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LEGISLATIVE ACTION

Senate

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House

The Committee on Criminal Justice (Book) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 775.0847, Florida Statutes, is amended
to read:

775.0847 Possession or promotion of certain child sexual
abuse material ~~images of child pornography~~; reclassification.—

(1) For purposes of this section:

(a) "Child" or "minor" means any person, whose identity is



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11 known or unknown, younger ~~less~~ than 18 years of age.

12 (b) "Child sexual abuse material" ~~"Child pornography"~~
13 means:

14 1. Any image depicting a minor engaged in sexual conduct;
15 or

16 2. Any image that has been created, altered, adapted, or
17 modified by electronic, mechanical, or other means, to portray
18 an identifiable minor engaged in sexual conduct.

19 (c) "Identifiable minor" means a person:

20 1. Who was a minor at the time the image was created,
21 adapted, or modified, or whose image as a minor was used in the
22 creating, adapting, or modifying of the image; and

23 2. Who is recognizable as an actual person by the person's
24 face, likeness, or other distinguishing characteristic, such as
25 a unique birthmark, or other recognizable feature.

26
27 The term may not be construed to require proof of the actual
28 identity of the identifiable minor.

29 (d) ~~(e)~~ "Sadomasochistic abuse" means flagellation or
30 torture by or upon a person or the condition of being fettered,
31 bound, or otherwise physically restrained, for the purpose of
32 deriving sexual satisfaction, or satisfaction brought about as a
33 result of sadistic violence, from inflicting harm on another or
34 receiving such harm oneself.

35 (e) ~~(d)~~ "Sexual battery" means oral, anal, or vaginal
36 penetration by, or union with, the sexual organ of another or
37 the anal or vaginal penetration of another by any other object;
38 however, sexual battery does not include an act done for a bona
39 fide medical purpose.



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40 (f)~~(e)~~ "Sexual bestiality" means any sexual act, actual or
41 simulated, between a person and an animal involving the sex
42 organ of the one and the mouth, anus, or vagina of the other.

43 (g)~~(f)~~ "Sexual conduct" means actual or simulated sexual
44 intercourse, deviate sexual intercourse, sexual bestiality,
45 masturbation, or sadomasochistic abuse; actual or simulated lewd
46 exhibition of the genitals; actual physical contact with a
47 person's clothed or unclothed genitals, pubic area, buttocks,
48 or, if such person is a female, breast with the intent to arouse
49 or gratify the sexual desire of either party; or any act or
50 conduct which constitutes sexual battery or simulates that
51 sexual battery is being or will be committed. A mother's
52 breastfeeding of her baby does not under any circumstance
53 constitute "sexual conduct."

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

57 (a) The offender possesses 10 or more images of any form of
58 child sexual abuse material ~~child pornography~~ regardless of
59 content; and

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

- 62 1. A child who is younger than the age of 5.
- 63 2. Sadomasochistic abuse involving a child.
- 64 3. Sexual battery involving a child.
- 65 4. Sexual bestiality involving a child.

66 5. Any motion picture, film, video, or computer-generated
67 motion picture, film, or video ~~movie~~ involving a child,
68 regardless of length and regardless of whether the motion



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69 picture, film, video, or computer-generated motion picture,
70 film, or video ~~movie~~ contains sound.

71 (3) (a) In the case of a felony of the third degree, the
72 offense is reclassified to a felony of the second degree.

73 (b) In the case of a felony of the second degree, the
74 offense is reclassified to a felony of the first degree.

75

76 For purposes of sentencing under chapter 921 and determining
77 incentive gain-time eligibility under chapter 944, a felony
78 offense that is reclassified under this section is ranked one
79 level above the ranking under s. 921.0022 or s. 921.0023 of the
80 offense committed.

81 Section 2. Paragraph (b) of subsection (5) of section
82 784.049, Florida Statutes, is amended to read:

83 784.049 Sexual cyberharassment.—

84 (5) An aggrieved person may initiate a civil action against
85 a person who violates this section to obtain all appropriate
86 relief in order to prevent or remedy a violation of this
87 section, including the following:

88 (b) Monetary damages to include \$10,000 ~~\$5,000~~ or actual
89 damages incurred as a result of a violation of this section,
90 whichever is greater.

91 Section 3. Section 827.071, Florida Statutes, is amended to
92 read:

93 827.071 Sexual performance by a child; child sexual abuse
94 material; penalties.—

95 (1) As used in this section, the following definitions
96 shall apply:

97 (a) "Child" or "minor" means any person, whose identity is



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98 known or unknown, younger than 18 years of age.

99 (b) "Child sexual abuse material" means:

100 1. Any image depicting a minor engaged in sexual conduct;

101 or

102 2. Any image that has been created, altered, adapted, or
103 modified by electronic, mechanical, or other means, to portray
104 an identifiable minor engaged in sexual conduct.

105 (c) ~~(a)~~ "Deviate sexual intercourse" means sexual conduct
106 between persons not married to each other consisting of contact
107 between the penis and the anus, the mouth and the penis, or the
108 mouth and the vulva.

109 (d) "Identifiable minor" means a person:

110 1. Who was a minor at the time the image was created,
111 adapted, or modified, or whose image as a minor was used in the
112 creating, adapting, or modifying of the image; and

113 2. Who is recognizable as an actual person by the person's
114 face, likeness, or other distinguishing characteristic, such as
115 a unique birthmark, or other recognizable feature.

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117 The term may not be construed to require proof of the actual
118 identity of the identifiable minor.

119 (e) ~~(b)~~ "Intentionally view" means to deliberately,
120 purposefully, and voluntarily view. Proof of intentional viewing
121 requires establishing more than a single image, motion picture,
122 exhibition, show, image, data, computer depiction,
123 representation, or other presentation over any period of time.

124 (f) ~~(c)~~ "Performance" means any play, motion picture,
125 photograph, or dance or any other visual representation
126 exhibited before an audience.



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127 (g)~~(d)~~ "Promote" means to procure, manufacture, issue,
128 sell, give, provide, lend, mail, deliver, transfer, transmit,
129 transmute, publish, distribute, circulate, disseminate, present,
130 exhibit, send, post, share, or advertise or to offer or agree to
131 do the same.

132 (h)~~(e)~~ "Sadomasochistic abuse" means flagellation or
133 torture by or upon a person, or the condition of being fettered,
134 bound, or otherwise physically restrained, for the purpose of
135 deriving sexual satisfaction from inflicting harm on another or
136 receiving such harm oneself.

137 (i)~~(f)~~ "Sexual battery" means oral, anal, or vaginal
138 penetration by, or union with, the sexual organ of another or
139 the anal or vaginal penetration of another by any other object;
140 however, "sexual battery" does not include an act done for a
141 bona fide medical purpose.

142 (j)~~(g)~~ "Sexual bestiality" means any sexual act between a
143 person and an animal involving the sex organ of the one and the
144 mouth, anus, or vagina of the other.

145 (k)~~(h)~~ "Sexual conduct" means actual or simulated sexual
146 intercourse, deviate sexual intercourse, sexual bestiality,
147 masturbation, or sadomasochistic abuse; actual or simulated lewd
148 exhibition of the genitals; actual physical contact with a
149 person's clothed or unclothed genitals, pubic area, buttocks,
150 or, if such person is a female, breast, with the intent to
151 arouse or gratify the sexual desire of either party; or any act
152 or conduct which constitutes sexual battery or simulates that
153 sexual battery is being or will be committed. A mother's
154 breastfeeding of her baby does not under any circumstance
155 constitute "sexual conduct."



