

By the Committee on Criminal Justice; and Senator Gaetz

591-02819-25

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1                   A bill to be entitled  
2           An act relating to sexual images; amending s. 827.071,  
3           F.S.; defining terms and revising definitions; making  
4           technical changes; amending s. 836.13, F.S.; defining  
5           terms; providing criminal penalties for persons who  
6           willfully and maliciously generate or possess an  
7           altered sexual depiction of an identifiable person  
8           without the consent of the identifiable person;  
9           providing exceptions; specifying what is not  
10          considered a defense to the offenses; authorizing an  
11          aggrieved person to initiate a civil action against  
12          persons who violate specified provisions; revising  
13          applicability; amending s. 921.0022, F.S.; ranking  
14          offenses created by the act on the offense severity  
15          ranking chart of the Criminal Punishment Code;  
16          providing an effective date.

17  
18 Be It Enacted by the Legislature of the State of Florida:

19  
20           Section 1. Subsections (1), (2), and (3) of section  
21           827.071, Florida Statutes, are amended, and subsections (4),  
22           (5), and (6) of that section are republished, to read:

23           827.071 Sexual performance by a child; child pornography;  
24           penalties.—

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

27           (a) "Anus" means the end of the gastrointestinal tract and  
28           the opening of the rectum to the outside of the body.

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

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

31 (c)~~(b)~~ "Child pornography" means:

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

33 or

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

37 (d)~~(e)~~ "Deviate sexual intercourse" means sexual conduct  
38 between persons not married to each other consisting of contact  
39 between the penis and the anus, the mouth and the penis, or the  
40 mouth and the vulva.

41 (e)~~(d)~~ "Female genitals" includes the labia minora, labia  
42 majora, clitoris, vulva, hymen, and vagina.

43 (f)~~(e)~~ "Identifiable minor" means a person:

44 1. Who was a minor at the time the image was created,  
45 altered, adapted, or modified, or whose image as a minor was  
46 used in the creating, altering, adapting, or modifying of the  
47 image; and

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

51  
52 The term may not be construed to require proof of the actual  
53 identity of the identifiable minor.

54 (g)~~(f)~~ "Intentionally view" means to deliberately,  
55 purposefully, and voluntarily view. Proof of intentional viewing  
56 requires establishing more than a single image, motion picture,  
57 exhibition, show, image, data, computer depiction,  
58 representation, or other presentation over any period of time.

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59 (h) "Male genitals" includes the penis and the scrotum.

60 (i)~~(g)~~ "Performance" means any play, motion picture,  
61 photograph, or dance or any other visual representation  
62 exhibited before an audience.

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

68 (k)~~(i)~~ "Sadomasochistic abuse" means flagellation or  
69 torture by or upon a person, or the condition of being fettered,  
70 bound, or otherwise physically restrained, for the purpose of  
71 deriving sexual satisfaction from inflicting harm on another or  
72 receiving such harm oneself.

73 (l)~~(j)~~ "Sexual battery" means oral, anal, or female genital  
74 penetration by, or union with, the sexual organ of another or  
75 the anal or female genital penetration of another by any other  
76 object. The term, however, "sexual battery" does not include an  
77 act done for a bona fide medical purpose.

78 (m)~~(k)~~ "Sexual bestiality" means any sexual act between a  
79 person and an animal involving the sex organ of the one and the  
80 mouth, anus, or female genitals of the other.

81 (n)1.~~(l)~~ "Sexual conduct" means actual or simulated sexual  
82 intercourse, deviate sexual intercourse, sexual bestiality,  
83 masturbation, or sadomasochistic abuse; actual or simulated lewd  
84 exhibition of the genitals or anus; actual physical contact with  
85 a person's clothed or unclothed genitals, pubic area, buttocks,  
86 or, if such person is a female, breast, with the intent to  
87 arouse or gratify the sexual desire of either party; or any act

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88 or conduct which constitutes sexual battery or simulates that  
89 sexual battery is being or will be committed. A mother's  
90 breastfeeding of her baby does not under any circumstance  
91 constitute "sexual conduct." The term includes masturbation by a  
92 person in the presence of a child or ejaculation on any part of  
93 a child's body or clothing.

