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1 A bill to be entitled
2 An act relating to the exploitation of vulnerable
3 persons; creating s. 817.5695, F.S.; defining terms;
4 specifying conditions under which a person commits
5 exploitation of a person 65 years of age or older;
6 providing criminal penalties for violations of the
7 act; specifying that not knowing the age of a victim
8 is not a defense to such crime; providing
9 circumstances under which the trial for a criminal
10 action arising from specified violations may be
11 advanced on the docket; authorizing persons who are in
12 imminent danger of exploitation to petition for an
13 injunction for protection; specifying applicable
14 penalties for violations of any such injunction;
15 amending s. 775.15, F.S.; providing time limitations
16 for commencing prosecution for violations of the act;
17 providing an exception for the time limitations for
18 commencing prosecution for certain felony violations
19 involving elderly persons or disabled adults if
20 certain conditions are met; amending ss. 825.1035 and
21 825.1036, F.S.; specifying that certain acts are
22 included in exploitation of a vulnerable adult;
23 amending s. 921.0022, F.S.; ranking certain offenses
24 created by this act on the offense severity ranking
25 chart of the Criminal Punishment Code; providing an
26 effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:
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30 Section 1. Section 817.5695, Florida Statutes, is created
31 to read:

32 817.5695 Exploitation of a person 65 years of age or
33 older.-

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

35 (a) "Bribe" means any money or anything of value which is
36 provided, directly or indirectly, to a person who has a legal or
37 fiduciary relationship with a person 65 years of age or older,
38 for the purpose of improperly obtaining or rewarding favorable
39 treatment from the person who has the legal or fiduciary
40 relationship in connection with his or her work for the person
41 65 years of age or older.

42 (b) "Deception" means:

43 1. Misrepresenting or concealing a material fact relating
44 to:

45 a. Services rendered, disposition of property, or use of
46 property, when such services or property are intended to benefit
47 a person 65 years of age or older;

48 b. Terms of a contract, agreement, trust, will, or
49 testament entered into with a person 65 years of age or older;
50 or

51 c. An existing or preexisting condition of any property
52 involved in a contract, agreement, trust, will, or testament
53 entered into with a person 65 years of age or older; or

54 2. Using any misrepresentation, false pretense, or false
55 promise in order to induce, encourage, or solicit a person 65
56 years of age or older to enter into a contract, agreement,
57 trust, will, or testament.

58 (c) "Endeavor" means to attempt or to try.

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59 (d) "Fiduciary relationship" includes, but is not limited
60 to, a court-appointed or voluntary guardian, trustee, attorney,
61 or conservator.

62 (e) "Intimidation" means the communication by word or act
63 to a person 65 years of age or older that the person will be
64 deprived of food, nutrition, clothing, shelter, supervision,
65 medicine, medical services, money, or financial support or will
66 suffer physical violence.

67 (f) "Kickback" means money, credit, a fee, a commission, a
68 gift, a gratuity or other compensation, or anything of value
69 which is provided to a person in exchange for preferential
70 treatment for the receipt of goods or services.

71 (g) "Obtains or uses" means any manner of:

- 72 1. Taking or exercising control over property; or
73 2. Making any use, disposition, or transfer of property.

74 (h) "Property" means anything of value and includes, but is
75 not limited to:

76 1. Real property, including things growing on, affixed to,
77 or found in land.

78 2. Tangible or intangible personal property, including
79 intellectual property, rights, privileges, interests, and
80 claims.

81 3. Services.

82 (i) "Services" means anything of value resulting from a
83 person's physical or mental labor or skill, or from the use,
84 possession, or presence of property, and includes, but is not
85 limited to:

86 1. Repairs or improvements to property;

87 2. Professional services;

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88 3. Private, public, or governmental communication,
89 transportation, power, water, or sanitation services;

90 4. Lodging accommodations; or

91 5. Admissions to places of exhibition or entertainment.

