

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; prohibiting a person from  
11 knowingly having in his or her possession, custody, or  
12 control an obscene, child-like sex doll; providing  
13 criminal penalties; reenacting ss. 772.102(1)(a),  
14 847.02, 847.03, 847.09(2), 895.02(8)(a),  
15 921.0022(3)(f), 933.02, 933.03, and 943.325(2)(g),  
16 F.S., relating to the definition of the term "criminal  
17 activity," the confiscation of obscene material, an  
18 officer seizing obscene material, legislative intent,  
19 the definition of the term "racketeering activity,"  
20 level 6 of the offense severity ranking chart, grounds  
21 for the issuance of a search warrant, destruction of  
22 obscene prints and literature, and the definition of  
23 the term "qualifying offender," respectively, to  
24 incorporate the amendment made to s. 847.011, F.S., in  
25 references thereto; providing an effective date.

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

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

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

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

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

(c) A person who knowingly has in his or her possession, custody, or control an obscene, child-like sex doll commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. A person who, after having been convicted

51 of violating this subsection, thereafter violates any of its  
52 provisions commits a misdemeanor of the first degree, punishable  
53 as provided in s. 775.082 or s. 775.083.

54 Section 2. For the purpose of incorporating the amendment  
55 made by this act to section 847.011, Florida Statutes, in a  
56 reference thereto, paragraph (a) of subsection (1) of section  
57 772.102, Florida Statutes, is reenacted to read:

58 772.102 Definitions.—As used in this chapter, the term:

59 (1) "Criminal activity" means to commit, to attempt to  
60 commit, to conspire to commit, or to solicit, coerce, or  
61 intimidate another person to commit:

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

64 1. Section 210.18, relating to evasion of payment of  
65 cigarette taxes.

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

67 3. Section 440.105 or s. 440.106, relating to workers'  
68 compensation.

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

70 5. Chapter 517, relating to securities transactions.

71 6. Section 550.235 or s. 550.3551, relating to dogracing  
72 and horseracing.

73 7. Chapter 550, relating to jai alai frontons.

74 8. Chapter 552, relating to the manufacture, distribution,  
75 and use of explosives.

- 76           9. Chapter 562, relating to beverage law enforcement.
- 77           10. Section 624.401, relating to transacting insurance
- 78 without a certificate of authority, s. 624.437(4)(c)1., relating
- 79 to operating an unauthorized multiple-employer welfare
- 80 arrangement, or s. 626.902(1)(b), relating to representing or
- 81 aiding an unauthorized insurer.
- 82           11. Chapter 687, relating to interest and usurious
- 83 practices.
- 84           12. Section 721.08, s. 721.09, or s. 721.13, relating to
- 85 real estate timeshare plans.
- 86           13. Chapter 782, relating to homicide.
- 87           14. Chapter 784, relating to assault and battery.
- 88           15. Chapter 787, relating to kidnapping or human
- 89 trafficking.
- 90           16. Chapter 790, relating to weapons and firearms.
- 91           17. Former s. 796.03, s. 796.04, s. 796.05, or s. 796.07,
- 92 relating to prostitution.
- 93           18. Chapter 806, relating to arson.
- 94           19. Section 810.02(2)(c), relating to specified burglary
- 95 of a dwelling or structure.
- 96           20. Chapter 812, relating to theft, robbery, and related
- 97 crimes.
- 98           21. Chapter 815, relating to computer-related crimes.
- 99           22. Chapter 817, relating to fraudulent practices, false
- 100 pretenses, fraud generally, and credit card crimes.

- 101           23. Section 827.071, relating to commercial sexual  
 102 exploitation of children.
- 103           24. Chapter 831, relating to forgery and counterfeiting.
- 104           25. Chapter 832, relating to issuance of worthless checks  
 105 and drafts.
- 106           26. Section 836.05, relating to extortion.
- 107           27. Chapter 837, relating to perjury.
- 108           28. Chapter 838, relating to bribery and misuse of public  
 109 office.
- 110           29. Chapter 843, relating to obstruction of justice.
- 111           30. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or  
 112 s. 847.07, relating to obscene literature and profanity.
- 113           31. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s.  
 114 849.25, relating to gambling.
- 115           32. Chapter 893, relating to drug abuse prevention and  
 116 control.
- 117           33. Section 914.22 or s. 914.23, relating to witnesses,  
 118 victims, or informants.
- 119           34. Section 918.12 or s. 918.13, relating to tampering  
 120 with jurors and evidence.
- 121           Section 3. For the purpose of incorporating the amendment  
 122 made by this act to section 847.011, Florida Statutes, in a  
 123 reference thereto, section 847.02, Florida Statutes, is  
 124 reenacted to read:
- 125           847.02 Confiscation of obscene material.—Whenever anyone

126 | is convicted under s. 847.011, the court in awarding sentence  
 127 | shall make an order confiscating said obscene material and  
 128 | authorize the sheriff of the county in which the material is  
 129 | held to destroy the same. The sheriff shall file with the court  
 130 | a certificate of his or her compliance.

