

By Senator Book

32-00071-19

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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, 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
38 person who violates this paragraph commits a misdemeanor of the
39 first degree, punishable as provided in s. 775.082 or s.
40 775.083.

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

44 Section 2. For the purpose of incorporating the amendment
45 made by this act to section 847.011, Florida Statutes, in a
46 reference thereto, paragraph (a) of subsection (1) of section
47 772.102, Florida Statutes, is reenacted to read:

48 772.102 Definitions.—As used in this chapter, the term:

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

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

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

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

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

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- 59 4. Part IV of chapter 501, relating to telemarketing.
- 60 5. Chapter 517, relating to securities transactions.
- 61 6. Section 550.235 or s. 550.3551, relating to dogracing
- 62 and horseracing.
- 63 7. Chapter 550, relating to jai alai frontons.
- 64 8. Chapter 552, relating to the manufacture, distribution,
- 65 and use of explosives.
- 66 9. Chapter 562, relating to beverage law enforcement.
- 67 10. Section 624.401, relating to transacting insurance
- 68 without a certificate of authority, s. 624.437(4)(c)1., relating
- 69 to operating an unauthorized multiple-employer welfare
- 70 arrangement, or s. 626.902(1)(b), relating to representing or
- 71 aiding an unauthorized insurer.
- 72 11. Chapter 687, relating to interest and usurious
- 73 practices.
- 74 12. Section 721.08, s. 721.09, or s. 721.13, relating to
- 75 real estate timeshare plans.
- 76 13. Chapter 782, relating to homicide.
- 77 14. Chapter 784, relating to assault and battery.
- 78 15. Chapter 787, relating to kidnapping or human
- 79 trafficking.
- 80 16. Chapter 790, relating to weapons and firearms.
- 81 17. Former s. 796.03, s. 796.04, s. 796.05, or s. 796.07,
- 82 relating to prostitution.
- 83 18. Chapter 806, relating to arson.
- 84 19. Section 810.02(2)(c), relating to specified burglary of
- 85 a dwelling or structure.
- 86 20. Chapter 812, relating to theft, robbery, and related
- 87 crimes.

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- 88 21. Chapter 815, relating to computer-related crimes.
- 89 22. Chapter 817, relating to fraudulent practices, false
90 pretenses, fraud generally, and credit card crimes.
- 91 23. Section 827.071, relating to commercial sexual
92 exploitation of children.
- 93 24. Chapter 831, relating to forgery and counterfeiting.
- 94 25. Chapter 832, relating to issuance of worthless checks
95 and drafts.
- 96 26. Section 836.05, relating to extortion.
- 97 27. Chapter 837, relating to perjury.
- 98 28. Chapter 838, relating to bribery and misuse of public
99 office.
- 100 29. Chapter 843, relating to obstruction of justice.
- 101 30. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or
102 s. 847.07, relating to obscene literature and profanity.
- 103 31. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s.
104 849.25, relating to gambling.
- 105 32. Chapter 893, relating to drug abuse prevention and
106 control.
- 107 33. Section 914.22 or s. 914.23, relating to witnesses,
108 victims, or informants.
- 109 34. Section 918.12 or s. 918.13, relating to tampering with
110 jurors and evidence.
- 111 Section 3. For the purpose of incorporating the amendment
112 made by this act to section 847.011, Florida Statutes, in a
113 reference thereto, section 847.02, Florida Statutes, is
114 reenacted to read:
- 115 847.02 Confiscation of obscene material.—Whenever anyone is
116 convicted under s. 847.011, the court in awarding sentence shall

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117 make an order confiscating said obscene material and authorize
118 the sheriff of the county in which the material is held to
119 destroy the same. The sheriff shall file with the court a
120 certificate of his or her compliance.

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

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

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

134 847.09 Legislative intent.—

135 (2) Nothing in ss. 847.07-847.09 shall be construed to
136 repeal or in any way supersede the provisions of s. 847.011, s.
137 847.012, or s. 847.013.

138 Section 6. For the purpose of incorporating the amendment
139 made by this act to section 847.011, Florida Statutes, in a
140 reference thereto, paragraph (a) of subsection (8) of section
141 895.02, Florida Statutes, is reenacted to read:

142 895.02 Definitions.—As used in ss. 895.01-895.08, the term:

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

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146 (a) Any crime that is chargeable by petition, indictment,
147 or information under the following provisions of the Florida
148 Statutes:

149 1. Section 210.18, relating to evasion of payment of
150 cigarette taxes.