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156 (1) ~~(i)~~ "Sexual performance" means any performance or part
157 thereof which includes sexual conduct by a child ~~of less than 18~~
158 ~~years of age.~~

159 (m) ~~(j)~~ "Simulated" means the explicit depiction of conduct
160 set forth in paragraph (k) ~~(h)~~ which creates the appearance of
161 such conduct and which exhibits any uncovered portion of the
162 breasts, genitals, or buttocks.

163 (2) A person is guilty of the use of a child in a sexual
164 performance if, knowing the character and content thereof, he or
165 she employs, authorizes, or induces a child ~~less than 18 years~~
166 ~~of age~~ to engage in a sexual performance or, being a parent,
167 legal guardian, or custodian of such child, consents to the
168 participation by such child in a sexual performance. A person
169 who ~~Whoever~~ violates this subsection commits ~~is guilty of~~ a
170 felony of the second degree, punishable as provided in s.
171 775.082, s. 775.083, or s. 775.084.

172 (3) A person is guilty of promoting a sexual performance by
173 a child when, knowing the character and content thereof, he or
174 she produces, directs, or promotes any performance which
175 includes sexual conduct by a child ~~less than 18 years of age.~~ A
176 person who ~~Whoever~~ violates this subsection commits ~~is guilty of~~
177 a felony of the second degree, punishable as provided in s.
178 775.082, s. 775.083, or s. 775.084.

179 (4) It is unlawful for any person to possess with the
180 intent to promote any photograph, motion picture, exhibition,
181 show, representation, or other presentation which, in whole or
182 in part, includes child sexual abuse material ~~any sexual conduct~~
183 ~~by a child.~~ The possession of three or more copies of such
184 photograph, motion picture, representation, or presentation is



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185 prima facie evidence of an intent to promote. A person who
186 ~~Whoever~~ violates this subsection commits ~~is guilty of~~ a felony
187 of the second degree, punishable as provided in s. 775.082, s.
188 775.083, or s. 775.084.

189 (5) (a) It is unlawful for any person to knowingly possess,
190 control, or intentionally view a photograph, motion picture,
191 exhibition, show, representation, image, data, computer
192 depiction, or other presentation which, in whole or in part, he
193 or she knows to include child sexual abuse material ~~any sexual~~
194 ~~conduct by a child~~. The possession, control, or intentional
195 viewing of each such photograph, motion picture, exhibition,
196 show, image, data, computer depiction, representation, or
197 presentation is a separate offense. If such photograph, motion
198 picture, exhibition, show, representation, image, data, computer
199 depiction, or other presentation includes child sexual abuse
200 material depicting ~~sexual conduct by~~ more than one child, then
201 each such child in each such photograph, motion picture,
202 exhibition, show, representation, image, data, computer
203 depiction, or other presentation that is knowingly possessed,
204 controlled, or intentionally viewed is a separate offense. A
205 person who violates this paragraph ~~subsection~~ commits a felony
206 of the third degree, punishable as provided in s. 775.082, s.
207 775.083, or s. 775.084.

208 (b) Paragraph (a) ~~This subsection~~ does not apply to any
209 material possessed, controlled, or intentionally viewed as part
210 of a law enforcement investigation.

211 (6) Prosecution of a ~~any~~ person for an offense under this
212 section does ~~shall~~ not prohibit prosecution of that person in
213 this state for a violation of any other law of this state,



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214 including a law providing for greater penalties than prescribed
215 in this section or any other crime punishing the sexual
216 performance or the sexual exploitation of children.

217 Section 4. Section 836.13, Florida Statutes, is created to
218 read:

219 836.13 Promotion of an altered sexual depiction; prohibited
220 acts; penalties; applicability.-

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

222 (a) "Altered sexual depiction" means any visual depiction
223 that, as a result of any type of digital, electronic,
224 mechanical, or other modification, alteration, or adaptation,
225 depicts a realistic version of an identifiable person:

226 1. With the nude body parts of another person as the nude
227 body parts of the identifiable person;

228 2. With computer-generated nude body parts as the nude body
229 parts of the identifiable person; or

230 3. Engaging in sexual conduct as defined in s. 847.001 in
231 which the identifiable person did not engage.

232 (b) "Identifiable person" means a person who is
233 recognizable as an actual person by the person's face, likeness,
234 or other distinguishing characteristic, such as a unique
235 birthmark, or other recognizable feature.

236 (c) "Nude body parts" means the human male or female
237 genitals, pubic area, or buttocks with less than fully opaque
238 covering; or the female breast with less than a fully opaque
239 covering of any portion thereof below the top of the nipple; or
240 the depiction of covered male genitals in a discernibly turgid
241 state. The term does not under any circumstances include a
242 mother breastfeeding her baby.



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243 (d) "Promote" means to procure, manufacture, issue, sell,
244 give, provide, lend, mail, deliver, transfer, transmit,
245 transmute, publish, distribute, circulate, disseminate, present,
246 exhibit, send, post, share, or advertise or to offer or agree to
247 do the same.

248 (e) "Visual depiction" includes, but is not limited to, a
249 photograph, picture, image, motion picture, film, video, or
250 representation, regardless of whether such photograph, picture,
251 image, motion picture, film, video, or representation was made,
252 modified, altered, adapted, or produced by digital, electronic,
253 mechanical, or other means.

254 (2) (a) A person who willfully and maliciously creates and
255 promotes any altered sexual depiction of an identifiable person,
256 without the consent of the identifiable person, commits a felony
257 of the third degree, punishable as provided in s. 775.082, s.
258 775.083, or s. 775.084.

259 (b) A person who willfully and maliciously promotes any
260 altered sexual depiction of an identifiable person, without the
261 consent of the identifiable person, and who knows or reasonably
262 should have known that such visual depiction was an altered
263 sexual depiction, commits a felony of the third degree,
264 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

265 (3) Every act, thing, or transaction prohibited by this
266 section constitutes a separate offense and is punishable as
267 such.

268 (4) The presence of a disclaimer within an altered sexual
269 depiction which notifies a viewer that the person or persons
270 depicted did not consent to or participate in the creation or
271 promotion of the material, or that the person or persons



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272 depicted did not actually perform the actions portrayed, is not
273 a defense and does not relieve a person of criminal liability
274 under this section.

275 (5) An aggrieved person may initiate a civil action against
276 a person who violates subsection (2) to obtain appropriate
277 relief in order to prevent or remedy a violation of subsection
278 (2), including all of the following:

279 (a) Injunctive relief.

280 (b) Monetary damages up to and including \$10,000 or actual
281 damages incurred as a result of a violation of subsection (2),
282 whichever is greater.

283 (c) Reasonable attorney fees and costs.

284 (6) The criminal and civil penalties of this section do not
285 apply to:

286 (a) A provider of an interactive computer service as
287 defined in 47 U.S.C. s. 230(f), of an information service as
288 defined in 47 U.S.C. s. 153, or of a communications service as
289 defined in s. 202.11 which provides the transmission, storage,
290 or caching of electronic communications or messages of others;
291 another related telecommunications or commercial mobile radio
292 service; or content provided by another person;

293 (b) A law enforcement officer, as defined in s. 943.10, or
294 any local, state, federal, or military law enforcement agency
295 that promotes an altered sexual depiction in connection with the
296 performance of his or her duties as a law enforcement officer or
297 the duties of the law enforcement agency;

298 (c) A person reporting unlawful activity; or

299 (d) A person participating in a hearing, trial, or other
300 legal proceeding.



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301 (7) A violation of this section is committed within this
302 state if any conduct that is an element of the offense, or any
303 harm to the depicted person resulting from the offense, occurs
304 within this state.

305 Section 5. Section 836.14, Florida Statutes, is created to
306 read:

307 836.14 Unlawfully obtaining, possessing, or promoting a
308 sexually explicit image.—

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

310 (a) "Identifiable person" has the same meaning as in s.
311 836.13.

312 (b) "Promote" has the same meaning as in s. 836.13.

