

By Senator Book

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1 A bill to be entitled
2 An act relating to sexually explicit material;
3 amending s. 775.0847, F.S.; redefining the term "child
4 pornography"; defining the term "digitization";
5 amending s. 784.049, F.S.; increasing the monetary
6 damages that an aggrieved person may receive as a
7 result of violations relating to sexual
8 cyberharassment; creating s. 784.0491, F.S.; defining
9 terms; prohibiting persons from willfully and
10 maliciously creating and disseminating or selling any
11 sexually explicit image of a depicted individual
12 without that individual's consent; providing criminal
13 penalties; prohibiting persons from willfully and
14 maliciously disseminating or selling any such image if
15 the persons knows or reasonably should have known the
16 image is digitized; providing criminal penalties;
17 providing enhanced criminal penalties for second or
18 subsequent offenses; authorizing a law enforcement
19 officer to arrest without a warrant any person he or
20 she has probable cause to believe has violated
21 specified provisions; authorizing the issuance of a
22 search warrant if certain conditions are met;
23 authorizing an aggrieved person to initiate a civil
24 action to obtain certain relief against a person who
25 violates specified provisions; providing
26 applicability; providing construction; creating s.
27 784.0492, F.S.; defining terms; prohibiting a person
28 from knowingly and unlawfully obtaining a specified
29 sexually explicit image of a person with a certain

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30 intent; providing criminal penalties; prohibiting a
31 person from willfully possessing with a certain intent
32 a specified sexually explicit image of a person
33 without that person's consent; providing criminal
34 penalties; prohibiting a person from willfully
35 disseminating for financial gain a specified sexually
36 explicit image of a person without that person's
37 consent; providing criminal penalties; authorizing an
38 aggrieved person to initiate a civil action to obtain
39 certain relief against a person who violates specified
40 provisions; providing applicability; providing
41 construction; amending s. 827.071, F.S.; defining the
42 terms "child pornography" and "digitization"; revising
43 existing unlawful conduct relating to possessing with
44 the intent to promote and knowingly possessing,
45 controlling, or intentionally viewing presentations
46 that include child pornography, rather than sexual
47 conduct by a child; making technical changes; amending
48 s. 847.001, F.S.; redefining the term "child
49 pornography"; defining the term "digitization";
50 amending s. 921.0022, F.S.; ranking offenses created
51 by this act for purposes of the offense severity
52 ranking chart of the Criminal Punishment Code;
53 amending ss. 288.1254 and 847.0141, F.S.; conforming
54 cross-references; providing an effective date.

55
56 Be It Enacted by the Legislature of the State of Florida:

57
58 Section 1. Present paragraphs (c) through (f) of subsection

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59 (1) of section 775.0847, Florida Statutes, are redesignated as
60 paragraphs (d) through (g), respectively, a new paragraph (c) is
61 added to that subsection, and paragraph (b) of that subsection
62 is amended, to read:

63 775.0847 Possession or promotion of certain images of child
64 pornography; reclassification.—

65 (1) For purposes of this section:

66 (b) "Child pornography" means:

67 1. Any image depicting a minor engaged in sexual conduct;
68 or

69 2. Any image depicting an actual and identifiable minor who
70 appears, as a result of digitization, to be engaged in sexual
71 conduct.

72 (c) "Digitization" means to realistically depict any of the
73 following:

74 1. The nude body parts of another human being as the nude
75 body parts of a minor.

76 2. Computer-generated nude body parts as the nude body
77 parts of a minor.

78 3. A minor engaging in sexual conduct.
79

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

85 Section 2. Paragraph (b) of subsection (5) of section
86 784.049, Florida Statutes, is amended to read:

87 784.049 Sexual cyberharassment.—

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

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

95 Section 3. Section 784.0491, Florida Statutes, is created
96 to read:

97 784.0491 Unlawful dissemination of sexually explicit
98 material depicting an individual.—

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

100 (a) "Depicted individual" means an actual and identifiable
101 person who appears, as a result of digitization, to be engaged
102 in a performance he or she did not actually perform or to be
103 performing in an altered depiction.