94 2. As used in subparagraph 1., the term "actual or  
95 simulated lewd exhibition of the genitals or anus" may be  
96 evidenced by the overall content of an image, taking into  
97 account the age of the minor depicted and including, but not  
98 limited to, whether:

99 a. The focal point of the image is on the minor's genitals  
100 or anus;

101 b. The setting of the image is sexually suggestive or in a  
102 place or pose generally associated with sexual conduct;

103 c. The minor is depicted in an unnatural pose, or in  
104 inappropriate attire, considering the age of the minor;

105 d. The image suggests sexual coyness or a willingness to  
106 engage in sexual conduct; or

107 e. The image is intended or designed to elicit a sexual  
108 response in the viewer.

109 (o) ~~(m)~~ "Sexual performance" means any performance or part  
110 thereof which includes sexual conduct by a child.

111 (p) ~~(n)~~ "Simulated" means the explicit depiction of conduct  
112 set forth in paragraph (n) ~~(l)~~ which creates the appearance of  
113 such conduct and which exhibits any uncovered portion of the  
114 breasts, genitals, or buttocks.

115 (2) A person commits ~~is guilty of~~ the use of a child in a  
116 sexual performance if, knowing the character and content

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117 thereof, he or she employs, authorizes, or induces a child to  
118 engage in a sexual performance or, being a parent, legal  
119 guardian, or custodian of such child, consents to the  
120 participation by such child in a sexual performance. A person  
121 who violates this subsection commits a felony of the second  
122 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
123 775.084.

124 (3) A person commits ~~is guilty of~~ promoting a sexual  
125 performance by a child if ~~when~~, knowing the character and  
126 content thereof, he or she produces, directs, or promotes any  
127 performance which includes sexual conduct by a child. A person  
128 who violates this subsection commits a felony of the second  
129 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
130 775.084.

131 (4) It is unlawful for any person to possess with the  
132 intent to promote any photograph, motion picture, exhibition,  
133 show, representation, or other presentation which, in whole or  
134 in part, includes child pornography. The possession of three or  
135 more copies of such photograph, motion picture, representation,  
136 or presentation is prima facie evidence of an intent to promote.  
137 A person who violates this subsection commits a felony of the  
138 second degree, punishable as provided in s. 775.082, s. 775.083,  
139 or s. 775.084.

140 (5) (a) It is unlawful for any person to knowingly possess,  
141 control, or intentionally view a photograph, motion picture,  
142 exhibition, show, representation, image, data, computer  
143 depiction, or other presentation which, in whole or in part, he  
144 or she knows to include child pornography. The possession,  
145 control, or intentional viewing of each such photograph, motion

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146 picture, exhibition, show, image, data, computer depiction,  
147 representation, or presentation is a separate offense. If such  
148 photograph, motion picture, exhibition, show, representation,  
149 image, data, computer depiction, or other presentation includes  
150 child pornography depicting more than one child, then each such  
151 child in each such photograph, motion picture, exhibition, show,  
152 representation, image, data, computer depiction, or other  
153 presentation that is knowingly possessed, controlled, or  
154 intentionally viewed is a separate offense. A person who  
155 violates this paragraph commits a felony of the third degree,  
156 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

157 (b) Paragraph (a) does not apply to any material possessed,  
158 controlled, or intentionally viewed as part of a law enforcement  
159 investigation.

160 (6) Prosecution of a person for an offense under this  
161 section does not preclude prosecution of that person in this  
162 state for a violation of any other law of this state, including  
163 a law providing for greater penalties than prescribed in this  
164 section or any other crime punishing the sexual performance or  
165 the sexual exploitation of children.