313 (c) "Sexually explicit image" means any image depicting
314 nudity as defined in s. 847.001 or a person engaging in sexual
315 conduct as defined in s. 847.001.

316 (2) A person who knowingly and unlawfully obtains a
317 sexually explicit image of an identifiable person with the
318 intent to promote such image commits a felony of the third
319 degree, punishable as provided in s. 775.082, s. 775.083, or s.
320 775.084.

321 (3) A person who willfully possesses with the intent to
322 promote for the purpose of pecuniary or any other type of
323 financial gain a sexually explicit image of an identifiable
324 person without that person's consent commits a felony of the
325 third degree, punishable as provided in s. 775.082, s. 775.083,
326 or s. 775.084.

327 (4) A person who willfully promotes for the purpose of
328 pecuniary or any other financial gain a sexually explicit image
329 of an identifiable person without that person's consent commits



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330 a felony of the second degree, punishable as provided in s.
331 775.082, s. 775.083, or s. 775.084.

332 (5) Every act, thing, or transaction prohibited by this
333 section constitutes a separate offense and is punishable as
334 such.

335 (6) An aggrieved person may initiate a civil action against
336 a person who violates this section to obtain all appropriate
337 relief in order to prevent or remedy a violation of this
338 section, including the following:

339 (a) Injunctive relief.

340 (b) Monetary damages to include \$10,000 or actual damages
341 incurred as a result of a violation of this section, whichever
342 is greater.

343 (c) Reasonable attorney fees and costs.

344 (7) The criminal and civil penalties of this section do not
345 apply to:

346 (a) A provider of an interactive computer service as
347 defined in 47 U.S.C. s. 230(f), of an information service as
348 defined in 47 U.S.C. s. 153, or of a communications service as
349 defined in s. 202.11 which provides the transmission, storage,
350 or caching of electronic communications or messages of others;
351 another related telecommunications or commercial mobile radio
352 service; or content provided by another person;

353 (b) A law enforcement officer, as defined in s. 943.10, or
354 any local, state, federal, or military law enforcement agency
355 that disseminates a sexually explicit image in connection with
356 the performance of his or her duties as a law enforcement
357 officer or the duties of the law enforcement agency;

358 (c) A person reporting unlawful activity;



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359 (d) A person participating in a hearing, trial, or other
360 legal proceeding; or

361 (e) Sexually explicit images involving voluntary exposure
362 in a public or commercial setting.

363 (8) A violation of this section is committed within this
364 state if any conduct that is an element of the offense, or any
365 harm to the depicted individual resulting from the offense,
366 occurs within this state.

367 Section 6. Present subsections (7) through (11) and (12)
368 through (20) of section 847.001, Florida Statutes, are
369 redesignated as subsections (8) through (12) and (14) through
370 (22), respectively, new subsections (7) and (13) are added to
371 that section, and subsection (3) and present subsections (8),
372 (16), and (19) of that section are amended, to read:

373 847.001 Definitions.—As used in this chapter, the term:

374 (3) “Child sexual abuse material” ~~“Child pornography”~~
375 means:

376 (a) Any image depicting a minor engaged in sexual conduct;
377 or

378 (b) Any image that has been created, altered, adapted, or
379 modified by electronic, mechanical, or other means, to portray
380 an identifiable minor engaged in sexual conduct.

381 (7) “Identifiable minor” means a person:

382 (a) Who was a minor at the time the image was created,
383 adapted, or modified, or whose image as a minor was used in the
384 creating, adapting, or modifying of the image; and

385 (b) Who is recognizable as an actual person by the person’s
386 face, likeness, or other distinguishing characteristic, such as
387 a unique birthmark, or other recognizable feature.



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The term may not be construed to require proof of the actual identity of the identifiable minor.

(9)(8) "Minor" or "child" means any person, whose identity is known or unknown, younger than under the age of 18 years of age.

(13) "Promote" means to procure, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, transmute, publish, distribute, circulate, disseminate, present, exhibit, send, post, share, or advertise or to offer or agree to do the same.

(18)(16) "Sexual conduct" means actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, or sadomasochistic abuse; actual or simulated lewd exhibition of the genitals; actual physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person is a female, breast with the intent to arouse or gratify the sexual desire of either party; or any act or conduct which constitutes sexual battery or simulates that sexual battery is being or will be committed. A mother's breastfeeding of her baby does not under any circumstance constitute "sexual conduct."

(21)(19) "Simulated" means the explicit depiction of conduct described in subsection (18) (16) which creates the appearance of such conduct and which exhibits any uncovered portion of the breasts, genitals, or buttocks.

Section 7. Subsection (5) of section 847.011, Florida Statutes, is amended to read:

847.011 Prohibition of certain acts in connection with



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417 obscene, lewd, etc., materials; penalty.-

418 (5) (a) 1. A person may not knowingly sell, lend, give away,
419 distribute, transmit, show, or transmute; offer to sell, lend,
420 give away, distribute, transmit, show, or transmute; have in his
421 or her possession, custody, or control with the intent to sell,
422 lend, give away, distribute, transmit, show, or transmute; or
423 advertise in any manner an obscene, child-like sex doll.

424 2.a. Except as provided in sub-subparagraph b., a person
425 who violates this paragraph commits a felony of the third
426 degree, punishable as provided in s. 775.082, s. 775.083, or s.
427 775.084.

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

431 (b) 1. Except as provided in subparagraph 2., a person who
432 knowingly has in his or her possession, custody, or control an
433 obscene, child-like sex doll commits a misdemeanor of the first
434 degree, punishable as provided in s. 775.082 or s. 775.083.

435 2. A person who is convicted of violating this paragraph a
436 second or subsequent time commits a felony of the third degree,
437 punishable as provided in s. 775.082 or s. 775.083.

438 (c) 1. A law enforcement officer may arrest without a
439 warrant any person who he or she has probable cause to believe
440 has violated paragraph (b).

441 2. Upon proper affidavits being made, a search warrant may
442 be issued to further investigate a violation of paragraph (b),
443 including to search a private dwelling.

444 Section 8. Subsections (1) through (4) of section 847.0137,
445 Florida Statutes, are amended to read:



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446 847.0137 Transmission of pornography by electronic device
447 or equipment prohibited; penalties.—

448 (1) As used in this section, the term ~~For purposes of this~~
449 ~~section:~~

450 ~~(a) "Minor" means any person less than 18 years of age.~~

451 ~~(b) "transmit" means the act of sending and causing to be~~
452 delivered, including the act of providing access for receiving
453 and causing to be delivered, any image, information, or data
454 ~~from one or more persons or places to one or more other persons~~
455 ~~or places~~ over or through any medium, including the Internet or
456 an interconnected network, by use of any electronic equipment or
457 other device.

458 (2) Notwithstanding ss. 847.012 and 847.0133, any person in
459 this state who knew or reasonably should have known that he or
460 she was transmitting child sexual abuse material ~~child~~
461 ~~pornography,~~ as defined in s. 847.001, to another person in this
462 state or in another jurisdiction commits a felony of the third
463 degree, punishable as provided in s. 775.082, s. 775.083, or s.
464 775.084.

465 (3) Notwithstanding ss. 847.012 and 847.0133, any person in
466 any jurisdiction other than this state who knew or reasonably
467 should have known that he or she was transmitting child sexual
468 abuse material ~~child pornography,~~ as defined in s. 847.001, to
469 any person in this state commits a felony of the third degree,
470 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

471 (4) This section shall not be construed to prohibit
472 prosecution of a person in this state or another jurisdiction
473 for a violation of any law of this state, including a law
474 providing for greater penalties than prescribed in this section,



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475 for the transmission of child sexual abuse material ~~child~~
476 ~~pornography~~, as defined in s. 847.001, to any person in this
477 state.