104 (b) "Digitization" means to realistically depict any of the
105 following:

106 1. The nude body parts of another human being as the nude
107 body parts of a depicted individual.

108 2. Computer-generated nude body parts as the nude body
109 parts of a depicted individual.

110 3. A depicted individual engaging in sexual conduct as
111 defined in s. 847.001 in which the depicted individual did not
112 engage.

113 (c) "Disseminate" includes, but is not limited to, the
114 publishing of an image to an Internet website or the transfer of
115 an image through electronic means to another person.

116 (d) "Image" includes, but is not limited to, any

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117 photograph, picture, motion picture, film, video, or
118 representation.

119 (e) "Sexually explicit image" means any image depicting
120 nudity as defined in s. 847.001 or depicting a person engaging
121 in sexual conduct as defined in s. 847.001.

122 (2) (a) A person who willfully and maliciously creates and
123 disseminates or sells any sexually explicit image of a depicted
124 individual, without the consent of the depicted individual,
125 commits a misdemeanor of the first degree for a first offense,
126 punishable as provided in s. 775.082 or s. 775.083.

127 (b) A person who willfully and maliciously disseminates or
128 sells any sexually explicit image of a depicted individual,
129 without the consent of the depicted individual, and who knows or
130 reasonably should have known that such image was the result of
131 digitization, commits a misdemeanor of the first degree for a
132 first offense, punishable as provided in s. 775.082 or s.
133 775.083.

134 (c) A second or subsequent violation of paragraph (a) or
135 paragraph (b) is a felony of the third degree, punishable as
136 provided in s. 775.082, s. 775.083, or s. 775.084.

137 (3) (a) A law enforcement officer may arrest without a
138 warrant any person who he or she has probable cause to believe
139 has violated subsection (2).

140 (b) Upon proper affidavits being made, a search warrant may
141 be issued to further investigate a violation of subsection (2),
142 including to search a private dwelling.

143 (4) An aggrieved person may initiate a civil action against
144 a person who violates subsection (2) to obtain appropriate
145 relief in order to prevent or remedy a violation of subsection

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146 (2), including all of the following:

147 (a) Injunctive relief.

148 (b) Monetary damages up to and including \$5,000 or actual
149 damages incurred as a result of a violation of subsection (2),
150 whichever is greater.

151 (c) Reasonable attorney fees and costs.

152 (5) The criminal and civil penalties of this section do not
153 apply to:

154 (a) A provider of an interactive computer services as
155 defined in 47 U.S.C. s. 230(f), of an information service as
156 defined in 47 U.S.C. s. 153, or of a communications services as
157 defined in s. 202.11 which provides the transmission, storage,
158 or caching of electronic communications or messages of others;
159 another related telecommunications or commercial mobile radio
160 service; or content provided by another person; or

161 (b) A law enforcement officer, as defined in s. 943.10, or
162 any local, state, federal, or military law enforcement agency
163 that disseminates a sexually explicit image in connection with
164 the performance of his or her duties as a law enforcement
165 officer or the duties of the law enforcement agency.

166 (6) A violation of this section is committed within this
167 state if any conduct that is an element of the offense, or any
168 harm to the depicted individual resulting from the offense,
169 occurs within this state.

170 Section 4. Section 784.0492, Florida Statutes, is created
171 to read:

172 784.0492 Unlawful taking or criminal use of a sexually
173 explicit image.—

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

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175 (a) "Disseminate" includes, but is not limited to, the
176 publishing of an image to an Internet website or the transfer of
177 an image through electronic means to another person.

178 (b) "Image" includes, but is not limited to, any
179 photograph, picture, motion picture, film, video, or
180 representation.

181 (c) "Obtains" means any manner of taking or exercising
182 control over an image or obtaining an image by fraud, willful
183 misrepresentation, or false promise.

184 (d) "Personal identification information" means any
185 information that identifies an individual, and includes, but is
186 not limited to, any name, postal or electronic mail address,
187 telephone number, social security number, date of birth, or
188 unique physical representation.

189 (e) "Sexually explicit image" means any image depicting
190 nudity as defined in s. 847.001 or depicting a person engaging
191 in sexual conduct as defined in s. 847.001.