131 |       Section 4. For the purpose of incorporating the amendment  
 132 | made by this act to section 847.011, Florida Statutes, in a  
 133 | reference thereto, section 847.03, Florida Statutes, is  
 134 | reenacted to read:

135 |       847.03 Officer to seize obscene material.—Whenever any  
 136 | officer arrests any person charged with any offense under s.  
 137 | 847.011, the officer shall seize said obscene material and take  
 138 | the same into his or her custody to await the sentence of the  
 139 | court upon the trial of the offender.

140 |       Section 5. For the purpose of incorporating the amendment  
 141 | made by this act to section 847.011, Florida Statutes, in a  
 142 | reference thereto, subsection (2) of section 847.09, Florida  
 143 | Statutes, is reenacted to read:

144 |       847.09 Legislative intent.—

145 |       (2) Nothing in ss. 847.07–847.09 shall be construed to  
 146 | repeal or in any way supersede the provisions of s. 847.011, s.  
 147 | 847.012, or s. 847.013.

148 |       Section 6. For the purpose of incorporating the amendment  
 149 | made by this act to section 847.011, Florida Statutes, in a  
 150 | reference thereto, paragraph (a) of subsection (8) of section

151 895.02, Florida Statutes, is reenacted to read:

152 895.02 Definitions.—As used in ss. 895.01-895.08, the  
153 term:

154 (8) "Racketeering activity" means to commit, to attempt to  
155 commit, to conspire to commit, or to solicit, coerce, or  
156 intimidate another person to commit:

157 (a) Any crime that is chargeable by petition, indictment,  
158 or information under the following provisions of the Florida  
159 Statutes:

160 1. Section 210.18, relating to evasion of payment of  
161 cigarette taxes.

162 2. Section 316.1935, relating to fleeing or attempting to  
163 elude a law enforcement officer and aggravated fleeing or  
164 eluding.

165 3. Section 403.727(3)(b), relating to environmental  
166 control.

167 4. Section 409.920 or s. 409.9201, relating to Medicaid  
168 fraud.

169 5. Section 414.39, relating to public assistance fraud.

170 6. Section 440.105 or s. 440.106, relating to workers'  
171 compensation.

172 7. Section 443.071(4), relating to creation of a  
173 fictitious employer scheme to commit reemployment assistance  
174 fraud.

175 8. Section 465.0161, relating to distribution of medicinal

176 | drugs without a permit as an Internet pharmacy.  
 177 |       9. Section 499.0051, relating to crimes involving  
 178 | contraband, adulterated, or misbranded drugs.  
 179 |       10. Part IV of chapter 501, relating to telemarketing.  
 180 |       11. Chapter 517, relating to sale of securities and  
 181 | investor protection.  
 182 |       12. Section 550.235 or s. 550.3551, relating to dogracing  
 183 | and horseracing.  
 184 |       13. Chapter 550, relating to jai alai frontons.  
 185 |       14. Section 551.109, relating to slot machine gaming.  
 186 |       15. Chapter 552, relating to the manufacture,  
 187 | distribution, and use of explosives.  
 188 |       16. Chapter 560, relating to money transmitters, if the  
 189 | violation is punishable as a felony.  
 190 |       17. Chapter 562, relating to beverage law enforcement.  
 191 |       18. Section 624.401, relating to transacting insurance  
 192 | without a certificate of authority, s. 624.437(4)(c)1., relating  
 193 | to operating an unauthorized multiple-employer welfare  
 194 | arrangement, or s. 626.902(1)(b), relating to representing or  
 195 | aiding an unauthorized insurer.  
 196 |       19. Section 655.50, relating to reports of currency  
 197 | transactions, when such violation is punishable as a felony.  
 198 |       20. Chapter 687, relating to interest and usurious  
 199 | practices.  
 200 |       21. Section 721.08, s. 721.09, or s. 721.13, relating to



201 real estate timeshare plans.

202 22. Section 775.13(5)(b), relating to registration of  
 203 persons found to have committed any offense for the purpose of  
 204 benefiting, promoting, or furthering the interests of a criminal  
 205 gang.

206 23. Section 777.03, relating to commission of crimes by  
 207 accessories after the fact.

208 24. Chapter 782, relating to homicide.

209 25. Chapter 784, relating to assault and battery.

210 26. Chapter 787, relating to kidnapping or human  
 211 trafficking.

212 27. Chapter 790, relating to weapons and firearms.

213 28. Chapter 794, relating to sexual battery, but only if  
 214 such crime was committed with the intent to benefit, promote, or  
 215 further the interests of a criminal gang, or for the purpose of  
 216 increasing a criminal gang member's own standing or position  
 217 within a criminal gang.

