

# FLORIDA HOUSE OF REPRESENTATIVES

## FINAL BILL ANALYSIS

*This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.*

<b>BILL #:</b> <a href="#">CS/CS/HB 1455</a> <b>TITLE:</b> Sexual Offenses by Persons Previously Convicted of Sexual Offenses <b>SPONSOR(S):</b> Baker	<b>COMPANION BILL:</b> <a href="#">CS/SB 716</a> (Martin) <b>LINKED BILLS:</b> None <b>RELATED BILLS:</b> None
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**FINAL HOUSE FLOOR ACTION:** 112 Y's 0 N's **GOVERNOR'S ACTION:** Pending

### SUMMARY

#### Effect of the Bill:

The bill creates mandatory minimum sentences that apply to a person who has previously been convicted of a specified sexual offense and who is convicted of committing a subsequent specified sexual offense. A person sentenced to a mandatory minimum term of imprisonment under the bill is generally not eligible for gain-time or any form of discretionary early release before serving his or her mandatory minimum sentence.

#### Fiscal or Economic Impact:

The bill may have an indeterminate positive impact on prison beds by creating mandatory minimum penalties for subsequent specified sexual offenses, which may result in specified offenders being sentenced to longer terms of incarceration.

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### ANALYSIS

#### EFFECT OF THE BILL:

The bill requires a court to impose a mandatory minimum sentence if a person who has previously been convicted of a specified [sexual offense](#) is convicted of committing a subsequent specified sexual offense. Specifically, a court must sentence a person who was previously convicted of or had adjudication withheld for a [qualifying sexual offense](#) specified in [s. 943.0435\(1\)\(h\)1.a., F.S.](#), to a mandatory minimum term of imprisonment of:

- **10 years** if he or she commits:
  - Lewd or lascivious molestation of a victim under 16 years of age under [s. 800.04\(5\), F.S.](#);
  - Lewd or lascivious molestation of an elderly or disabled person under [s. 825.1025\(3\), F.S.](#);
  - Possession of child pornography under [s. 827.071\(5\)\(a\), F.S.](#);
  - Online solicitation of a minor, traveling to meet a minor, or prohibited computer usage under [s. 847.0135, F.S.](#); or
  - Transmitting child pornography under [s. 847.0137, F.S.](#)
- **15 years** if he or she possesses, with the intent to promote, any photograph, motion picture, exhibition, show, representation, or other presentation which, in whole or in part, includes child pornography, in violation of [s. 827.071\(4\), F.S.](#)
- **20 years** if he or she commits:
  - Use of a child in a sexual performance under [s. 827.071\(2\), F.S.](#);
  - Promoting a sexual performance by a child under [s. 827.071\(3\), F.S.](#); or
  - Buying or selling minors under [s. 847.0145, F.S.](#) (Section 1)

Notwithstanding [s. 775.082\(3\), F.S.](#), related to eligibility for sentencing review hearings, chapter 958, F.S., related to sentencing youthful offenders, or any other law, or any interpretation or construction thereof, a person subject to sentencing under the bill must be sentenced to the specified mandatory minimum term of imprisonment. If the mandatory minimum term of imprisonment imposed exceeds the maximum sentence authorized under law, the bill requires the [mandatory minimum](#) term of imprisonment to be imposed. If the mandatory minimum term of imprisonment required to be imposed is less than the sentence that could be imposed under law, the bill requires a court to impose a sentence that includes the mandatory minimum term of imprisonment required under the bill. (Section 1)

**STORAGE NAME:** h1455z

**DATE:** 5/6/2025

Additionally, a person sentenced to a mandatory minimum term of imprisonment under the bill is not eligible for statutory [gain-time](#) under [s. 944.275, F.S.](#), or any form of discretionary early release, other than pardon or executive clemency, or conditional medical release under [s. 947.149, F.S.](#), before serving his or her minimum sentence. (Section [1](#))

Subject to the Governor's veto powers, the effective date of this bill is October 1, 2025. (Section [2](#))

## FISCAL OR ECONOMIC IMPACT:

### STATE GOVERNMENT:

The bill may have an indeterminate positive impact on prison beds by creating mandatory minimum penalties for subsequent specified sexual offenses, which may result in specified offenders being sentenced to longer terms of incarceration. Specifically, the bill requires a court to sentence an offender to a mandatory minimum term of imprisonment for an offense even when the mandatory minimum exceeds the current statutory maximum sentence.