478
479 The provisions of this section do not apply to subscription-
480 based transmissions such as list servers.

481 Section 9. Paragraphs (c), (d), and (e) of subsection (3)
482 of section 921.0022, Florida Statutes, are amended to read:

483 921.0022 Criminal Punishment Code; offense severity ranking
484 chart.—

485 (3) OFFENSE SEVERITY RANKING CHART

486 (c) LEVEL 3

487

Florida Statute	Felony Degree	Description
119.10(2)(b)	3rd	Unlawful use of confidential information from police reports.
316.066 (3)(b)-(d)	3rd	Unlawfully obtaining or using confidential crash reports.
316.193(2)(b)	3rd	Felony DUI, 3rd conviction.
316.1935(2)	3rd	Fleeing or attempting to elude law enforcement

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492			officer in patrol vehicle with siren and lights activated.
	319.30 (4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
493			
	319.33 (1) (a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
494			
	319.33 (1) (c)	3rd	Procure or pass title on stolen vehicle.
495			
	319.33 (4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
496			
	327.35 (2) (b)	3rd	Felony BUI.
497			
	328.05 (2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of



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498

328.07(4)

3rd

vessels.

Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.

499

376.302(5)

3rd

Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.

500

379.2431
(1)(e)5.

3rd

Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.

501

379.2431
(1)(e)6.

3rd

Possessing any marine turtle species or hatchling, or parts thereof, or the nest of any marine turtle species



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379.2431
(1) (e) 7.

3rd

described in the Marine
Turtle Protection Act.

Soliciting to commit or
conspiring to commit a
violation of the Marine
Turtle Protection Act.

503

400.9935 (4) (a)
or (b)

3rd

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

504

400.9935 (4) (e)

3rd

Filing a false license
application or other
required information or
failing to report
information.

505

440.1051 (3)

3rd

False report of workers'
compensation fraud or
retaliation for making
such a report.

506

501.001 (2) (b)

2nd

Tampers with a consumer
product or the container
using materially
false/misleading
information.



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507	624.401 (4) (a)	3rd	Transacting insurance without a certificate of authority.
508	624.401 (4) (b) 1.	3rd	Transacting insurance without a certificate of authority; premium collected less than \$20,000.
509	626.902 (1) (a) & (b)	3rd	Representing an unauthorized insurer.
510	697.08	3rd	Equity skimming.
511	790.15 (3)	3rd	Person directs another to discharge firearm from a vehicle.
512	806.10 (1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
513	806.10 (2)	3rd	Interferes with or assaults firefighter in performance of duty.
514			



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515	810.09(2)(c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
516	812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but less than \$10,000.
517	812.0145(2)(c)	3rd	Theft from person 65 years of age or older; \$300 or more but less than \$10,000.
518	812.015(8)(b)	3rd	Retail theft with intent to sell; conspires with others.
519	812.081(2)	3rd	Theft of a trade secret.
520	815.04(5)(b)	2nd	Computer offense devised to defraud or obtain property.
	817.034(4)(a)3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less



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521			than \$20,000.
521	817.233	3rd	Burning to defraud insurer.
522	817.234 (8) (b) & (c)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.
523	817.234 (11) (a)	3rd	Insurance fraud; property value less than \$20,000.
524	817.236	3rd	Filing a false motor vehicle insurance application.
525	817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
526	817.413 (2)	3rd	Sale of used goods of \$1,000 or more as new.
527	817.49 (2) (b) 1.	3rd	Willful making of a false report of a crime causing great bodily harm, permanent disfigurement, or permanent disability.



414724

528	831.28 (2) (a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument with intent to defraud.
529	831.29	2nd	Possession of instruments for counterfeiting driver licenses or identification cards.
530	<u>836.13 (2) (b)</u>	<u>3rd</u>	<u>Person who promotes an altered sexually explicit depiction of an identifiable person without consent.</u>
531	838.021 (3) (b)	3rd	Threatens unlawful harm to public servant.
532	843.19	2nd	Injure, disable, or kill police, fire, or SAR canine or police horse.
533	860.15 (3)	3rd	Overcharging for repairs and parts.
534			



414724

535	870.01 (2)	3rd	Riot.
536	870.01 (4)	3rd	Inciting a riot.
537	893.13 (1) (a) 2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03 (1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 6., (2) (c) 7., (2) (c) 8., (2) (c) 9., (2) (c) 10., (3), or (4) drugs).
538	893.13 (1) (d) 2.	2nd	Sell, manufacture, or deliver s. 893.03 (1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 6., (2) (c) 7., (2) (c) 8., (2) (c) 9., (2) (c) 10., (3), or (4) drugs within 1,000 feet of university.
	893.13 (1) (f) 2.	2nd	Sell, manufacture, or deliver s. 893.03 (1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 6., (2) (c) 7., (2) (c) 8., (2) (c) 9., (2) (c) 10., (3), or (4) drugs within 1,000



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539			feet of public housing facility.
	893.13(4)(c)	3rd	Use or hire of minor; deliver to minor other controlled substances.
540			
	893.13(6)(a)	3rd	Possession of any controlled substance other than felony possession of cannabis.
541			
	893.13(7)(a)8.	3rd	Withhold information from practitioner regarding previous receipt of or prescription for a controlled substance.
542			
	893.13(7)(a)9.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
543			
	893.13(7)(a)10.	3rd	Affix false or forged label to package of controlled substance.
544			
	893.13(7)(a)11.	3rd	Furnish false or



414724

fraudulent material
information on any
document or record
required by chapter 893.

545

893.13(8)(a)1.

3rd

Knowingly assist a
patient, other person, or
owner of an animal in
obtaining a controlled
substance through
deceptive, untrue, or
fraudulent representations
in or related to the
practitioner's practice.

546

893.13(8)(a)2.

3rd

Employ a trick or scheme
in the practitioner's
practice to assist a
patient, other person, or
owner of an animal in
obtaining a controlled
substance.

547

893.13(8)(a)3.

3rd

Knowingly write a
prescription for a
controlled substance for a
fictitious person.

548

893.13(8)(a)4.

3rd

Write a prescription for a



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controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.

549

918.13(1)(a)

3rd

Alter, destroy, or conceal investigation evidence.

550

944.47
(1)(a)1. & 2.

3rd

Introduce contraband to correctional facility.

551

944.47(1)(c)

2nd

Possess contraband while upon the grounds of a correctional institution.

552

985.721

3rd

Escapes from a juvenile facility (secure detention or residential commitment facility).

553

554

555

(d) LEVEL 4

556

Florida
Statute

Felony
Degree

Description

557



414724

316.1935 (3) (a) 2nd Driving at high speed
or with wanton
disregard for safety
while fleeing or
attempting to elude law
enforcement officer who
is in a patrol vehicle
with siren and lights
activated.

558

499.0051 (1) 3rd Failure to maintain or
deliver transaction
history, transaction
information, or
transaction statements.

559

499.0051 (5) 2nd Knowing sale or
delivery, or possession
with intent to sell,
contraband prescription
drugs.

560

517.07 (1) 3rd Failure to register
securities.

561

517.12 (1) 3rd Failure of dealer,
associated person, or
issuer of securities to
register.



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562	784.07 (2) (b)	3rd	Battery of law enforcement officer, firefighter, etc.
563	784.074 (1) (c)	3rd	Battery of sexually violent predators facility staff.
564	784.075	3rd	Battery on detention or commitment facility staff.
565	784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.
566	784.08 (2) (c)	3rd	Battery on a person 65 years of age or older.
567	784.081 (3)	3rd	Battery on specified official or employee.
568	784.082 (3)	3rd	Battery by detained person on visitor or other detainee.
569			



414724

570	784.083 (3)	3rd	Battery on code inspector.
571	784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.
572	787.03 (1)	3rd	Interference with custody; wrongly takes minor from appointed guardian.
573	787.04 (2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.
574	787.04 (3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.
	787.07	3rd	Human smuggling.