92 (j) "Value" means value determined according to any of the
93 following:

94 1. The market value of the property at the time and place
95 of the offense, or, if the market value cannot be satisfactorily
96 ascertained, the value is the cost of replacing the property
97 within a reasonable time after the commission of the offense;

98 2. In the case of a written instrument, such as a check,
99 draft, or promissory note, which does not have a readily
100 ascertainable market value, the value is the amount due or
101 collectible. The value of any other instrument that creates,
102 releases, discharges, or otherwise affects any valuable legal
103 right, privilege, or obligation is the greatest amount of
104 economic loss that the owner of the instrument might reasonably
105 suffer by the diminishment or loss of the instrument;

106 3. The value of a trade secret that does not have a readily
107 ascertainable market value is any reasonable value representing
108 the damage to the owner suffered by reason of losing advantage
109 over those who do not know of or use the trade secret; or

110 4. If the value of the property cannot be ascertained, the
111 trier of fact may find the value to be not less than a certain
112 amount; if no such minimum value can be ascertained, the value
113 is an amount less than \$100.

114
115 Amounts of value of separate properties involved in exploitation
116 committed pursuant to one scheme or course of conduct, whether

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117 the exploitation involves the same person or several persons,
118 may be aggregated in determining the degree of the offense.

119 (2) A person commits exploitation of a person 65 years of
120 age or older if he or she:

121 (a) Obtains or uses, endeavors to obtain or use, or
122 conspires with another to obtain or use, through deception or
123 intimidation, the property of a person 65 years of age or older,
124 with the intent to temporarily or permanently:

125 1. Deprive that person of the use, benefit, or possession
126 of the property; or

127 2. Benefit someone other than the property owner;

128 (b) Obtains or uses, endeavors to obtain or use, or
129 conspires with another to obtain or use, through deception or
130 intimidation, the property of a person 65 years of age or older
131 through the intentional modification, alteration, or fraudulent
132 creation of a plan of distribution or disbursement expressed in
133 a will, trust instrument, or other testamentary devise of the
134 person 65 years of age or older; or

135 (c) Deprives, endeavors to deprive, or conspires with
136 another to deprive, with the intent to defraud and by means of
137 bribery or kickbacks, a person 65 years of age or older of his
138 or her intangible right to honest services provided by an
139 individual who has a legal or fiduciary relationship with such
140 person.

141 (3) A person who violates this section commits:

142 (a) A felony of the first degree, punishable as provided in
143 s. 775.082, s. 775.083, or s. 775.084, if the funds, assets, or
144 property involved in the exploitation of a person 65 years of
145 age or older is valued at \$50,000 or more.

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146 (b) A felony of the second degree, punishable as provided
147 in s. 775.082, s. 775.083, or s. 775.084, if the funds, assets,
148 or property involved in the exploitation of a person 65 years of
149 age or older is valued at \$10,000 or more, but less than
150 \$50,000.

151 (c) A felony of the third degree, punishable as provided in
152 s. 775.082, s. 775.083, or s. 775.084, if the funds, assets, or
153 property involved in the exploitation of a person 65 years of
154 age or older is valued at less than \$10,000.

155 (4) It does not constitute a defense to a prosecution for
156 any violation of this section that the accused did not know the
157 age of the victim.

158 (5) In a criminal action resulting from a violation of this
159 section, the state may move the court to advance the trial on
160 the docket. The presiding judge, after consideration of the age
161 and health of the victim, may advance the trial on the docket.
162 The motion may be filed and served with the information or
163 charges at any time thereafter.

164 (6) Notwithstanding s. 825.1035(2), a person 65 years of
165 age or older who is in imminent danger of being exploited may
166 petition for an injunction for protection as provided under s.
167 825.1035. A violation of such injunction shall be handled in the
168 same manner, and such violation shall have the same penalties,
169 as provided in s. 825.1036.