192 (2) A person who knowingly and unlawfully obtains a
193 sexually explicit image of a person which contains or conveys
194 the personal identification information of the depicted person
195 with the intent of causing substantial emotional distress to
196 that person commits the offense of unlawful taking of a sexually
197 explicit image, punishable as a felony of the third degree, as
198 provided in s. 775.082, s. 775.083, or s. 775.084.

199 (3) A person who willfully possesses with the intent to
200 disseminate for the purposes of pecuniary or any type of
201 financial gain a sexually explicit image of a person which
202 contains or conveys the personal identification information of
203 the depicted person without first obtaining that person's

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204 consent commits the offense of criminal use of a sexually
205 explicit image, punishable as a felony of the third degree, as
206 provided in s. 775.082, s. 775.083, or s. 775.084.

207 (4) A person who willfully disseminates for the purposes of
208 pecuniary or any type of financial gain a sexually explicit
209 image of a person which contains or conveys the personal
210 identification information of the depicted person without first
211 obtaining that person's consent commits the offense of criminal
212 use of a sexually explicit image, punishable as a felony of the
213 second degree, as provided in s. 775.082, s. 775.083, or s.
214 775.084.

215 (5) Every act, thing, or transaction prohibited by this
216 section constitutes a separate offense and is punishable as
217 such.

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

222 (a) Injunctive relief.

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

226 (c) Reasonable attorney fees and costs.

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

229 (a) A provider of an interactive computer services as
230 defined in 47 U.S.C. s. 230(f), of an information service as
231 defined in 47 U.S.C. s. 153, or of a communications services as
232 defined in s. 202.11 which provides the transmission, storage,

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233 or caching of electronic communications or messages of others;
234 another related telecommunications or commercial mobile radio
235 service; or content provided by another person;

236 (b) A law enforcement officer, as defined in s. 943.10, or
237 any local, state, federal, or military law enforcement agency
238 that disseminates a sexually explicit image in connection with
239 the performance of his or her duties as a law enforcement
240 officer or the duties of the law enforcement agency; or

241 (c) Sexually explicit images involving voluntary exposure
242 in a public or commercial setting.

243 (8) A violation of this section is committed within this
244 state if any conduct that is an element of the offense, or any
245 harm to the depicted individual resulting from the offense,
246 occurs within this state.

247 Section 5. Section 827.071, Florida Statutes, is amended to
248 read:

249 827.071 Sexual performance by a child; child pornography;
250 penalties.—

251 (1) As used in this section, the term ~~following definitions~~
252 ~~shall apply:~~

253 (a) "Child pornography" means:

254 1. Any image depicting a minor engaged in sexual conduct;
255 or

256 2. Any image depicting an actual and identifiable minor who
257 appears, as a result of digitization, to be engaged in sexual
258 conduct.

259 (b) "Deviate sexual intercourse" means sexual conduct
260 between persons not married to each other consisting of contact
261 between the penis and the anus, the mouth and the penis, or the

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262 mouth and the vulva.

263 (c) "Digitization" means to realistically depict any of the
264 following:

265 1. The nude body parts of another human being as the nude
266 body parts of a minor.

267 2. Computer-generated nude body parts as the nude body
268 parts of a minor.

269 3. A minor engaging in sexual conduct.

270 (d)~~(b)~~ "Intentionally view" means to deliberately,
271 purposefully, and voluntarily view. Proof of intentional viewing
272 requires establishing more than a single image, motion picture,
273 exhibition, show, image, data, computer depiction,
274 representation, or other presentation over any period of time.

275 (e)~~(e)~~ "Performance" means any play, motion picture,
276 photograph, or dance or any other visual representation
277 exhibited before an audience.

278 (f)~~(d)~~ "Promote" means to procure, manufacture, issue,
279 sell, give, provide, lend, mail, deliver, transfer, transmute,
280 publish, distribute, circulate, disseminate, present, exhibit,
281 or advertise or to offer or agree to do the same.

282 (g)~~(e)~~ "Sadomasochistic abuse" means flagellation or
283 torture by or upon a person, or the condition of being fettered,
284 bound, or otherwise physically restrained, for the purpose of
285 deriving sexual satisfaction from inflicting harm on another or
286 receiving such harm oneself.