151 2. Section 316.1935, relating to fleeing or attempting to
152 elude a law enforcement officer and aggravated fleeing or
153 eluding.

154 3. Section 403.727(3)(b), relating to environmental
155 control.

156 4. Section 409.920 or s. 409.9201, relating to Medicaid
157 fraud.

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

159 6. Section 440.105 or s. 440.106, relating to workers'
160 compensation.

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

163 8. Section 465.0161, relating to distribution of medicinal
164 drugs without a permit as an Internet pharmacy.

165 9. Section 499.0051, relating to crimes involving
166 contraband, adulterated, or misbranded drugs.

167 10. Part IV of chapter 501, relating to telemarketing.

168 11. Chapter 517, relating to sale of securities and
169 investor protection.

170 12. Section 550.235 or s. 550.3551, relating to dogracing
171 and horseracing.

172 13. Chapter 550, relating to jai alai frontons.

173 14. Section 551.109, relating to slot machine gaming.

174 15. Chapter 552, relating to the manufacture, distribution,

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175 and use of explosives.

176 16. Chapter 560, relating to money transmitters, if the
177 violation is punishable as a felony.

178 17. Chapter 562, relating to beverage law enforcement.

179 18. Section 624.401, relating to transacting insurance
180 without a certificate of authority, s. 624.437(4)(c)1., relating
181 to operating an unauthorized multiple-employer welfare
182 arrangement, or s. 626.902(1)(b), relating to representing or
183 aiding an unauthorized insurer.

184 19. Section 655.50, relating to reports of currency
185 transactions, when such violation is punishable as a felony.

186 20. Chapter 687, relating to interest and usurious
187 practices.

188 21. Section 721.08, s. 721.09, or s. 721.13, relating to
189 real estate timeshare plans.

190 22. Section 775.13(5)(b), relating to registration of
191 persons found to have committed any offense for the purpose of
192 benefiting, promoting, or furthering the interests of a criminal
193 gang.

194 23. Section 777.03, relating to commission of crimes by
195 accessories after the fact.

196 24. Chapter 782, relating to homicide.

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

198 26. Chapter 787, relating to kidnapping or human
199 trafficking.

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

201 28. Chapter 794, relating to sexual battery, but only if
202 such crime was committed with the intent to benefit, promote, or
203 further the interests of a criminal gang, or for the purpose of

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204 increasing a criminal gang member's own standing or position
205 within a criminal gang.

206 29. Former s. 796.03, former s. 796.035, s. 796.04, s.
207 796.05, or s. 796.07, relating to prostitution.

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

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

210 32. Chapter 812, relating to theft, robbery, and related
211 crimes.

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

213 34. Chapter 817, relating to fraudulent practices, false
214 pretenses, fraud generally, credit card crimes, and patient
215 brokering.

216 35. Chapter 825, relating to abuse, neglect, or
217 exploitation of an elderly person or disabled adult.

218 36. Section 827.071, relating to commercial sexual
219 exploitation of children.

220 37. Section 828.122, relating to fighting or baiting
221 animals.

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

223 39. Chapter 832, relating to issuance of worthless checks
224 and drafts.

225 40. Section 836.05, relating to extortion.

226 41. Chapter 837, relating to perjury.

227 42. Chapter 838, relating to bribery and misuse of public
228 office.

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

230 44. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or
231 s. 847.07, relating to obscene literature and profanity.

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

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233 gaming devices, slot machines, or any of the provisions within
 234 that chapter.

235 46. Chapter 874, relating to criminal gangs.

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

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

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

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

245 Section 7. For the purpose of incorporating the amendment
 246 made by this act to section 847.011, Florida Statutes, in a
 247 reference thereto, paragraph (f) of subsection (3) of section
 248 921.0022, Florida Statutes, is reenacted to read:

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

251 (3) OFFENSE SEVERITY RANKING CHART

252 (f) LEVEL 6

253

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

255

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subsequent conviction.

256

400.9935 (4) (c)

2nd

Operating a clinic, or offering services requiring licensure, without a license.

257

499.0051 (2)

2nd

Knowing forgery of transaction history, transaction information, or transaction statement.

258

499.0051 (3)

2nd

Knowing purchase or receipt of prescription drug from unauthorized person.

259

499.0051 (4)

2nd

Knowing sale or transfer of prescription drug to unauthorized person.

260

775.0875 (1)

3rd

Taking firearm from law enforcement officer.