170 Section 2. Subsection (10) of section 775.15, Florida
171 Statutes, is amended to read:

172 775.15 Time limitations; general time limitations;
173 exceptions.—

174 (10) (a) A prosecution for a felony violation of s.

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175 817.5695, s. 825.102, or s. 825.103 must be commenced within 5
176 years after it is committed.

177 (b) If the period prescribed in paragraph (a) has expired,
178 a prosecution may nevertheless be commenced for any offense, a
179 material element of which is either fraud or a breach of
180 fiduciary obligation, within 5 years after discovery of the
181 offense by an aggrieved party or by a person who has a legal
182 duty to represent an aggrieved party and who is not a party to
183 the offense.

184 Section 3. Subsection (1) of section 825.1035, Florida
185 Statutes, is amended to read:

186 825.1035 Injunction for protection against exploitation of
187 a vulnerable adult.—

188 (1) INJUNCTION CREATED.—There is created a cause of action
189 for an injunction for protection against exploitation of a
190 vulnerable adult. As used in this section, and in addition to
191 the definitions provided in this chapter, exploitation of a
192 vulnerable adult includes a person 65 years of age or older who
193 is or may be subject to exploitation as described in s.
194 817.5695.

195 Section 4. Subsection (1) of section 825.1036, Florida
196 Statutes, is amended to read:

197 825.1036 Violation of an injunction for protection against
198 exploitation of a vulnerable adult.—

199 (1) In the event of a violation of an injunction for
200 protection against exploitation of a vulnerable adult when the
201 person who violated such injunction has not been arrested, the
202 petitioner may contact the clerk of the circuit court of the
203 county in which the violation is alleged to have occurred. The

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204 clerk of the circuit court shall assist the petitioner in the
 205 preparation of an affidavit in support of the violation or
 206 direct the petitioner to the office operated by the court within
 207 the circuit which has been designated by the chief judge of the
 208 judicial circuit as the central intake point for injunction
 209 violations and where the petitioner can receive assistance in
 210 the preparation of the affidavit in support of the violation. As
 211 used in this section, and in addition to the definitions
 212 provided in this chapter, exploitation of a vulnerable adult
 213 includes a person 65 years of age or older who is or may be
 214 subject to exploitation as described in s. 817.5695.

215 Section 5. Paragraphs (d) and (f) of subsection (3) of
 216 section 921.0022, Florida Statutes, are amended to read:

217 921.0022 Criminal Punishment Code; offense severity ranking
 218 chart.—

219 (3) OFFENSE SEVERITY RANKING CHART

220 (d) LEVEL 4

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| Florida Statute | Felony Degree | Description |
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| 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 |

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| | | | activated. |
| 223 | 499.0051 (1) | 3rd | Failure to maintain or deliver transaction history, transaction information, or transaction statements. |
| 224 | 499.0051 (5) | 2nd | Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs. |
| 225 | 517.07 (1) | 3rd | Failure to register securities. |
| 226 | 517.12 (1) | 3rd | Failure of dealer, associated person, or issuer of securities to register. |
| 227 | 784.07 (2) (b) | 3rd | Battery of law enforcement officer, firefighter, etc. |
| 228 | 784.074 (1) (c) | 3rd | Battery of sexually violent predators facility staff. |

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| 229 | 784.075 | 3rd | Battery on detention or commitment facility staff. |
| 230 | 784.078 | 3rd | Battery of facility employee by throwing, tossing, or expelling certain fluids or materials. |
| 231 | 784.08 (2) (c) | 3rd | Battery on a person 65 years of age or older. |
| 232 | 784.081 (3) | 3rd | Battery on specified official or employee. |
| 233 | 784.082 (3) | 3rd | Battery by detained person on visitor or other detainee. |
| 234 | 784.083 (3) | 3rd | Battery on code inspector. |
| 235 | 784.085 | 3rd | Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials. |