287 (h)~~(f)~~ "Sexual battery" means oral, anal, or vaginal
288 penetration by, or union with, the sexual organ of another or
289 the anal or vaginal penetration of another by any other object;
290 however, "sexual battery" does not include an act done for a

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291 bona fide medical purpose.

292 (i)~~(g)~~ "Sexual bestiality" means any sexual act between a
293 person and an animal involving the sex organ of the one and the
294 mouth, anus, or vagina of the other.

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

305 (k)~~(i)~~ "Sexual performance" means any performance or part
306 thereof which includes sexual conduct by a child younger ~~of less~~
307 than 18 years of age.

308 (l)~~(j)~~ "Simulated" means the explicit depiction of conduct
309 set forth in paragraph (j) ~~(h)~~ which creates the appearance of
310 such conduct and which exhibits any uncovered portion of the
311 breasts, genitals, or buttocks.

312 (2) A person is guilty of the use of a child in a sexual
313 performance if, knowing the character and content thereof, he or
314 she employs, authorizes, or induces a child younger ~~less~~ than 18
315 years of age to engage in a sexual performance or, being a
316 parent, legal guardian, or custodian of such child, consents to
317 the participation by such child in a sexual performance. A
318 person who ~~Whoever~~ violates this subsection commits ~~is guilty of~~
319 a felony of the second degree, punishable as provided in s.

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320 775.082, s. 775.083, or s. 775.084.

321 (3) A person is guilty of promoting a sexual performance by
322 a child when, knowing the character and content thereof, he or
323 she produces, directs, or promotes any performance which
324 includes sexual conduct by a child younger ~~less~~ than 18 years of
325 age. A person who ~~Whoever~~ violates this subsection commits is
326 ~~guilty of~~ a felony of the second degree, punishable as provided
327 in s. 775.082, s. 775.083, or s. 775.084.

328 (4) It is unlawful for any person to possess with the
329 intent to promote any photograph, motion picture, exhibition,
330 show, representation, or other presentation which, in whole or
331 in part, includes child pornography ~~any sexual conduct by a~~
332 ~~child~~. The possession of three or more copies of such
333 photograph, motion picture, representation, or presentation is
334 prima facie evidence of an intent to promote. A person who
335 ~~Whoever~~ violates this subsection commits is ~~guilty of~~ a felony
336 of the second degree, punishable as provided in s. 775.082, s.
337 775.083, or s. 775.084.

338 (5) (a) It is unlawful for any person to knowingly possess,
339 control, or intentionally view a photograph, motion picture,
340 exhibition, show, representation, image, data, computer
341 depiction, or other presentation which, in whole or in part, he
342 or she knows to include child pornography ~~any sexual conduct by~~
343 ~~a child~~. The possession, control, or intentional viewing of each
344 such photograph, motion picture, exhibition, show, image, data,
345 computer depiction, representation, or presentation is a
346 separate offense. If such photograph, motion picture,
347 exhibition, show, representation, image, data, computer
348 depiction, or other presentation includes child pornography

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349 ~~depicting sexual conduct by~~ more than one child, then each such
350 child in each such photograph, motion picture, exhibition, show,
351 representation, image, data, computer depiction, or other
352 presentation that is knowingly possessed, controlled, or
353 intentionally viewed is a separate offense. A person who
354 violates this paragraph ~~subsection~~ commits a felony of the third
355 degree, punishable as provided in s. 775.082, s. 775.083, or s.
356 775.084.

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

360 (6) Prosecution of a any person for an offense under this
361 section does ~~shall~~ not prohibit prosecution of that person in
362 this state for a violation of any other law of this state,
363 including a law providing for greater penalties than prescribed
364 in this section or any other crime punishing the sexual
365 performance or the sexual exploitation of children.

366 Section 6. Present subsections (6) through (20) of section
367 847.001, Florida Statutes, are redesignated as subsections (7)
368 through (21), respectively, a new subsection (6) is added to
369 that section, and subsection (3) and present subsection (19) of
370 that section are amended, to read:

371 847.001 Definitions.—As used in this chapter, the term:

372 (3) "Child pornography" means:

373 (a) Any image depicting a minor engaged in sexual conduct;
374 or

375 (b) Any image depicting an actual and identifiable minor
376 who appears, as a result of digitization, to be engaged in
377 sexual conduct.