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575	790.115 (1)	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.
576	790.115 (2) (b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
577	790.115 (2) (c)	3rd	Possessing firearm on school property.
578	800.04 (7) (c)	3rd	Lewd or lascivious exhibition; offender less than 18 years.
579	806.135	2nd	Destroying or demolishing a memorial or historic property.
580	810.02 (4) (a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
581	810.02 (4) (b)	3rd	Burglary, or attempted



414724

582			burglary, of an unoccupied conveyance; unarmed; no assault or battery.
583	810.06	3rd	Burglary; possession of tools.
584	810.08 (2) (c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
585	812.014 (2) (c) 3.	3rd	Grand theft, 3rd degree \$10,000 or more but less than \$20,000.
586	812.014 (2) (c) 4.-10.	3rd	Grand theft, 3rd degree; specified items.
587	812.0195 (2)	3rd	Dealing in stolen property by use of the Internet; property stolen \$300 or more.
588	817.505 (4) (a)	3rd	Patient brokering.
	817.563 (1)	3rd	Sell or deliver substance other than



414724

589			controlled substance agreed upon, excluding s. 893.03(5) drugs.
589	817.568 (2) (a)	3rd	Fraudulent use of personal identification information.
590	817.625 (2) (a)	3rd	Fraudulent use of scanning device, skimming device, or reencoder.
591	817.625 (2) (c)	3rd	Possess, sell, or deliver skimming device.
592	828.125 (1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.
593	<u>836.13 (2) (a)</u>	<u>3rd</u>	<u>Person who creates and promotes an altered sexual depiction of an identifiable person without consent.</u>



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594	<u>836.14 (2)</u>	<u>3rd</u>	<u>Person who obtains a sexually explicit image of an identifiable person with certain intent.</u>
595	<u>836.14 (3)</u>	<u>3rd</u>	<u>Person who possesses with intent to promote for a certain purpose a sexually explicit image of an identifiable person without consent.</u>
596	837.02 (1)	3rd	Perjury in official proceedings.
597	837.021 (1)	3rd	Make contradictory statements in official proceedings.
598	838.022	3rd	Official misconduct.
599	839.13 (2) (a)	3rd	Falsifying records of an individual in the care and custody of a state agency.
600	839.13 (2) (c)	3rd	Falsifying records of



414724

601			the Department of Children and Families.
602	843.021	3rd	Possession of a concealed handcuff key by a person in custody.
603	843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
604	843.15 (1) (a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
605	847.0135 (5) (c)	3rd	Lewd or lascivious exhibition using computer; offender less than 18 years.
606	870.01 (3)	2nd	Aggravated rioting.
	870.01 (5)	2nd	Aggravated inciting a riot.



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607	874.05 (1) (a)	3rd	Encouraging or recruiting another to join a criminal gang.
608	893.13 (2) (a) 1.	2nd	Purchase of cocaine (or other s. 893.03(1) (a), (b), or (d), (2) (a), (2) (b), or (2) (c) 5. drugs).
609	914.14 (2)	3rd	Witnesses accepting bribes.
610	914.22 (1)	3rd	Force, threaten, etc., witness, victim, or informant.
611	914.23 (2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.
612	916.1085 (2) (c) 1.	3rd	Introduction of specified contraband into certain DCF facilities.
613	918.12	3rd	Tampering with jurors.



414724

614 934.215 3rd Use of two-way
communications device
to facilitate
commission of a crime.

615 944.47(1)(a)6. 3rd Introduction of
contraband (cellular
telephone or other
portable communication
device) into
correctional
institution.

616 951.22(1)(h), 3rd Intoxicating drug,
(j) & (k) instrumentality or
other device to aid
escape, or cellular
telephone or other
portable communication
device introduced into
county detention
facility.

617
618
619 (e) LEVEL 5

620
Florida Felony
Statute Degree Description



414724

621	316.027 (2) (a)	3rd	Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.
622	316.1935 (4) (a)	2nd	Aggravated fleeing or eluding.
623	316.80 (2)	2nd	Unlawful conveyance of fuel; obtaining fuel fraudulently.
624	322.34 (6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
625	327.30 (5)	3rd	Vessel accidents involving personal injury; leaving scene.
626	379.365 (2) (c) 1.	3rd	Violation of rules relating to: willful molestation of stone crab traps, lines, or buoys; illegal



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bartering, trading, or sale, conspiring or aiding in such barter, trade, or sale, or supplying, agreeing to supply, aiding in supplying, or giving away stone crab trap tags or certificates; making, altering, forging, counterfeiting, or reproducing stone crab trap tags; possession of forged, counterfeit, or imitation stone crab trap tags; and engaging in the commercial harvest of stone crabs while license is suspended or revoked.

627

379.367(4)

3rd

Willful molestation of a commercial harvester's spiny lobster trap, line, or buoy.

628

379.407(5)(b)3.

3rd

Possession of 100 or more undersized spiny



414724

lobsters.

629

381.0041(11)(b) 3rd Donate blood, plasma, or
organs knowing HIV
positive.

630

440.10(1)(g) 2nd Failure to obtain
workers' compensation
coverage.

631

440.105(5) 2nd Unlawful solicitation
for the purpose of
making workers'
compensation claims.

632

440.381(2) 3rd Submission of false,
misleading, or
incomplete information
with the purpose of
avoiding or reducing
workers' compensation
premiums.

633

624.401(4)(b)2. 2nd Transacting insurance
without a certificate or
authority; premium
collected \$20,000 or
more but less than
\$100,000.



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634	626.902 (1) (c)	2nd	Representing an unauthorized insurer; repeat offender.
635	790.01 (2)	3rd	Carrying a concealed firearm.
636	790.162	2nd	Threat to throw or discharge destructive device.
637	790.163 (1)	2nd	False report of bomb, explosive, weapon of mass destruction, or use of firearms in violent manner.
638	790.221 (1)	2nd	Possession of short-barreled shotgun or machine gun.
639	790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
640	796.05 (1)	2nd	Live on earnings of a prostitute; 1st offense.



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641	800.04 (6) (c)	3rd	Lewd or lascivious conduct; offender less than 18 years of age.
642	800.04 (7) (b)	2nd	Lewd or lascivious exhibition; offender 18 years of age or older.
643	806.111 (1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
644	812.0145 (2) (b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.
645	812.015 (8) (a) & (c) - (e)	3rd	Retail theft; property stolen is valued at \$750 or more and one or more specified acts.
646	812.019 (1)	2nd	Stolen property; dealing in or trafficking in.
647	812.081 (3)	2nd	Trafficking in trade secrets.



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648	812.131 (2) (b)	3rd	Robbery by sudden snatching.
649	812.16 (2)	3rd	Owning, operating, or conducting a chop shop.
650	817.034 (4) (a) 2.	2nd	Communications fraud, value \$20,000 to \$50,000.
651	817.234 (11) (b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
652	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.
653	817.568 (2) (b)	2nd	Fraudulent use of personal identification information; value of benefit, services



414724

received, payment
avoided, or amount of
injury or fraud, \$5,000
or more or use of
personal identification
information of 10 or
more persons.

654

817.611 (2) (a)

2nd

Traffic in or possess 5
to 14 counterfeit credit
cards or related
documents.

655

817.625 (2) (b)

2nd

Second or subsequent
fraudulent use of
scanning device,
skimming device, or
reencoder.