## RELEVANT INFORMATION

### SUBJECT OVERVIEW:

#### Sexual Predators and Offenders

The Florida Department of Law Enforcement (FDLE) is the state agency responsible for Florida's sex offender registry. The information contained in the sex offender registry is reported directly to FDLE by the Florida Department of Corrections (DOC), the Florida Department of Highway Safety and Motor Vehicles, and law enforcement officials.<sup>1</sup> Florida's sexual offender and sexual predator registration laws were implemented in 1993 and 1997.<sup>2</sup> The sexual offender registry database is a statewide system that collects and disseminates sexual offender information to the public and law enforcement agencies through the Sexual Offender Predator System (SOPS). The designation of a person as a sexual offender is not a sentence or a punishment but is simply the status of the offender which is the result of a conviction for having committed certain crimes.<sup>3</sup>

#### Florida's Sexual Predator and Sexual Offender Registration Laws

Sections [775.21, F.S.](#) and [943.0435, F.S.](#), require registration of any person who has been convicted or adjudicated delinquent of a specified sexual offense or offenses and who meets other statutory criteria that qualify the person for designation as a sexual predator or classification as a sexual offender. The registration laws also require reregistration and provide for public and community notification of certain information about sexual predators and sexual offenders. The laws span several different chapters and numerous statutes<sup>4</sup> and are implemented through the combined efforts of the FDLE, all Florida sheriffs, the DOC, the Department of Juvenile Justice, the Department of Highway Safety and Motor Vehicles, and the Department of Children and Families.

A person is designated as a sexual predator by a court if the person:<sup>5</sup>

- Has been convicted of a qualifying capital, life, or first degree felony sexual offense committed on or after October 1, 1993;<sup>6</sup>
- Has been convicted of a qualifying sexual offense committed on or after October 1, 1993, and has a prior conviction for a qualifying sexual offense; or

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<sup>1</sup> Florida Department of Law Enforcement, Sexual Offender and Predator System, <https://offender.fdle.state.fl.us/offender/sops/search.jsf> (last visited on May 5, 2025).

<sup>2</sup> Ss. [775.21, F.S.](#) and [943.0435, F.S.](#)

<sup>3</sup> *State v. McKenzie*, 331 So.3d 666 (Fla. 2021).

<sup>4</sup> Ss. [775.21-775.25, F.S.](#), ss. [943.043-943.0437, F.S.](#), [s. 944.606, F.S.](#), [s. 944.607, F.S.](#), and ss. [985.481-985.4815, F.S.](#)

<sup>5</sup> S. [775.21, F.S.](#)

<sup>6</sup> Examples of qualifying sexual offenses are sexual battery by an adult on a child under 12 years of age ([s. 794.011\(2\)\(a\), F.S.](#)) and lewd battery by an adult on a child 12 years of age or older but under 16 years of age ([s. 800.04\(4\)\(a\), F.S.](#)).

- Was found to be a sexually violent predator in a civil commitment proceeding.<sup>7</sup>

A person is classified as a sexual offender if the person:<sup>8</sup>

- Has been convicted of a qualifying sexual offense and has been released on or after October 1, 1997, from the sanction imposed for that offense;
- Establishes or maintains a Florida residence and is subject to registration or community or public notification in another state or jurisdiction or is in the custody or control of, or under the supervision of, another state or jurisdiction as a result of a conviction for a qualifying sexual offense; or
- On or after July 1, 2007, has been adjudicated delinquent of a qualifying sexual battery or lewd offense committed when the juvenile was 14 years of age or older.<sup>9</sup>

### Qualifying Sexual Offenses

Section [943.0435\(1\)\(h\)1.a., F.S.](#), lists the following offenses for purposes of determining whether a person qualifies as a sexual offender:

- Sexual misconduct with an individual with a developmental disability under [s. 393.135\(2\), F.S.](#)
- Specified sexual misconduct by an employee against a patient under [s. 394.4593\(2\), F.S.](#)
- Kidnapping under [s. 787.01, F.S.](#); false imprisonment under [s. 787.02, F.S.](#); or luring or enticing a child under [s. 787.025\(2\)\(c\), F.S.](#), where the victim is a minor.
- Human trafficking under [s. 787.06\(3\)\(b\), \(d\), \(f\), or \(g\), F.S.](#), or former [s. 787.06\(3\)\(h\), F.S.](#)
- Sexual battery under [s. 794.011, F.S.](#), excluding [s. 794.011\(10\), F.S.](#)
- Unlawful sexual activity with certain minors under [s. 794.05, F.S.](#)
- Prostitution under former [s. 796.03, F.S.](#) and former [s. 796.035, F.S.](#)
- Lewd or lascivious offenses against persons less than 16 years of age under [s. 800.04, F.S.](#)
- Digital voyeurism under [s. 810.145\(8\), F.S.](#)
- Lewd or lascivious offenses against elderly or disabled persons under [s. 825.1025, F.S.](#)
- Sexual performance by a child or child pornography under [s. 827.071, F.S.](#)
- Obscenity under [s. 847.0133, F.S.](#)
- Online solicitation of a minor, traveling to meet a minor, and prohibited computer usage under [s. 847.0135, F.S.](#)
- Transmitting child pornography under [s. 847.0137, F.S.](#)
- Transmitting material harmful to minors under [s. 847.0138, F.S.](#)
- Buying or selling minors under [s. 847.0145, F.S.](#)
- Racketeering activity under [s. 895.03, F.S.](#), if the court makes a written finding that the racketeering activity involved at least one specified sexual offense or at least one specified offense committed with sexual intent or motive.
- Specified sexual misconduct under ss. [916.1075\(2\)](#) or [985.701\(1\), F.S.](#)

### Crimes Against Children and Other Sexual Offenses

#### Lewd or Lascivious Molestation on Persons Under the Age of 16

A person who intentionally touches in a lewd or lascivious manner the breasts, genitals, genital area, or buttocks, or the clothing covering them, of a person less than 16 years of age, or forces or entices a person under 16 years of age to so touch the perpetrator, commits lewd or lascivious molestation.<sup>10</sup>

An offender 18 years of age or older who commits lewd or lascivious molestation against a victim:

<sup>7</sup> Ss. [775.21\(4\)-\(5\), F.S.](#) The Jimmy Ryce Involuntary Civil Commitment for Sexually Violent Predators' Treatment and Care Act, part V, ch. 394, F.S., provides for the civil confinement of a group of sexual offenders who, due to their criminal history and the presence of mental abnormality, are found likely to engage in future acts of sexual violence if they are not confined in a secure facility for long-term control, care, and treatment.

<sup>8</sup> S. [943.0435, F.S.](#)

<sup>9</sup> Ss. [943.0435\(1\)\(h\)](#) and [985.4815\(1\)\(h\), F.S.](#); Ss. [944.606\(1\)\(f\)](#) and [944.607\(1\)\(f\), F.S.](#), which address sexual offenders in the custody of or under the DOC's supervision, also define the term "sexual offender."

<sup>10</sup> S. [800.04\(5\)\(a\), F.S.](#)

- Less than 12 years of age, commits a life felony.<sup>11</sup>
- Twelve years of age or older but less than 16 years of age, commits a second degree felony.<sup>12</sup>
- Twelve years of age or older but less than 16 years of age and the person was previously convicted of specified offenses, commits a first degree felony.<sup>13</sup>

An offender less than 18 years of age who commits lewd or lascivious molestation against a victim:

- Less than 12 years of age, commits a second degree felony.<sup>14</sup>
- Twelve years of age or older but less than 16 years of age, commits a third degree felony.<sup>15</sup>

#### Lewd or Lascivious Molestation of an Elderly or Disabled Person

Under [s. 825.1025\(3\), F.S.](#), a person commits lewd and lascivious molestation of an elderly person or disabled person, a third degree felony, if he or she:

- Intentionally touches in a lewd or lascivious manner the breasts, genitals, genital area, or buttocks, or the clothing covering them, of an elderly person or disabled person; and
- Knows or reasonably should know that the elderly person or disabled person either lacks the capacity to consent or fails to give consent.