166 Section 2. Section 836.13, Florida Statutes, is amended to  
167 read:

168 836.13 ~~Promotion of an~~ Altered sexual depictions ~~depiction~~;  
169 prohibited acts; penalties; applicability.—

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

171 (a) "Altered sexual depiction" means any visual depiction  
172 that, as a result of any type of digital, electronic,  
173 mechanical, or other modification, alteration, or adaptation,  
174 depicts a realistic version of an identifiable person:

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175 1. With the nude body parts of another person as the nude  
176 body parts of the identifiable person;

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

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

181 (b) "Generate" means to create, alter, adapt, or modify any  
182 image by electronic, mechanical, or other computer-generated  
183 means to portray an identifiable person or to offer or agree to  
184 do the same.

185 (c) ~~(b)~~ "Identifiable person" means a person who is  
186 recognizable as an actual person by the person's face, likeness,  
187 or other distinguishing characteristic, such as a unique  
188 birthmark, or other recognizable feature.

189 (d) ~~(e)~~ "Nude body parts" means the human male or female  
190 genitals, pubic area, or buttocks with less than fully opaque  
191 covering; or the female breast with less than a fully opaque  
192 covering of any portion thereof below the top of the nipple; or  
193 the depiction of covered male genitals in a discernibly turgid  
194 state. The term does not under any circumstances include a  
195 mother breastfeeding her baby.

196 (e) "Possess" means to knowingly or intentionally keep,  
197 control, maintain, store, or own, physically or electronically,  
198 any altered sexual depiction of an identifiable person without  
199 the consent of the identifiable person.

200 (f) ~~(d)~~ "Promote" means to issue, sell, give, provide, lend,  
201 mail, deliver, transfer, transmit, transmute, publish,  
202 distribute, circulate, disseminate, present, exhibit, send,  
203 post, share, or advertise or to offer or agree to do the same.

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204 (g)~~(e)~~ "Visual depiction" includes, but is not limited to,  
205 a photograph, picture, image, motion picture, film, video, or  
206 other visual representation.

207 (2) A person who willfully and maliciously promotes any  
208 altered sexual depiction of an identifiable person, without the  
209 consent of the identifiable person, and who knows or reasonably  
210 should have known that such visual depiction was an altered  
211 sexual depiction, commits a felony of the third degree,  
212 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.  
213 An act done for a bona fide medical, literary, academic, or  
214 scientific purpose is not a violation of this subsection.

215 (3) A person who willfully and maliciously generates any  
216 altered sexual depiction of an identifiable person, without the  
217 consent of the identifiable person, and who knows or reasonably  
218 should have known that such visual depiction was an altered  
219 sexual depiction, commits a felony of the third degree,  
220 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.  
221 An act done for a bona fide medical, literary, academic, or  
222 scientific purpose is not a violation of this subsection.

223 (4) A person who willfully and maliciously possesses any  
224 altered sexual depiction of an identifiable person, without the  
225 consent of the identifiable person, and who knows or reasonably  
226 should have known that such visual depiction was an altered  
227 sexual depiction, commits a felony of the third degree,  
228 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.  
229 An act done for a bona fide medical, literary, academic, or  
230 scientific purpose is not a violation of this subsection.

231 (5)~~(3)~~ Every act, thing, or transaction prohibited by this  
232 section constitutes a separate offense and is punishable as



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233 such.

234 ~~(6)~~<sup>(4)</sup> The presence of a disclaimer within an altered  
235 sexual depiction which notifies a viewer that the person or  
236 persons depicted did not consent to or participate in the  
237 generation, possession, creation or promotion of the material,  
238 or that the person or persons depicted did not actually perform  
239 the actions portrayed, is not a defense and does not relieve a  
240 person of criminal liability under this section.

241 ~~(7)~~<sup>(5)</sup> An aggrieved person may initiate a civil action  
242 against a person who violates subsection (2) or subsection (3)  
243 to obtain appropriate relief in order to prevent or remedy a  
244 violation of subsection (2) or subsection (3), including all of  
245 the following:

246 (a) Injunctive relief.

247 (b) Monetary damages to include \$10,000 or actual damages  
248 incurred as a result of a violation of subsection (2) or  
249 subsection (3), whichever is greater.