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378 (6) "Digitization" means to realistically depict any of the
 379 following:

380 (a) The nude body parts of another human being as the nude
 381 body parts of a minor.

382 (b) Computer-generated nude body parts as the nude body
 383 parts of a minor.

384 (c) A minor engaging in sexual conduct.

385 (20)-(19) "Simulated" means the explicit depiction of
 386 conduct described in subsection (17) (16) which creates the
 387 appearance of such conduct and which exhibits any uncovered
 388 portion of the breasts, genitals, or buttocks.

389 Section 7. Paragraphs (d) and (e) of subsection (3) of
 390 section 921.0022, Florida Statutes, are amended to read:

391 921.0022 Criminal Punishment Code; offense severity ranking
 392 chart.-

393 (3) OFFENSE SEVERITY RANKING CHART

394 (d) LEVEL 4

395

Florida Statute	Felony Degree	Description
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

396

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397

activated.

499.0051 (1)

3rd

Failure to maintain or deliver transaction history, transaction information, or transaction statements.

398

499.0051 (5)

2nd

Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.

399

517.07 (1)

3rd

Failure to register securities.

400

517.12 (1)

3rd

Failure of dealer, associated person, or issuer of securities to register.

401

784.0492 (2)

3rd

Unlawful taking of a sexually explicit image.

402

784.0492 (3)

3rd

Criminal use of a sexually explicit image.

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784.07 (2) (b)

3rd

Battery of law enforcement officer, firefighter, etc.

784.074 (1) (c)

3rd

Battery of sexually violent predators facility staff.

784.075

3rd

Battery on detention or commitment facility staff.

784.078

3rd

Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.

784.08 (2) (c)

3rd

Battery on a person 65 years of age or older.

784.081 (3)

3rd

Battery on specified official or employee.

784.082 (3)

3rd

Battery by detained person on visitor or other detainee.

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411

784.083 (3)

3rd

Battery on code
inspector.

412

784.085

3rd

Battery of child by
throwing, tossing,
projecting, or
expelling certain
fluids or materials.

413

787.03 (1)

3rd

Interference with
custody; wrongly takes
minor from appointed
guardian.

414

787.04 (2)

3rd

Take, entice, or remove
child beyond state
limits with criminal
intent pending custody
proceedings.

415

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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416

790.115 (1) 3rd Exhibiting firearm or
 weapon within 1,000
 feet of a school.

417

790.115 (2) (b) 3rd Possessing electric
 weapon or device,
 destructive device, or
 other weapon on school
 property.

418

790.115 (2) (c) 3rd Possessing firearm on
 school property.

419

800.04 (7) (c) 3rd Lewd or lascivious
 exhibition; offender
 less than 18 years.

420

806.135 2nd Destroying or
 demolishing a memorial
 or historic property.

421

810.02 (4) (a) 3rd Burglary, or attempted
 burglary, of an
 unoccupied structure;
 unarmed; no assault or
 battery.

422

810.02 (4) (b) 3rd Burglary, or attempted

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burglary, of an
unoccupied conveyance;
unarmed; no assault or
battery.

423

810.06 3rd Burglary; possession of
tools.

424

810.08 (2) (c) 3rd Trespass on property,
armed with firearm or
dangerous weapon.

425

812.014 (2) (c) 3. 3rd Grand theft, 3rd degree
\$10,000 or more but
less than \$20,000.

426

812.014 3rd Grand theft, 3rd
(2) (c) 4.-10. degree; specified
items.

427

812.0195 (2) 3rd Dealing in stolen
property by use of the
Internet; property
stolen \$300 or more.

428

817.505 (4) (a) 3rd Patient brokering.