261

784.021 (1) (a)

3rd

Aggravated assault; deadly weapon without intent to kill.

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263	784.021 (1) (b)	3rd	Aggravated assault; intent to commit felony.
264	784.041	3rd	Felony battery; domestic battery by strangulation.
265	784.048 (3)	3rd	Aggravated stalking; credible threat.
266	784.048 (5)	3rd	Aggravated stalking of person under 16.
267	784.07 (2) (c)	2nd	Aggravated assault on law enforcement officer.
268	784.074 (1) (b)	2nd	Aggravated assault on sexually violent predators facility staff.
269	784.08 (2) (b)	2nd	Aggravated assault on a person 65 years of age or older.
270	784.081 (2)	2nd	Aggravated assault on specified official or employee.

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271	784.082 (2)	2nd	Aggravated assault by detained person on visitor or other detainee.
272	784.083 (2)	2nd	Aggravated assault on code inspector.
273	787.02 (2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
274	790.115 (2) (d)	2nd	Discharging firearm or weapon on school property.
275	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.

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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.

288

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

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robbery).

289

817.4821 (5)

2nd

Possess cloning paraphernalia with intent to create cloned cellular telephones.

290

817.505 (4) (b)

2nd

Patient brokering; 10 or more patients.

291

825.102 (1)

3rd

Abuse of an elderly person or disabled adult.

292

825.102 (3) (c)

3rd

Neglect of an elderly person or disabled adult.

293

825.1025 (3)

3rd

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

294

825.103 (3) (c)

3rd

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

295

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, do bodily injury, or conduct a mass shooting or an act of terrorism.

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.

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847.0135 (2)

3rd

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

304

914.23

2nd

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

305

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.

306

944.40

2nd

Escapes.

307

944.46

3rd

Harboring, concealing,
aiding escaped
prisoners.

308

944.47 (1) (a) 5.

2nd

Introduction of
contraband (firearm,

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weapon, or explosive)
into correctional
facility.

309

951.22 (1)

3rd

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

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, section 933.02, Florida Statutes, is
314 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 (1) When the property shall have been stolen or embezzled
319 in violation of law;

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

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

322 (b) In connection with gambling, gambling implements and
323 appliances; or

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

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

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

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

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331 (b) In violation of the fish and game laws;
332 (c) In violation of the laws relative to food and drug; or
333 (d) In violation of the laws relative to citrus disease
334 pursuant to s. 581.184; or
335 (5) When the laws in relation to cruelty to animals, as
336 provided in chapter 828, have been or are violated in any
337 particular building or place.

338

339 This section also applies to any papers or documents used as a
340 means of or in aid of the commission of any offense against the
341 laws of the state.

342 Section 9. For the purpose of incorporating the amendment
343 made by this act to section 847.011, Florida Statutes, in a
344 reference thereto, section 933.03, Florida Statutes, is
345 reenacted to read:

346 933.03 Destruction of obscene prints and literature.—All
347 obscene prints and literature, or other things mentioned in s.
348 847.011 found by an officer in executing a search warrant, or
349 produced or brought into court, shall be safely kept so long as
350 is necessary for the purpose of being used as evidence in any
351 case, and as soon as may be afterwards, shall be destroyed by
352 order of the court before whom the case is brought.

353 Section 10. For the purpose of incorporating the amendment
354 made by this act to section 847.011, Florida Statutes, in a
355 reference thereto, paragraph (g) of subsection (2) of section
356 943.325, Florida Statutes, is reenacted to read:

357 943.325 DNA database.—

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

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

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360 juveniles and adults, who is:

361 1.a. Committed to a county jail;

362 b. Committed to or under the supervision of the Department
363 of Corrections, including persons incarcerated in a private
364 correctional institution operated under contract pursuant to s.
365 944.105;

366 c. Committed to or under the supervision of the Department
367 of Juvenile Justice;

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

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

372 2.a. Convicted of any felony offense or attempted felony
373 offense in this state or of a similar offense in another
374 jurisdiction;

375 b. Convicted of a misdemeanor violation of s. 784.048, s.
376 810.14, s. 847.011, s. 847.013, s. 847.0135, or s. 877.26, or an
377 offense that was found, pursuant to s. 874.04, to have been
378 committed for the purpose of benefiting, promoting, or
379 furthering the interests of a criminal gang as defined in s.
380 874.03; or

381 c. Arrested for any felony offense or attempted felony
382 offense in this state.

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