250 (c) Reasonable attorney fees and costs.

251 ~~(8)~~<sup>(6)</sup> The criminal and civil penalties of this section do  
252 not apply to:

253 (a) A provider of an interactive computer service as  
254 defined in 47 U.S.C. s. 230(f), of an information service as  
255 defined in 47 U.S.C. s. 153, or of a communications service as  
256 defined in s. 202.11 which provides the transmission, storage,  
257 or caching of electronic communications or messages of others;  
258 another related telecommunications or commercial mobile radio  
259 service; or content provided by another person;

260 (b) A law enforcement officer, as defined in s. 943.10, or  
261 any local, state, federal, or military law enforcement agency

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262 ~~engaged in that promotes an altered sexual depiction in~~  
 263 ~~connection with~~ the performance of his or her duties as a law  
 264 enforcement officer or the duties of the law enforcement agency;

265 (c) A person reporting unlawful activity; or

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

268 (9)~~(7)~~ A violation of this section is committed within this  
 269 state if any conduct that is an element of the offense, or any  
 270 harm to the depicted person resulting from the offense, occurs  
 271 within this state.

272 (10)~~(8)~~ Prosecution of a person for an offense under this  
 273 section does not preclude prosecution of that person in this  
 274 state for a violation of any other law of this state, including  
 275 a law providing for greater penalties than prescribed in this  
 276 section or any other crime related to child pornography or the  
 277 sexual performance or the sexual exploitation of children.

278 Section 3. Paragraph (c) of subsection (3) of section  
 279 921.0022, Florida Statutes, is amended to read:

280 921.0022 Criminal Punishment Code; offense severity ranking  
 281 chart.—

282 (3) OFFENSE SEVERITY RANKING CHART

283 (c) LEVEL 3

284

| Florida<br>Statute | Felony<br>Degree | Description   |
|--------------------|------------------|---|
| 119.10(2)(b)       | 3rd              | Unlawful use of<br>confidential information<br>from police reports. |

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|--------------------------|-----|---|
| 316.066<br>(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 officer in patrol vehicle with siren and lights activated. |
| 319.30 (4)               | 3rd | Possession by junkyard of motor vehicle with identification number plate removed.                         |
| 319.33 (1) (a)           | 3rd | Alter or forge any certificate of title to a motor vehicle or mobile home.                                |
| 319.33 (1) (c)           | 3rd | Procure or pass title on stolen vehicle.  |
| 319.33 (4)               | 3rd | With intent to defraud, possess, sell, etc., a  |

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blank, forged, or  
unlawfully obtained title  
or registration.

293

327.35 (2) (b)

3rd

Felony BUI.

294

328.05 (2)

3rd

Possess, sell, or  
counterfeit fictitious,  
stolen, or fraudulent  
titles or bills of sale of  
vessels.

295

328.07 (4)

3rd

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

296

376.302 (5)

3rd

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

297

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

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turtle eggs, or marine  
 turtle nests in violation  
 of the Marine Turtle  
 Protection Act.

298

379.2431  
 (1) (e) 6.

3rd

Possessing any marine  
 turtle species or  
 hatchling, or parts  
 thereof, or the nest of  
 any marine turtle species  
 described in the Marine  
 Turtle Protection Act.

299

379.2431  
 (1) (e) 7.

3rd

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

300

400.9935 (4) (a)  
 or (b)

3rd

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

301

400.9935 (4) (e)

3rd

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

302

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440.1051 (3)

3rd

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

303

501.001 (2) (b)

2nd

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

304

624.401 (4) (a)

3rd

Transacting insurance without a certificate of authority.

305

624.401 (4) (b) 1.

3rd

Transacting insurance without a certificate of authority; premium collected less than \$20,000.

306

626.902 (1) (a) &  
(b)

3rd

Representing an unauthorized insurer.

307

697.08

3rd

Equity skimming.

308

790.15 (3)

3rd

Person directs another to discharge firearm from a vehicle.