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| 236 | 787.03 (1) | 3rd | Interference with custody; wrongly takes minor from appointed guardian. |
| 237 | 787.04 (2) | 3rd | Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings. |
| 238 | 787.04 (3) | 3rd | Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person. |
| 239 | 787.07 | 3rd | Human smuggling. |
| 240 | 790.115 (1) | 3rd | Exhibiting firearm or weapon within 1,000 feet of a school. |
| 241 | 790.115 (2) (b) | 3rd | Possessing electric weapon or device, destructive device, or |

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| | | | other weapon on school property. |
| 242 | 790.115 (2) (c) | 3rd | Possessing firearm on school property. |
| 243 | 794.051 (1) | 3rd | Indecent, lewd, or lascivious touching of certain minors. |
| 244 | 800.04 (7) (c) | 3rd | Lewd or lascivious exhibition; offender less than 18 years. |
| 245 | 806.135 | 2nd | Destroying or demolishing a memorial or historic property. |
| 246 | 810.02 (4) (a) | 3rd | Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery. |
| 247 | 810.02 (4) (b) | 3rd | Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery. |

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| 248 | 810.06 | 3rd | Burglary; possession of tools. |
| 249 | 810.08 (2) (c) | 3rd | Trespass on property, armed with firearm or dangerous weapon. |
| 250 | 812.014 (2) (c) 3. | 3rd | Grand theft, 3rd degree \$10,000 or more but less than \$20,000. |
| 251 | 812.014 (2) (c) 4.-10. | 3rd | Grand theft, 3rd degree; specified items. |
| 252 | 812.0195 (2) | 3rd | Dealing in stolen property by use of the Internet; property stolen \$300 or more. |
| 253 | 817.505 (4) (a) | 3rd | Patient brokering. |
| 254 | 817.563 (1) | 3rd | Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03 (5) drugs. |
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| 256 | 817.568 (2) (a) | 3rd | Fraudulent use of personal identification information. |
| 257 | <u>817.5695 (3) (c)</u> | <u>3rd</u> | <u>Exploitation of person 65 years of age or older, value less than \$10,000.</u> |
| 258 | 817.625 (2) (a) | 3rd | Fraudulent use of scanning device, skimming device, or reencoder. |
| 259 | 817.625 (2) (c) | 3rd | Possess, sell, or deliver skimming device. |
| 260 | 828.125 (1) | 2nd | Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle. |
| | 836.14 (2) | 3rd | Person who commits theft of a sexually explicit image with intent to promote it. |

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| 261 | 836.14 (3) | 3rd | Person who willfully possesses a sexually explicit image with certain knowledge, intent, and purpose. |
| 262 | 837.02 (1) | 3rd | Perjury in official proceedings. |
| 263 | 837.021 (1) | 3rd | Make contradictory statements in official proceedings. |
| 264 | 838.022 | 3rd | Official misconduct. |
| 265 | 839.13 (2) (a) | 3rd | Falsifying records of an individual in the care and custody of a state agency. |
| 266 | 839.13 (2) (c) | 3rd | Falsifying records of the Department of Children and Families. |
| 267 | 843.021 | 3rd | Possession of a concealed handcuff key by a person in custody. |
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| 269 | 843.025 | 3rd | Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication. |
| 270 | 843.15 (1) (a) | 3rd | Failure to appear while on bail for felony (bond estreature or bond jumping). |
| 271 | 847.0135 (5) (c) | 3rd | Lewd or lascivious exhibition using computer; offender less than 18 years. |
| 272 | 870.01 (3) | 2nd | Aggravated rioting. |
| 273 | 870.01 (5) | 2nd | Aggravated inciting a riot. |
| 274 | 874.05 (1) (a) | 3rd | Encouraging or recruiting another to join a criminal gang. |
| | 893.13 (2) (a) 1. | 2nd | Purchase of cocaine (or other s. 893.03 (1) (a), |