656

825.1025 (4)

3rd

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

657

827.071 (4)

2nd

Possess with intent to
promote any photographic
material, motion
picture, etc., which



414724

includes child sexual
abuse material ~~sexual
conduct by a child.~~

658

827.071 (5)

3rd

Possess, control, or
intentionally view any
photographic material,
motion picture, etc.,
which includes child
sexual abuse material
~~sexual conduct by a
child.~~

659

828.12 (2)

3rd

Tortures any animal with
intent to inflict
intense pain, serious
physical injury, or
death.

660

836.14 (4)

2nd

Person who promotes for
a certain purpose a
sexually explicit image
of an identifiable
person without consent.

661

839.13 (2) (b)

2nd

Falsifying records of an
individual in the care
and custody of a state
agency involving great



662			bodily harm or death.
	843.01	3rd	Resist officer with violence to person; resist arrest with violence.
663			
	847.0135 (5) (b)	2nd	Lewd or lascivious exhibition using computer; offender 18 years or older.
664			
	847.0137 (2) & (3)	3rd	Transmission of pornography by electronic device or equipment.
665			
	847.0138 (2) & (3)	3rd	Transmission of material harmful to minors to a minor by electronic device or equipment.
666			
	874.05 (1) (b)	2nd	Encouraging or recruiting another to join a criminal gang; second or subsequent offense.
667			
	874.05 (2) (a)	2nd	Encouraging or



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

668

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)5.
drugs).

669

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)6.,
(2)(c)7., (2)(c)8.,
(2)(c)9., (2)(c)10.,
(3), or (4) drugs)
within 1,000 feet of a
child care facility,
school, or state,
county, or municipal
park or publicly owned
recreational facility or
community center.

670

893.13(1)(d)1.

1st

Sell, manufacture, or
deliver cocaine (or



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other s. 893.03(1) (a),
(1) (b), (1) (d), (2) (a),
(2) (b), or (2) (c) 5.
drugs) within 1,000 feet
of university.

671

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) 6.,
(2) (c) 7., (2) (c) 8.,
(2) (c) 9., (2) (c) 10.,
(3), or (4) within 1,000
feet of property used
for religious services
or a specified business
site.

672

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) 5. drugs) within
1,000 feet of public
housing facility.

673



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893.13(4)(b) 2nd Use or hire of minor;
deliver to minor other
controlled substance.

674

893.1351(1) 3rd Ownership, lease, or
rental for trafficking
in or manufacturing of
controlled substance.

675

676

677 Section 10. Paragraph (e) of subsection (3) and subsection
678 (10) of section 960.03, Florida Statutes, are amended to read:
679 960.03 Definitions; ss. 960.01-960.28.—As used in ss.

680 960.01-960.28, unless the context otherwise requires, the term:

681 (3) "Crime" means:

682 (e) A violation of s. 827.071, s. 847.0135, s. 847.0137, or
683 s. 847.0138, related to online sexual exploitation and child
684 sexual abuse material ~~child pornography~~.

685 (10) "Identified victim of child sexual abuse material
686 ~~child pornography~~" means any person who, while under the age of
687 18, is depicted in any image or movie of child sexual abuse
688 material ~~child pornography~~ and who is identified through a
689 report generated by a law enforcement agency and provided to the
690 National Center for Missing and Exploited Children's Child
691 Victim Identification Program.

692 Section 11. Paragraph (j) of subsection (1) of section
693 288.1254, Florida Statutes, is amended to read:

694 288.1254 Entertainment industry financial incentive
695 program.—



414724

696 (1) DEFINITIONS.—As used in this section, the term:
697 (j) “Qualified production” means a production in this state
698 meeting the requirements of this section. The term does not
699 include a production:
700 1. In which, for the first 2 years of the incentive
701 program, less than 50 percent, and thereafter, less than 60
702 percent, of the positions that make up its production cast and
703 below-the-line production crew, or, in the case of digital media
704 projects, less than 75 percent of such positions, are filled by
705 legal residents of this state, whose residency is demonstrated
706 by a valid Florida driver license or other state-issued
707 identification confirming residency, or students enrolled full-
708 time in a film-and-entertainment-related course of study at an
709 institution of higher education in this state; or
710 2. That contains obscene content as defined in s. 847.001
711 ~~s. 847.001(10)~~.
712 Section 12. Subsection (1) of section 847.0141, Florida
713 Statutes, is amended to read:
714 847.0141 Sexting; prohibited acts; penalties.—
715 (1) A minor commits the offense of sexting if he or she
716 knowingly:
717 (a) Uses a computer, or any other device capable of
718 electronic data transmission or distribution, to transmit or
719 distribute to another minor any photograph or video of any
720 person which depicts nudity, as defined in s. 847.001 ~~s.~~
721 ~~847.001(9)~~, and is harmful to minors, as defined in s. 847.001
722 ~~s. 847.001(6)~~.
723 (b) Possesses a photograph or video of any person that was
724 transmitted or distributed by another minor which depicts



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725 nudity, as defined in s. 847.001 ~~s. 847.001(9)~~, and is harmful
726 to minors, as defined in s. 847.001 ~~s. 847.001(6)~~. A minor does
727 not violate this paragraph if all of the following apply:

- 728 1. The minor did not solicit the photograph or video.
729 2. The minor took reasonable steps to report the photograph
730 or video to the minor's legal guardian or to a school or law
731 enforcement official.
732 3. The minor did not transmit or distribute the photograph
733 or video to a third party.

734 Section 13. Subsection (3) of section 39.0138, Florida
735 Statutes, is amended to read:

736 39.0138 Criminal history and other records checks; limit on
737 placement of a child.—

738 (3) The department may not place a child with a person
739 other than a parent if the criminal history records check
740 reveals that the person has been convicted of any felony that
741 falls within any of the following categories:

- 742 (a) Child abuse, abandonment, or neglect;
743 (b) Domestic violence;
744 (c) Child sexual abuse material ~~Child pornography~~ or other
745 felony in which a child was a victim of the offense; or
746 (d) Homicide, sexual battery, or other felony involving
747 violence, other than felony assault or felony battery when an
748 adult was the victim of the assault or battery, or resisting
749 arrest with violence.

750 Section 14. Subsection (3) of section 92.56, Florida
751 Statutes, is amended to read:

752 92.56 Judicial proceedings and court records involving
753 sexual offenses and human trafficking.—



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754 (3) The state may use a pseudonym instead of the victim's
755 name to designate the victim of a crime described in s.
756 787.06(3)(a)1., (c)1., or (e)1., in s. 787.06(3)(b), (d), (f),
757 or (g), or in chapter 794 or chapter 800, or of child abuse,
758 aggravated child abuse, or sexual performance by a child as
759 described in chapter 827, or any crime involving the production,
760 possession, or promotion of child sexual abuse material ~~child~~
761 ~~pornography~~ as described in chapter 847, in all court records
762 and records of court proceedings, both civil and criminal.

763 Section 15. Section 92.561, Florida Statutes, is amended to
764 read:

765 92.561 Prohibition on reproduction of child sexual abuse
766 material ~~child pornography~~.

767 (1) In a criminal proceeding, any property or material that
768 portrays sexual performance by a child as defined in s. 827.071,
769 or constitutes child sexual abuse material ~~child pornography~~ as
770 defined in s. 847.001, must remain secured or locked in the
771 care, custody, and control of a law enforcement agency, the
772 state attorney, or the court.

773 (2) Notwithstanding any law or rule of court, a court shall
774 deny, in a criminal proceeding, any request by the defendant to
775 copy, photograph, duplicate, or otherwise reproduce any property
776 or material that portrays sexual performance by a child or
777 constitutes child sexual abuse material ~~child pornography~~ so
778 long as the state attorney makes the property or material
779 reasonably available to the defendant.