429

817.563 (1) 3rd Sell or deliver
substance other than

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430	817.568 (2) (a)	3rd	controlled substance agreed upon, excluding s. 893.03(5) drugs.
431	817.625 (2) (a)	3rd	Fraudulent use of personal identification information.
432	817.625 (2) (c)	3rd	Fraudulent use of scanning device, skimming device, or reencoder.
433	828.125 (1)	2nd	Possess, sell, or deliver skimming device. Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.
434	837.02 (1)	3rd	Perjury in official proceedings.
435	837.021 (1)	3rd	Make contradictory statements in official

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436

proceedings.

838.022

3rd

Official misconduct.

437

839.13 (2) (a)

3rd

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

438

839.13 (2) (c)

3rd

Falsifying records of the Department of Children and Families.

439

843.021

3rd

Possession of a concealed handcuff key by a person in custody.

440

843.025

3rd

Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.

441

843.15 (1) (a)

3rd

Failure to appear while on bail for felony (bond estreature or bond jumping).

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847.0135 (5) (c) 3rd Lewd or lascivious exhibition using computer; offender less than 18 years.

443

870.01 (3) 2nd Aggravated rioting.

444

870.01 (5) 2nd Aggravated inciting a riot.

445

874.05 (1) (a) 3rd Encouraging or recruiting another to join a criminal gang.

446

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).

447

914.14 (2) 3rd Witnesses accepting bribes.

448

914.22 (1) 3rd Force, threaten, etc., witness, victim, or informant.

449

914.23 (2) 3rd Retaliation against a

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450	916.1085 (2) (c) 1.	3rd	witness, victim, or informant, no bodily injury.
451	918.12	3rd	Introduction of specified contraband into certain DCF facilities.
452	934.215	3rd	Tampering with jurors.
453	944.47 (1) (a) 6.	3rd	Use of two-way communications device to facilitate commission of a crime.
454	951.22 (1) (h), (j) & (k)	3rd	Introduction of contraband (cellular telephone or other portable communication device) into correctional institution.
			Intoxicating drug, instrumentality or other device to aid escape, or cellular telephone or other

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portable communication
device introduced into
county detention
facility.

455
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(e) LEVEL 5

Florida
Statute

Felony
Degree

Description

316.027 (2) (a)

3rd

Accidents involving
personal injuries other
than serious bodily
injury, failure to
stop; leaving scene.

316.1935 (4) (a)

2nd

Aggravated fleeing or
eluding.

316.80 (2)

2nd

Unlawful conveyance of
fuel; obtaining fuel
fraudulently.

322.34 (6)

3rd

Careless operation of
motor vehicle with
suspended license,
resulting in death or
serious bodily injury.

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327.30 (5)

3rd

Vessel accidents involving personal injury; leaving scene.

463

379.365 (2) (c) 1.

3rd

Violation of rules relating to: willful molestation of stone crab traps, lines, or buoys; illegal 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

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464

suspended or revoked.

379.367(4)

3rd

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

465

379.407(5)(b)3.

3rd

Possession of 100 or more undersized spiny lobsters.

466

381.0041(11)(b)

3rd

Donate blood, plasma, or organs knowing HIV positive.

467

440.10(1)(g)

2nd

Failure to obtain workers' compensation coverage.

468

440.105(5)

2nd

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

469

440.381(2)

3rd

Submission of false, misleading, or incomplete information with the purpose of

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470	624.401 (4) (b) 2.	2nd	avoiding or reducing workers' compensation premiums.
471	626.902 (1) (c)	2nd	Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.
472	<u>784.0492 (4)</u>	<u>2nd</u>	Representing an unauthorized insurer; repeat offender.
473	790.01 (2)	3rd	<u>Criminal use of a sexually explicit image.</u>
474	790.162	2nd	Carrying a concealed firearm.
475	790.163 (1)	2nd	Threat to throw or discharge destructive device.
			False report of bomb, explosive, weapon of mass destruction, or

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476

use of firearms in
violent manner.

790.221 (1)

2nd

Possession of short-
barreled shotgun or
machine gun.

477

790.23

2nd

Felons in possession of
firearms, ammunition,
or electronic weapons
or devices.

478

796.05 (1)

2nd

Live on earnings of a
prostitute; 1st
offense.