218 29. Former s. 796.03, former s. 796.035, s. 796.04, s.  
 219 796.05, or s. 796.07, relating to prostitution.

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

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

222 32. Chapter 812, relating to theft, robbery, and related  
 223 crimes.

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

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

226 | pretenses, fraud generally, credit card crimes, and patient  
 227 | brokering.

228 |       35. Chapter 825, relating to abuse, neglect, or  
 229 | exploitation of an elderly person or disabled adult.

230 |       36. Section 827.071, relating to commercial sexual  
 231 | exploitation of children.

232 |       37. Section 828.122, relating to fighting or baiting  
 233 | animals.

234 |       38. Chapter 831, relating to forgery and counterfeiting.

235 |       39. Chapter 832, relating to issuance of worthless checks  
 236 | and drafts.

237 |       40. Section 836.05, relating to extortion.

238 |       41. Chapter 837, relating to perjury.

239 |       42. Chapter 838, relating to bribery and misuse of public  
 240 | office.

241 |       43. Chapter 843, relating to obstruction of justice.

242 |       44. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or  
 243 | s. 847.07, relating to obscene literature and profanity.

244 |       45. Chapter 849, relating to gambling, lottery, gambling  
 245 | or gaming devices, slot machines, or any of the provisions  
 246 | within that chapter.

247 |       46. Chapter 874, relating to criminal gangs.

248 |       47. Chapter 893, relating to drug abuse prevention and  
 249 | control.

250 |       48. Chapter 896, relating to offenses related to financial

251 transactions.

252 49. Sections 914.22 and 914.23, relating to tampering with  
 253 or harassing a witness, victim, or informant, and retaliation  
 254 against a witness, victim, or informant.

255 50. Sections 918.12 and 918.13, relating to tampering with  
 256 jurors and evidence.

257 Section 7. For the purpose of incorporating the amendment  
 258 made by this act to section 847.011, Florida Statutes, in a  
 259 reference thereto, paragraph (f) of subsection (3) of section  
 260 921.0022, Florida Statutes, is reenacted to read:

261 921.0022 Criminal Punishment Code; offense severity  
 262 ranking chart.—

263 (3) OFFENSE SEVERITY RANKING CHART

264 (f) LEVEL 6

265

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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269	400.9935 (4) (c)	2nd	Operating a clinic, or offering services requiring licensure, without a license.
270	499.0051 (2)	2nd	Knowing forgery of transaction history, transaction information, or transaction statement.
271	499.0051 (3)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.
272	499.0051 (4)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.
273	775.0875 (1)	3rd	Taking firearm from law enforcement officer.
274	784.021 (1) (a)	3rd	Aggravated assault; deadly weapon without intent to kill.

275	784.021 (1) (b)	3rd	Aggravated assault; intent to commit felony.
276	784.041	3rd	Felony battery; domestic battery by strangulation.
277	784.048 (3)	3rd	Aggravated stalking; credible threat.
278	784.048 (5)	3rd	Aggravated stalking of person under 16.
279	784.07 (2) (c)	2nd	Aggravated assault on law enforcement officer.
280	784.074 (1) (b)	2nd	Aggravated assault on sexually violent predators facility staff.
281	784.08 (2) (b)	2nd	Aggravated assault on a person 65 years of age or older.

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282	784.081 (2)	2nd	Aggravated assault on specified official or employee.
283	784.082 (2)	2nd	Aggravated assault by detained person on visitor or other detainee.
284	784.083 (2)	2nd	Aggravated assault on code inspector.
285	787.02 (2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
286	790.115 (2) (d)	2nd	Discharging firearm or weapon on school property.
287	790.161 (2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property.
	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.

288

790.19

2nd

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

289

794.011 (8) (a)

3rd

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

290

794.05 (1)

2nd

Unlawful sexual activity with specified minor.

291

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.

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293	800.04 (6) (b)	2nd	Lewd or lascivious conduct; offender 18 years of age or older.
294	806.031 (2)	2nd	Arson resulting in great bodily harm to firefighter or any other person.
295	810.02 (3) (c)	2nd	Burglary of occupied structure; unarmed; no assault or battery.
296	810.145 (8) (b)	2nd	Video voyeurism; certain minor victims; 2nd or subsequent offense.
297	812.014 (2) (b) 1.	2nd	Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree.
	812.014 (6)	2nd	Theft; property stolen \$3,000 or more; coordination



of others.

298

812.015 (9) (a)

2nd

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

299

812.015 (9) (b)

2nd

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

300

812.13 (2) (c)

2nd

Robbery, no firearm or  
other weapon (strong-  
arm robbery).

301

817.4821 (5)

2nd

Possess cloning paraphernalia  
with intent to create cloned  
cellular telephones.