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| | | | (b), or (d), (2) (a), (2) (b), or (2) (c) 5. drugs). |
| 275 | 914.14 (2) | 3rd | Witnesses accepting bribes. |
| 276 | 914.22 (1) | 3rd | Force, threaten, etc., witness, victim, or informant. |
| 277 | 914.23 (2) | 3rd | Retaliation against a witness, victim, or informant, no bodily injury. |
| 278 | 916.1085 (2) (c) 1. | 3rd | Introduction of specified contraband into certain DCF facilities. |
| 279 | 918.12 | 3rd | Tampering with jurors. |
| 280 | 934.215 | 3rd | Use of two-way communications device to facilitate commission of a crime. |
| 281 | 944.47 (1) (a) 6. | 3rd | Introduction of |

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contraband (cellular telephone or other portable communication device) into correctional institution.

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951.22 (1) (h),
(j) & (k)

3rd

Intoxicating drug, instrumentality or other device to aid escape, or cellular telephone or other portable communication device introduced into county detention facility.

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(f) LEVEL 6

285

Florida
Statute

Felony
Degree

Description

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316.027 (2) (b)

2nd

Leaving the scene of a crash involving serious bodily injury.

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316.193 (2) (b)

3rd

Felony DUI, 4th or subsequent conviction.

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| 289 | 400.9935 (4) (c) | 2nd | Operating a clinic, or offering services requiring licensure, without a license. |
| 290 | 499.0051 (2) | 2nd | Knowing forgery of transaction history, transaction information, or transaction statement. |
| 291 | 499.0051 (3) | 2nd | Knowing purchase or receipt of prescription drug from unauthorized person. |
| 292 | 499.0051 (4) | 2nd | Knowing sale or transfer of prescription drug to unauthorized person. |
| 293 | 775.0875 (1) | 3rd | Taking firearm from law enforcement officer. |
| 294 | 784.021 (1) (a) | 3rd | Aggravated assault; deadly weapon without intent to kill. |
| | 784.021 (1) (b) | 3rd | Aggravated assault; intent to commit felony. |

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| 295 | 784.041 | 3rd | Felony battery; domestic battery by strangulation. |
| 296 | 784.048 (3) | 3rd | Aggravated stalking; credible threat. |
| 297 | 784.048 (5) | 3rd | Aggravated stalking of person under 16. |
| 298 | 784.07 (2) (c) | 2nd | Aggravated assault on law enforcement officer. |
| 299 | 784.074 (1) (b) | 2nd | Aggravated assault on sexually violent predators facility staff. |
| 300 | 784.08 (2) (b) | 2nd | Aggravated assault on a person 65 years of age or older. |
| 301 | 784.081 (2) | 2nd | Aggravated assault on specified official or employee. |
| 302 | 784.082 (2) | 2nd | Aggravated assault by detained person on |

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| | | | visitor or other detainee. |
| 303 | 784.083 (2) | 2nd | Aggravated assault on code inspector. |
| 304 | 787.02 (2) | 3rd | False imprisonment; restraining with purpose other than those in s. 787.01. |
| 305 | 790.115 (2) (d) | 2nd | Discharging firearm or weapon on school property. |
| 306 | 790.161 (2) | 2nd | Make, possess, or throw destructive device with intent to do bodily harm or damage property. |
| 307 | 790.164 (1) | 2nd | False report concerning bomb, explosive, weapon of mass destruction, act of arson or violence to state property, or use of firearms in violent manner. |
| 308 | 790.19 | 2nd | Shooting or throwing |

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| | | | deadly missiles into dwellings, vessels, or vehicles. |
| 309 | 794.011 (8) (a) | 3rd | Solicitation of minor to participate in sexual activity by custodial adult. |
| 310 | 794.05 (1) | 2nd | Unlawful sexual activity with specified minor. |
| 311 | 800.04 (5) (d) | 3rd | Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years of age; offender less than 18 years. |
| 312 | 800.04 (6) (b) | 2nd | Lewd or lascivious conduct; offender 18 years of age or older. |
| 313 | 806.031 (2) | 2nd | Arson resulting in great bodily harm to firefighter or any other person. |
| 314 | 810.02 (3) (c) | 2nd | Burglary of occupied |