780 (3) For purposes of this section, property or material is
781 deemed to be reasonably available to the defendant if the state
782 attorney provides ample opportunity at a designated facility for



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783 the inspection, viewing, and examination of the property or
784 material that portrays sexual performance by a child or
785 constitutes child sexual abuse material ~~child pornography~~ by the
786 defendant, his or her attorney, or any individual whom the
787 defendant uses as an expert during the discovery process or at a
788 court proceeding.

789 Section 16. Paragraph (c) of subsection (4) of section
790 435.07, Florida Statutes, is amended to read:

791 435.07 Exemptions from disqualification.—Unless otherwise
792 provided by law, the provisions of this section apply to
793 exemptions from disqualification for disqualifying offenses
794 revealed pursuant to background screenings required under this
795 chapter, regardless of whether those disqualifying offenses are
796 listed in this chapter or other laws.

797 (4)

798 (c) Disqualification from employment under this chapter may
799 not be removed from, and an exemption may not be granted to, any
800 current or prospective child care personnel, as defined in s.
801 402.302(3), and such a person is disqualified from employment as
802 child care personnel, regardless of any previous exemptions from
803 disqualification, if the person has been registered as a sex
804 offender as described in 42 U.S.C. s. 9858f(c)(1)(C) or has been
805 arrested for and is awaiting final disposition of, has been
806 convicted or found guilty of, or entered a plea of guilty or
807 nolo contendere to, regardless of adjudication, or has been
808 adjudicated delinquent and the record has not been sealed or
809 expunged for, any offense prohibited under any of the following
810 provisions of state law or a similar law of another
811 jurisdiction:



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- 812 1. A felony offense prohibited under any of the following
813 statutes:
- 814 a. Chapter 741, relating to domestic violence.
815 b. Section 782.04, relating to murder.
816 c. Section 782.07, relating to manslaughter, aggravated
817 manslaughter of an elderly person or disabled adult, aggravated
818 manslaughter of a child, or aggravated manslaughter of an
819 officer, a firefighter, an emergency medical technician, or a
820 paramedic.
- 821 d. Section 784.021, relating to aggravated assault.
822 e. Section 784.045, relating to aggravated battery.
823 f. Section 787.01, relating to kidnapping.
824 g. Section 787.025, relating to luring or enticing a child.
825 h. Section 787.04(2), relating to leading, taking,
826 enticing, or removing a minor beyond the state limits, or
827 concealing the location of a minor, with criminal intent pending
828 custody proceedings.
- 829 i. Section 787.04(3), relating to leading, taking,
830 enticing, or removing a minor beyond the state limits, or
831 concealing the location of a minor, with criminal intent pending
832 dependency proceedings or proceedings concerning alleged abuse
833 or neglect of a minor.
- 834 j. Section 794.011, relating to sexual battery.
835 k. Former s. 794.041, relating to sexual activity with or
836 solicitation of a child by a person in familial or custodial
837 authority.
- 838 l. Section 794.05, relating to unlawful sexual activity
839 with certain minors.
- 840 m. Section 794.08, relating to female genital mutilation.



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841 n. Section 806.01, relating to arson.
842 o. Section 826.04, relating to incest.
843 p. Section 827.03, relating to child abuse, aggravated
844 child abuse, or neglect of a child.
845 q. Section 827.04, relating to contributing to the
846 delinquency or dependency of a child.
847 r. Section 827.071, relating to sexual performance by a
848 child.
849 s. Chapter 847, relating to child sexual abuse material
850 ~~child pornography~~.
851 t. Chapter 893, relating to a drug abuse prevention and
852 control offense, if that offense was committed in the preceding
853 5 years.
854 u. Section 985.701, relating to sexual misconduct in
855 juvenile justice programs.
856 2. A misdemeanor offense prohibited under any of the
857 following statutes:
858 a. Section 784.03, relating to battery, if the victim of
859 the offense was a minor.
860 b. Section 787.025, relating to luring or enticing a child.
861 c. Chapter 847, relating to child sexual abuse material
862 ~~child pornography~~.
863 3. A criminal act committed in another state or under
864 federal law which, if committed in this state, constitutes an
865 offense prohibited under any statute listed in subparagraph 1.
866 or subparagraph 2.
867 Section 17. Paragraph (z) of subsection (5) of section
868 456.074, Florida Statutes, is amended to read:
869 456.074 Certain health care practitioners; immediate



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870 suspension of license.-

871 (5) The department shall issue an emergency order
872 suspending the license of any health care practitioner who is
873 arrested for committing or attempting, soliciting, or conspiring
874 to commit any act that would constitute a violation of any of
875 the following criminal offenses in this state or similar
876 offenses in another jurisdiction:

877 (z) Section 847.0137, relating to the transmission of child
878 sexual abuse material ~~child pornography~~ by electronic device or
879 equipment.

880 Section 18. Section 847.002, Florida Statutes, is amended
881 to read:

882 847.002 Child sexual abuse material ~~Child pornography~~
883 prosecutions.-

884 (1) Any law enforcement officer who, pursuant to a criminal
885 investigation, recovers images or movies of child sexual abuse
886 material ~~child pornography~~ shall:

887 (a) Provide such images or movies to the law enforcement
888 agency representative assigned to the Child Victim
889 Identification Program at the National Center for Missing and
890 Exploited Children, as required by the center's guidelines.

891 (b) Request the law enforcement agency contact information
892 from the Child Victim Identification Program for any images or
893 movies recovered which contain an identified victim of child
894 sexual abuse material ~~child pornography~~ as defined in s. 960.03.

895 (c) Provide case information to the Child Victim
896 Identification Program, as required by the National Center for
897 Missing and Exploited Children guidelines, in any case where the
898 law enforcement officer identifies a previously unidentified



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899 victim of child sexual abuse material ~~child pornography~~.

900 (2) Any law enforcement officer submitting a case for
901 prosecution which involves the production, promotion, or
902 possession of child sexual abuse material ~~child pornography~~
903 shall submit to the designated prosecutor the law enforcement
904 agency contact information provided by the Child Victim
905 Identification Program at the National Center for Missing and
906 Exploited Children, for any images or movies involved in the
907 case which contain the depiction of an identified victim of
908 child sexual abuse material ~~child pornography~~ as defined in s.
909 960.03.

910 (3) In every filed case involving an identified victim of
911 child sexual abuse material ~~child pornography~~, as defined in s.
912 960.03, the prosecuting agency shall enter the following
913 information into the Victims in Child Sexual Abuse Material
914 ~~Child Pornography~~ Tracking Repeat Exploitation database
915 maintained by the Office of the Attorney General:

- 916 (a) The case number and agency file number.
917 (b) The named defendant.
918 (c) The circuit court division and county.
919 (d) Current court dates and the status of the case.
920 (e) Contact information for the prosecutor assigned.
921 (f) Verification that the prosecutor is or is not in
922 possession of a victim impact statement and will use the
923 statement in sentencing.

924 Section 19. Subsections (1) and (4) of section 847.01357,
925 Florida Statutes, are amended to read:

926 847.01357 Exploited children's civil remedy.—

927 (1) Any person who, while under the age of 18, was a victim



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928 of a sexual abuse crime listed in chapter 794, chapter 800,
929 chapter 827, or chapter 847, where any portion of such abuse was
930 used in the production of child sexual abuse material ~~child~~
931 ~~pornography~~, and who suffers personal or psychological injury as
932 a result of the production, promotion, or possession of such
933 images or movies, may bring an action in an appropriate state
934 court against the producer, promoter, or possessor of such
935 images or movies, regardless of whether the victim is now an
936 adult. In any action brought under this section, a prevailing
937 plaintiff shall recover the actual damages such person sustained
938 and the cost of the suit, including reasonable attorney's fees.
939 Any victim who is awarded damages under this section shall be
940 deemed to have sustained damages of at least \$150,000.