302

817.505 (4) (b)

2nd

Patient brokering; 10  
or more patients.

303

825.102 (1)

3rd

Abuse of an elderly  
person or disabled  
adult.

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304	825.102 (3) (c)	3rd	Neglect of an elderly person or disabled adult.
305	825.1025 (3)	3rd	Lewd or lascivious molestation of an elderly person or disabled adult.
306	825.103 (3) (c)	3rd	Exploiting an elderly person or disabled adult and property is valued at less than \$10,000.
307	827.03 (2) (c)	3rd	Abuse of a child.
308	827.03 (2) (d)	3rd	Neglect of a child.
309	827.071 (2) & (3)	2nd	Use or induce a child in a sexual performance, or promote or direct such performance.
310	836.05	2nd	Threats; extortion.

311	836.10	2nd	Written threats to kill, do bodily injury, or conduct a mass shooting or an act of terrorism.
312	843.12	3rd	Aids or assists person to escape.
313	847.011	3rd	Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors.
314	847.012	3rd	Knowingly using a minor in the production of materials harmful to minors.
315	847.0135(2)	3rd	Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.
316	914.23	2nd	Retaliation against a witness, victim, or informant, with

317	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.
318	944.40	2nd	Escapes.
319	944.46	3rd	Harboring, concealing, aiding escaped prisoners.
320	944.47 (1) (a) 5.	2nd	Introduction of contraband (firearm, weapon, or explosive) into correctional facility.
321	951.22 (1)	3rd	Intoxicating drug, firearm, or weapon introduced into county facility.

322  
 323           Section 8. For the purpose of incorporating the amendment  
 324 made by this act to section 847.011, Florida Statutes, in a  
 325 reference thereto, section 933.02, Florida Statutes, is  
 326 reenacted to read:

327           933.02 Grounds for issuance of search warrant.—Upon proper  
 328 affidavits being made, a search warrant may be issued under the  
 329 provisions of this chapter upon any of the following grounds:

330           (1) When the property shall have been stolen or embezzled  
 331 in violation of law;

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

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

334           (b) In connection with gambling, gambling implements and  
 335 appliances; or

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

338           (3) When any property constitutes evidence relevant to  
 339 proving that a felony has been committed;

340           (4) When any property is being held or possessed:

341           (a) In violation of any of the laws prohibiting the  
 342 manufacture, sale, and transportation of intoxicating liquors;

343           (b) In violation of the fish and game laws;

344           (c) In violation of the laws relative to food and drug; or

345           (d) In violation of the laws relative to citrus disease  
 346 pursuant to s. 581.184; or

347 (5) When the laws in relation to cruelty to animals, as  
 348 provided in chapter 828, have been or are violated in any  
 349 particular building or place.

350  
 351 This section also applies to any papers or documents used as a  
 352 means of or in aid of the commission of any offense against the  
 353 laws of the state.

354 Section 9. For the purpose of incorporating the amendment  
 355 made by this act to section 847.011, Florida Statutes, in a  
 356 reference thereto, section 933.03, Florida Statutes, is  
 357 reenacted to read:

358 933.03 Destruction of obscene prints and literature.—All  
 359 obscene prints and literature, or other things mentioned in s.  
 360 847.011 found by an officer in executing a search warrant, or  
 361 produced or brought into court, shall be safely kept so long as  
 362 is necessary for the purpose of being used as evidence in any  
 363 case, and as soon as may be afterwards, shall be destroyed by  
 364 order of the court before whom the case is brought.

365 Section 10. For the purpose of incorporating the amendment  
 366 made by this act to section 847.011, Florida Statutes, in a  
 367 reference thereto, paragraph (g) of subsection (2) of section  
 368 943.325, Florida Statutes, is reenacted to read:

369 943.325 DNA database.—

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

371 (g) "Qualifying offender" means any person, including

372 juveniles and adults, who is:

373 1.a. Committed to a county jail;

374 b. Committed to or under the supervision of the Department  
 375 of Corrections, including persons incarcerated in a private  
 376 correctional institution operated under contract pursuant to s.  
 377 944.105;

378 c. Committed to or under the supervision of the Department  
 379 of Juvenile Justice;

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

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

384 2.a. Convicted of any felony offense or attempted felony  
 385 offense in this state or of a similar offense in another  
 386 jurisdiction;

387 b. Convicted of a misdemeanor violation of s. 784.048, s.  
 388 810.14, s. 847.011, s. 847.013, s. 847.0135, or s. 877.26, or an  
 389 offense that was found, pursuant to s. 874.04, to have been  
 390 committed for the purpose of benefiting, promoting, or  
 391 furthering the interests of a criminal gang as defined in s.  
 392 874.03; or

393 c. Arrested for any felony offense or attempted felony  
 394 offense in this state.

395 Section 11. This act shall take effect October 1, 2019.