479

800.04 (6) (c)

3rd

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

480

800.04 (7) (b)

2nd

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

481

806.111 (1)

3rd

Possess, manufacture,
or dispense fire bomb
with intent to damage
any structure or
property.

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482

812.0145 (2) (b) 2nd Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.

483

812.015 3rd Retail theft; property (8) (a) & (c) - (e) stolen is valued at \$750 or more and one or more specified acts.

484

812.019 (1) 2nd Stolen property; dealing in or trafficking in.

485

812.081 (3) 2nd Trafficking in trade secrets.

486

812.131 (2) (b) 3rd Robbery by sudden snatching.

487

812.16 (2) 3rd Owning, operating, or conducting a chop shop.

488

817.034 (4) (a) 2. 2nd Communications fraud, value \$20,000 to \$50,000.

489

817.234 (11) (b) 2nd Insurance fraud;

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property value \$20,000
or more but less than
\$100,000.

490

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.

491

817.568 (2) (b)

2nd

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

492

817.611 (2) (a)

2nd

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

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493

documents.

817.625 (2) (b)

2nd

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

494

825.1025 (4)

3rd

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

495

827.071 (4)

2nd

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

496

827.071 (5)

3rd

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

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497
498
499
500
501
502

828.12 (2)

3rd

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

839.13 (2) (b)

2nd

Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.

843.01

3rd

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

847.0135 (5) (b)

2nd

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

847.0137
(2) & (3)

3rd

Transmission of pornography by electronic device or equipment.

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847.0138
(2) & (3)

3rd

Transmission of material harmful to minors to a minor by electronic device or equipment.

503

874.05 (1) (b)

2nd

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

504

874.05 (2) (a)

2nd

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

505

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).

506

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.,

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(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.

507

893.13 (1) (d) 1.

1st

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

508

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

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used for religious services or a specified business site.

509

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.

510

893.13(4)(b)

2nd

Use or hire of minor; deliver to minor other controlled substance.

511

893.1351(1)

3rd

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

512

513 Section 8. Paragraph (j) of subsection (1) of section
514 288.1254, Florida Statutes, is amended to read:

515 288.1254 Entertainment industry financial incentive
516 program.—

517 (1) DEFINITIONS.—As used in this section, the term:

518 (j) "Qualified production" means a production in this state
519 meeting the requirements of this section. The term does not

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520 include a production:

521 1. In which, for the first 2 years of the incentive
522 program, less than 50 percent, and thereafter, less than 60
523 percent, of the positions that make up its production cast and
524 below-the-line production crew, or, in the case of digital media
525 projects, less than 75 percent of such positions, are filled by
526 legal residents of this state, whose residency is demonstrated
527 by a valid Florida driver license or other state-issued
528 identification confirming residency, or students enrolled full-
529 time in a film-and-entertainment-related course of study at an
530 institution of higher education in this state; or

531 2. That contains obscene content as defined in s. 847.001
532 ~~s. 847.001(10)~~.

533 Section 9. Subsection (1) of section 847.0141, Florida
534 Statutes, is amended to read:

535 847.0141 Sexting; prohibited acts; penalties.—

536 (1) A minor commits the offense of sexting if he or she
537 knowingly:

538 (a) Uses a computer, or any other device capable of
539 electronic data transmission or distribution, to transmit or
540 distribute to another minor any photograph or video of any
541 person which depicts nudity, as defined in s. 847.001 ~~s.~~
542 ~~847.001(9)~~, and is harmful to minors, as defined in s. 847.001
543 ~~s. 847.001(6)~~.

544 (b) Possesses a photograph or video of any person that was
545 transmitted or distributed by another minor which depicts
546 nudity, as defined in s. 847.001 ~~s. 847.001(9)~~, and is harmful
547 to minors, as defined in s. 847.001 ~~s. 847.001(6)~~. A minor does
548 not violate this paragraph if all of the following apply:

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- 549 1. The minor did not solicit the photograph or video.
- 550 2. The minor took reasonable steps to report the photograph
551 or video to the minor's legal guardian or to a school or law
552 enforcement official.
- 553 3. The minor did not transmit or distribute the photograph
554 or video to a third party.
- 555 Section 10. This act shall take effect October 1, 2022.