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| | | | structure; unarmed; no assault or battery. |
| 315 | 810.145 (8) (b) | 2nd | Video voyeurism; certain minor victims; 2nd or subsequent offense. |
| 316 | 812.014 (2) (b) 1. | 2nd | Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree. |
| 317 | 812.014 (6) | 2nd | Theft; property stolen \$3,000 or more; coordination of others. |
| 318 | 812.015 (9) (a) | 2nd | Retail theft; property stolen \$750 or more; second or subsequent conviction. |
| 319 | 812.015 (9) (b) | 2nd | Retail theft; aggregated property stolen within 30 days is \$3,000 or more; coordination of others. |
| 320 | 812.015 (9) (d) | 2nd | Retail theft; multiple thefts within specified |

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| | | | period. |
| 321 | 812.13 (2) (c) | 2nd | Robbery, no firearm or other weapon (strong-arm robbery). |
| 322 | 817.4821 (5) | 2nd | Possess cloning paraphernalia with intent to create cloned cellular telephones. |
| 323 | 817.49 (2) (b) 2. | 2nd | Willful making of a false report of a crime resulting in death. |
| 324 | 817.505 (4) (b) | 2nd | Patient brokering; 10 or more patients. |
| 325 | <u>817.5695 (3) (b)</u> | <u>2nd</u> | <u>Exploitation of person 65 years of age or older, value \$10,000 or more, but less than \$50,000.</u> |
| 326 | 825.102 (1) | 3rd | Abuse of an elderly person or disabled adult. |
| 327 | 825.102 (3) (c) | 3rd | Neglect of an elderly |

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| | | | person or disabled adult. |
| 328 | 825.1025 (3) | 3rd | Lewd or lascivious molestation of an elderly person or disabled adult. |
| 329 | 825.103 (3) (c) | 3rd | Exploiting an elderly person or disabled adult and property is valued at less than \$10,000. |
| 330 | 827.03 (2) (c) | 3rd | Abuse of a child. |
| 331 | 827.03 (2) (d) | 3rd | Neglect of a child. |
| 332 | 827.071 (2) & (3) | 2nd | Use or induce a child in a sexual performance, or promote or direct such performance. |
| 333 | 828.126 (3) | 3rd | Sexual activities involving animals. |
| 334 | 836.05 | 2nd | Threats; extortion. |
| 335 | 836.10 | 2nd | Written or electronic threats to kill, do |

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| | | | bodily injury, or conduct a mass shooting or an act of terrorism. |
| 336 | 843.12 | 3rd | Aids or assists person to escape. |
| 337 | 847.011 | 3rd | Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors. |
| 338 | 847.012 | 3rd | Knowingly using a minor in the production of materials harmful to minors. |
| 339 | 847.0135 (2) | 3rd | Facilitates sexual conduct of or with a minor or the visual depiction of such conduct. |
| 340 | 914.23 | 2nd | Retaliation against a witness, victim, or informant, with bodily injury. |

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| 341 | 918.13 (2) (b) | 2nd | Tampering with or fabricating physical evidence relating to a capital felony. |
| 342 | 944.35 (3) (a) 2. | 3rd | Committing malicious battery upon or inflicting cruel or inhuman treatment on an inmate or offender on community supervision, resulting in great bodily harm. |
| 343 | 944.40 | 2nd | Escapes. |
| 344 | 944.46 | 3rd | Harboring, concealing, aiding escaped prisoners. |
| 345 | 944.47 (1) (a) 5. | 2nd | Introduction of contraband (firearm, weapon, or explosive) into correctional facility. |
| 346 | 951.22 (1) (i) | 3rd | Firearm or weapon introduced into county |

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detention facility.

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Section 6. This act shall take effect October 1, 2023.