941 (4) It is not a defense to a civil cause of action under
942 this section that the respondent did not know the victim or
943 commit the abuse depicted in any image of child sexual abuse
944 material ~~child pornography~~.

945 Section 20. Section 847.0139, Florida Statutes, is amended
946 to read:

947 847.0139 Immunity from civil liability for reporting child
948 sexual abuse material ~~child pornography~~, transmission of child
949 sexual abuse material ~~child pornography~~, or any image,
950 information, or data harmful to minors to a minor in this
951 state.—Any person who reports to a law enforcement officer what
952 the person reasonably believes to be child sexual abuse material
953 ~~child pornography~~, transmission of child sexual abuse material
954 ~~child pornography~~, or any image, information, or data that is
955 harmful to minors to a minor in this state may not be held
956 civilly liable for such reporting. For purposes of this section,



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957 such reporting may include furnishing the law enforcement
958 officer with any image, information, or data that the person
959 reasonably believes to be evidence of child sexual abuse
960 material child pornography, transmission of child sexual abuse
961 material child pornography, or an image, information, or data
962 that is harmful to minors to a minor in this state.

963 Section 21. Paragraph (c) of subsection (8) of section
964 948.06, Florida Statutes, is amended to read:

965 948.06 Violation of probation or community control;
966 revocation; modification; continuance; failure to pay
967 restitution or cost of supervision.—

968 (8)

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

971 1. Kidnapping or attempted kidnapping under s. 787.01,
972 false imprisonment of a child under the age of 13 under s.
973 787.02(3), or luring or enticing a child under s. 787.025(2) (b)
974 or (c).

975 2. Murder or attempted murder under s. 782.04, attempted
976 felony murder under s. 782.051, or manslaughter under s. 782.07.

977 3. Aggravated battery or attempted aggravated battery under
978 s. 784.045.

979 4. Sexual battery or attempted sexual battery under s.
980 794.011(2), (3), (4), or (8) (b) or (c).

981 5. Lewd or lascivious battery or attempted lewd or
982 lascivious battery under s. 800.04(4), lewd or lascivious
983 molestation under s. 800.04(5) (b) or (c)2., lewd or lascivious
984 conduct under s. 800.04(6) (b), lewd or lascivious exhibition
985 under s. 800.04(7) (b), or lewd or lascivious exhibition on



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986 computer under s. 847.0135(5) (b) .
987 6. Robbery or attempted robbery under s. 812.13, carjacking
988 or attempted carjacking under s. 812.133, or home invasion
989 robbery or attempted home invasion robbery under s. 812.135.
990 7. Lewd or lascivious offense upon or in the presence of an
991 elderly or disabled person or attempted lewd or lascivious
992 offense upon or in the presence of an elderly or disabled person
993 under s. 825.1025.
994 8. Sexual performance by a child or attempted sexual
995 performance by a child under s. 827.071.
996 9. Computer pornography under s. 847.0135(2) or (3),
997 transmission of child sexual abuse material ~~child pornography~~
998 under s. 847.0137, or selling or buying of minors under s.
999 847.0145.
1000 10. Poisoning food or water under s. 859.01.
1001 11. Abuse of a dead human body under s. 872.06.
1002 12. Any burglary offense or attempted burglary offense that
1003 is either a first degree felony or second degree felony under s.
1004 810.02(2) or (3).
1005 13. Arson or attempted arson under s. 806.01(1).
1006 14. Aggravated assault under s. 784.021.
1007 15. Aggravated stalking under s. 784.048(3), (4), (5), or
1008 (7) .
1009 16. Aircraft piracy under s. 860.16.
1010 17. Unlawful throwing, placing, or discharging of a
1011 destructive device or bomb under s. 790.161(2), (3), or (4).
1012 18. Treason under s. 876.32.
1013 19. Any offense committed in another jurisdiction which
1014 would be an offense listed in this paragraph if that offense had



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1015 been committed in this state.

1016 Section 22. Section 960.197, Florida Statutes, is amended
1017 to read:

1018 960.197 Assistance to victims of online sexual exploitation
1019 and child sexual abuse material ~~child pornography~~.-

1020 (1) Notwithstanding the criteria set forth in s. 960.13 for
1021 crime victim compensation awards, the department may award
1022 compensation for counseling and other mental health services to
1023 treat psychological injury or trauma to:

1024 (a) A child younger than 18 years of age who suffers
1025 psychiatric or psychological injury as a direct result of online
1026 sexual exploitation under any provision of s. 827.071, s.
1027 847.0135, s. 847.0137, or s. 847.0138, and who does not
1028 otherwise sustain a personal injury or death; or

1029 (b) Any person who, while younger than age 18, was depicted
1030 in any image or movie, regardless of length, of child sexual
1031 abuse material ~~child pornography~~ as defined in s. 847.001, who
1032 has been identified by a law enforcement agency or the National
1033 Center for Missing and Exploited Children as an identified
1034 victim of child sexual abuse material ~~child pornography~~, who
1035 suffers psychiatric or psychological injury as a direct result
1036 of the crime, and who does not otherwise sustain a personal
1037 injury or death.

1038 (2) Compensation under this section is not contingent upon
1039 pursuit of a criminal investigation or prosecution.

1040 Section 23. This act shall take effect October 1, 2022.

1041

1042 ===== T I T L E A M E N D M E N T =====

1043 And the title is amended as follows:



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1044 Delete everything before the enacting clause
1045 and insert:

1046 A bill to be entitled
1047 An act relating to sexually explicit material;
1048 amending s. 775.0847, F.S.; redefining terms;
1049 replacing the term "child pornography" with the term
1050 "child sexual abuse material"; defining the term
1051 "identifiable minor"; revising the list of
1052 circumstances under which specified offenses may be
1053 reclassified; amending s. 784.049, F.S.; increasing
1054 the monetary damages that an aggrieved person may
1055 receive as a result of violations relating to sexual
1056 cyberharassment; amending s. 827.071, F.S.; defining
1057 and redefining terms; conforming provisions to changes
1058 made by the act; creating s. 836.13, F.S.; defining
1059 terms; prohibiting the willful and malicious promotion
1060 of certain images without consent; providing criminal
1061 penalties; providing a civil cause of action;
1062 providing applicability; providing construction;
1063 creating s. 836.14, F.S.; defining terms; prohibiting
1064 a person from obtaining certain images with the intent
1065 to promote such images; prohibiting the possession of
1066 certain images with intent to promote without consent;
1067 prohibiting the promotion of certain images without
1068 consent; providing criminal penalties; providing a
1069 civil cause of action; providing applicability;
1070 providing construction; amending s. 847.001, F.S.;
1071 redefining terms; replacing the term "child
1072 pornography" with the term "child sexual abuse



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1073 material"; defining the terms "identifiable minor" and
1074 "promote"; amending 847.011; authorizing law
1075 enforcement officers to arrest certain persons without
1076 a warrant; authorizing a search warrant to be issued
1077 for further investigation upon proper affidavits being
1078 made; amending 847.0137, F.S.; deleting the definition
1079 of the term "minor"; redefining the term "transmit";
1080 conforming provisions to changes made by the act;
1081 amending s. 921.0022, F.S.; ranking offenses created
1082 by this act for purposes of the severity ranking chart
1083 of the Criminal Punishment Code; conforming provisions
1084 to changes made by the act; amending s. 960.03, F.S.;
1085 replacing the term "child pornography" with the term
1086 "child sexual abuse material"; conforming provisions
1087 to changes made by the act; amending ss. 288.1254, and
1088 847.0141 F.S.; conforming cross-references; amending
1089 ss. 39.0138, 92.56, 92.561, 435.07, 456.074, 847.002,
1090 847.01357, 847.0139, 948.06, and 960.197, F.S.;
1091 conforming provisions to changes made by the act;
1092 providing an effective date.