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|                    |     |   |
|--------------------|-----|---|
| 794.053            | 3rd | Lewd or lascivious written solicitation of a person 16 or 17 years of age by a person 24 years of age or older. |
| 806.10 (1)         | 3rd | Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.                      |
| 806.10 (2)         | 3rd | Interferes with or assaults firefighter in performance of duty.   |
| 810.09 (2) (b)     | 3rd | Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.                 |
| 810.145 (2) (c)    | 3rd | Digital voyeurism; 19 years of age or older.  |
| 812.014 (2) (c) 2. | 3rd | Grand theft; \$5,000 or more but less than \$10,000.  |

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|     |                          |     |   |
|-----|--------------------------|-----|---|
| 316 | 812.0145 (2) (c)         | 3rd | Theft from person 65 years of age or older; \$300 or more but less than \$10,000.                       |
| 317 | 812.015 (8) (b)          | 3rd | Retail theft with intent to sell; conspires with others.  |
| 318 | 812.081 (2)              | 3rd | Theft of a trade secret.  |
| 319 | 815.04 (4) (b)           | 2nd | Computer offense devised to defraud or obtain property.   |
| 320 | 817.034 (4) (a) 3.       | 3rd | Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000. |
| 321 | 817.233                  | 3rd | Burning to defraud insurer.   |
| 322 | 817.234<br>(8) (b) & (c) | 3rd | Unlawful solicitation of persons involved in motor vehicle accidents.                                   |
| 322 | 817.234 (11) (a)         | 3rd | Insurance fraud; property   |



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value less than \$20,000.

323

817.236

3rd

Filing a false motor vehicle insurance application.

324

817.2361

3rd

Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.

325

817.413 (2)

3rd

Sale of used goods of \$1,000 or more as new.

326

817.49 (2) (b) 1.

3rd

Willful making of a false report of a crime causing great bodily harm, permanent disfigurement, or permanent disability.

327

831.28 (2) (a)

3rd

Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument with intent to defraud.

328

831.29

2nd

Possession of instruments for counterfeiting driver

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licenses or identification cards.

329

836.13(2)

3rd

Promoting Person ~~who promotes~~ an altered sexual depiction of an identifiable person without consent.

330

836.13(3)

3rd

Generating an altered sexual depiction of an identifiable person without consent.

331

836.13(4)

3rd

Possessing an altered sexual depiction of an identifiable person without consent.

332

838.021(3)(b)

3rd

Threatens unlawful harm to public servant.

333

847.01385

3rd

Harmful communication to a minor.

334

860.15(3)

3rd

Overcharging for repairs and parts.

335

870.01(2)

3rd

Riot.

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336

870.01 (4) 3rd Inciting a riot.

337

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).

338

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.

339

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 feet of public housing

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facility.

340

893.13(4)(c)

3rd

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

341

893.13(6)(a)

3rd

Possession of any  
controlled substance other  
than felony possession of  
cannabis.

342

893.13(7)(a)8.

3rd

Withhold information from  
practitioner regarding  
previous receipt of or  
prescription for a  
controlled substance.

343

893.13(7)(a)9.

3rd

Obtain or attempt to  
obtain controlled  
substance by fraud,  
forgery,  
misrepresentation, etc.

344

893.13(7)(a)10.

3rd

Affix false or forged  
label to package of  
controlled substance.

345

893.13(7)(a)11.

3rd

Furnish false or  
fraudulent material

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information on any  
document or record  
required by chapter 893.

346

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.

347

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.

348

893.13(8)(a)3.

3rd

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

349

893.13(8)(a)4.

3rd

Write a prescription for a  
controlled substance for a

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

350

918.13 (1)

3rd

Tampering with or  
 fabricating physical  
 evidence.

351

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

3rd

Introduce contraband to  
 correctional facility.

352

944.47 (1) (c)

2nd

Possess contraband while  
 upon the grounds of a  
 correctional institution.

353

985.721

3rd

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

354

355

Section 4. This act shall take effect October 1, 2025.