified official or employee.

269

784.082 (2)

2nd

Aggravated assault by

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detained person on
visitor or other
detainee.

270

784.083 (2)

2nd

Aggravated assault on
code inspector.

271

787.02 (2)

3rd

False imprisonment;
restraining with purpose
other than those in s.
787.01.

272

790.115 (2) (d)

2nd

Discharging firearm or
weapon on school
property.

273

790.161 (2)

2nd

Make, possess, or throw
destructive device with
intent to do bodily harm
or damage property.

274

790.164 (1)

2nd

False report concerning
bomb, explosive, weapon
of mass destruction, act
of arson or violence to
state property, or use
of firearms in violent
manner.

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	790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.
276	794.011 (8) (a)	3rd	Solicitation of minor to participate in sexual activity by custodial adult.
277	794.05 (1)	2nd	Unlawful sexual activity with specified minor.
278	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.
279	800.04 (6) (b)	2nd	Lewd or lascivious conduct; offender 18 years of age or older.
280	806.031 (2)	2nd	Arson resulting in great bodily harm to firefighter or any other person.
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282	810.02 (3) (c)	2nd	Burglary of occupied structure; unarmed; no assault or battery.
283	810.145 (8) (b)	2nd	Video voyeurism; certain minor victims; 2nd or subsequent offense.
284	812.014 (2) (b) 1.	2nd	Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree.
285	812.014 (6)	2nd	Theft; property stolen \$3,000 or more; coordination of others.
286	812.015 (9) (a)	2nd	Retail theft; property stolen \$300 or more; second or subsequent conviction.
287	812.015 (9) (b)	2nd	Retail theft; property stolen \$3,000 or more; coordination of others.
	812.13 (2) (c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).

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817.4821 (5)

2nd

Possess cloning paraphernalia with intent to create cloned cellular telephones.

817.505 (4) (b)

2nd

Patient brokering; 10 or more patients.

825.102 (1)

3rd

Abuse of an elderly person or disabled adult.

825.102 (3) (c)

3rd

Neglect of an elderly person or disabled adult.

825.1025 (3)

3rd

Lewd or lascivious molestation of an elderly person or disabled adult.

825.103 (3) (c)

3rd

Exploiting an elderly person or disabled adult and property is valued at less than \$10,000.

827.03 (2) (c)

3rd

Abuse of a child.

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296	827.03(2)(d)	3rd	Neglect of a child.
297	827.071(2) & (3)	2nd	Use or induce a child in a sexual performance, or promote or direct such performance.
298	836.05	2nd	Threats; extortion.
299	836.10	2nd	Written threats to kill or do bodily injury.
300	843.12	3rd	Aids or assists person to escape.
301	847.011	3rd	Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors.
302	847.012	3rd	Knowingly using a minor in the production of materials harmful to minors.
	847.0135(2)	3rd	Facilitates sexual conduct of or with a

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minor or the visual
 depiction of such
 conduct.

303

914.23

2nd

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

304

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.

305

944.40

2nd

Escapes.

306

944.46

3rd

Harboring, concealing,
 aiding escaped
 prisoners.

307

944.47 (1) (a) 5.

2nd

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

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308

951.22 (1) 3rd Intoxicating drug,
firearm, or weapon
introduced into county
facility.

309

310

311 Section 8. For the purpose of incorporating the amendment
312 made by this act to section 847.011, Florida Statutes, in a
313 reference thereto, subsection (2) of section 933.02, Florida
314 Statutes, is reenacted to read:

315 933.02 Grounds for issuance of search warrant.—Upon proper
316 affidavits being made, a search warrant may be issued under the
317 provisions of this chapter upon any of the following grounds:

318 (2) When any property shall have been used:

319 (a) As a means to commit any crime;

320 (b) In connection with gambling, gambling implements and
321 appliances; or

322 (c) In violation of s. 847.011 or other laws in reference
323 to obscene prints and literature;

324

325 This section also applies to any papers or documents used as a
326 means of or in aid of the commission of any offense against the
327 laws of the state.

328 Section 9. For the purpose of incorporating the amendment
329 made by this act to section 847.011, Florida Statutes, in a
330 reference thereto, section 933.03, Florida Statutes, is
331 reenacted to read:

332 933.03 Destruction of obscene prints and literature.—All

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333 obscene prints and literature, or other things mentioned in s.
334 847.011 found by an officer in executing a search warrant, or
335 produced or brought into court, shall be safely kept so long as
336 is necessary for the purpose of being used as evidence in any
337 case, and as soon as may be afterwards, shall be destroyed by
338 order of the court before whom the case is brought.

339 Section 10. For the purpose of incorporating the amendment
340 made by this act to section 847.011, Florida Statutes, in a
341 reference thereto, paragraph (g) of subsection (2) of section
342 943.325, Florida Statutes, is reenacted to read:

343 943.325 DNA database.—

344 (2) DEFINITIONS.—As used in this section, the term:

345 (g) "Qualifying offender" means any person, including
346 juveniles and adults, who is:

347 1.a. Committed to a county jail;

348 b. Committed to or under the supervision of the Department
349 of Corrections, including persons incarcerated in a private
350 correctional institution operated under contract pursuant to s.
351 944.105;

352 c. Committed to or under the supervision of the Department
353 of Juvenile Justice;

354 d. Transferred to this state under the Interstate Compact
355 on Juveniles, part XIII of chapter 985; or

356 e. Accepted under Article IV of the Interstate Corrections
357 Compact, part III of chapter 941; and who is:

358 2.a. Convicted of any felony offense or attempted felony
359 offense in this state or of a similar offense in another
360 jurisdiction;

361 b. Convicted of a misdemeanor violation of s. 784.048, s.

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362 810.14, s. 847.011, s. 847.013, s. 847.0135, or s. 877.26, or an
363 offense that was found, pursuant to s. 874.04, to have been
364 committed for the purpose of benefiting, promoting, or
365 furthering the interests of a criminal gang as defined in s.
366 874.03; or

367 c. Arrested for any felony offense or attempted felony
368 offense in this state.

369 Section 11. This act shall take effect October 1, 2018.