#### Sexual Performance by a Child

Under [s. 827.071\(2\)-\(3\), F.S.](#), it is a second degree felony if a person:

- Employs, authorizes, or induces a child younger than 18 years of age to engage in a sexual performance,<sup>16</sup> or for a parent, legal guardian, or custodian of such child to consent to the participation by such child in a sexual performance.<sup>17</sup>
- Produces, directs, or promotes any performance which includes sexual conduct by a child less than 18 years of age.<sup>18</sup>

#### Possessing Child Pornography

Section [827.071\(4\)-\(5\), F.S.](#), prohibit a person from:

- Possessing with the intent to promote any photograph, motion picture, exhibition, show, representation, or other presentation which, in whole or in part, includes any child pornography, punishable as a second degree felony.<sup>19</sup>
- Knowingly possessing, controlling, or intentionally viewing a photograph, motion picture, exhibition, show, representation, image, data, computer depiction, or other presentation which, in whole or in part, the person knows to include child pornography,<sup>20</sup> punishable as a third degree felony.<sup>21</sup>

<sup>11</sup> S. [800.04\(5\)\(b\), F.S.](#) A life felony is generally punishable by life imprisonment or by a term of imprisonment not exceeding 40 years. [Ss. 775.082, F.S., 775.083, F.S., or 775.084, F.S.](#)

<sup>12</sup> S. [800.04\(5\)\(c\)2, F.S.](#) A second degree felony is punishable by up to 15 years in prison and a \$10,000 fine. [Ss. 775.082, F.S., 775.083, F.S., or 775.084, F.S.](#)

<sup>13</sup> S. [800.04\(5\)\(e\), F.S.](#) A first degree felony is generally punishable by up to 30 years imprisonment and a fine not exceeding \$10,000. [Ss. 775.082, F.S., 775.083, F.S., or 775.084, F.S.](#)

<sup>14</sup> S. [800.04\(5\)\(c\)1, F.S.](#)

<sup>15</sup> S. [800.04\(5\)\(d\), F.S.](#) A third degree felony is punishable by up to five years in prison and a \$5,000 fine. [Ss. 775.082, F.S., 775.083, F.S., or 775.084, F.S.](#)

<sup>16</sup> S. [827.071\(1\)\(m\), F.S.](#), defines “sexual performance” to mean any performance or part thereof which includes sexual conduct by a child less than 18 years of age. Additionally, [s. 827.071\(1\)\(g\), F.S.](#), defines “performance” to mean any play, motion picture, photograph, or dance or any other visual representation exhibited before an audience.

<sup>17</sup> S. [827.071\(2\), F.S.](#)

<sup>18</sup> S. [827.071\(3\), F.S.](#)

<sup>19</sup> S. [827.071\(4\), F.S.](#)

<sup>20</sup> “Child pornography” means:

- Any image depicting a minor engaged in sexual conduct; or
- Any image that has been created, altered, adapted, or modified by electronic, mechanical, or other means, to portray an identifiable minor engaged in sexual conduct. S. [827.071\(1\)\(b\), F.S.](#)

<sup>21</sup> The possession, control, or intentional viewing of each such photograph, motion picture, exhibition, show, image, data, computer depiction, representation, or presentation is a separate offense. If such photograph, motion picture, exhibition, show, representation, image, data, computer depiction, or other presentation includes child pornography depicting more than one child, then each such child in each such photograph, motion picture, exhibition, show, representation, image, data,

### Transmitting Child Pornography

Under [s. 847.0137, F.S.](#), a person commits a third degree felony if he or she:

- Is in this state and knew or reasonably should have known that he or she was transmitting child pornography to another person in this state or in another jurisdiction; or
- Is in any jurisdiction and knew or reasonably should have known that he or she was transmitting child pornography to any person in this state.<sup>22</sup>

### Online Solicitation of a Minor

Under [s. 847.0135\(3\), F.S.](#), a person commits a third degree felony if he or she knowingly uses a computer online service, Internet service, local bulletin board service, or any other device capable of electronic data storage or transmission to:

- Seduce, solicit, lure, or entice, or attempt to seduce, solicit, lure, or entice, a child or another person believed by the person to be a child, to commit any illegal act described in chapters 794, 800, or 827, F.S., or to otherwise engage in any unlawful sexual conduct with a child or with another person believed by the person to be a child; or
- Solicit, lure, or entice, or attempt to solicit, lure, or entice a parent, legal guardian, or custodian of a child or a person believed to be a parent, legal guardian, or custodian of a child to consent to the participation of such child in any act described in chapters 794, 800, or 827, F.S., or to otherwise engage in any sexual conduct.<sup>23</sup>

It is a second degree felony if a person misrepresents his or her age when engaging in the above listed conduct.<sup>24</sup>

### Traveling to Meet a Minor

Under [s. 847.0135\(4\), F.S.](#), a person commits a second degree felony if he or she travels any distance either within this state, to this state, or from this state by any means, attempts to do so, or causes another to do so or to attempt to do so for the purpose of engaging in any illegal act described in chapters 794, 800, or 827, F.S., or to otherwise engage in other unlawful sexual conduct with a child or with another person believed by the person to be a child after using a computer online service, Internet service, local bulletin board service, or any other device capable of electronic data storage or transmission to:

- Seduce, solicit, lure, or entice or attempt to seduce, solicit, lure, or entice a child or another person believed by the person to be a child, to engage in any illegal act described in chapters 794, 800, or 827, F.S., or to otherwise engage in other unlawful sexual conduct with a child; or
- Solicit, lure, or entice or attempt to solicit, lure, or entice a parent, legal guardian, or custodian of a child or a person believed to be a parent, legal guardian, or custodian of a child to consent to the participation of such child in any act described in chapters 794, 800, or 827, F.S., or to otherwise engage in any sexual conduct.<sup>25</sup>

### Lewd or Lascivious Exhibition

A person commits lewd or lascivious exhibition in violation of [s. 847.0135\(5\), F.S.](#), if he or she commits specified acts live over a computer online service, Internet service, or local bulletin board service, and knows, should know, or has reason to believe that the transmission is viewed on a computer or television monitor by a victim who is less than 16 years of age. Such prohibited acts include intentional:

- Masturbation;
- Exposure of the genitals in a lewd or lascivious manner; or

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computer depiction, or other presentation that is knowingly possessed, controlled, or intentionally viewed is a separate offense. [S. 827.071\(5\)\(a\), F.S.](#)

<sup>22</sup> "Transmit" means the act of sending and causing to be delivered, including the act of providing access for receiving and causing to be delivered, any image, information, or data over or through any medium, including the Internet or an interconnected network, by use of any electronic equipment or other device. [S. 847.0137\(1\), F.S.](#)

<sup>23</sup> [S. 847.0135\(3\), F.S.](#) Each separate use of a computer online service, Internet service, local bulletin board service, or any other device capable of electronic data storage or transmission wherein an offense described in this section is committed may be charged as a separate offense.

<sup>24</sup> [S. 847.0135\(3\), F.S.](#)

<sup>25</sup> [S. 847.0135\(4\), F.S.](#)



- Commission of any other sexual act that does not involve actual physical or sexual contact with the victim, including, but not limited to, sadomasochistic abuse, sexual bestiality, or the simulation of any act involving sexual activity.<sup>26</sup>

Lewd or lascivious exhibition is a second degree felony if the offender is 18 years of age or older, and a third degree felony if the offender is less than 18 years of age.<sup>27</sup>

#### *Selling or Buying of Minors*

Under s. [847.0145, F.S.](#), any parent, legal guardian, or other person having custody or control of a minor may not sell or otherwise transfer custody or control of such minor, or offer to do so, with:

- Knowledge that the minor will be portrayed in a visual depiction engaging in, or assisting another person to engage in, sexually explicit conduct;
- Intent to promote the minor engaging in sexually explicit conduct for the purpose of producing any visual depiction of such conduct; or
- Intent to promote the minor rendering assistance to any other person to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct.

Selling, transferring, or obtaining custody or control of a minor for one of the above purposes is a first degree felony.<sup>28</sup>

#### **Dangerous Sexual Felony Offenders**

Section [794.0115, F.S.](#), provides that a person is a “dangerous sexual felony offender” if he or she is convicted of a specified violation of luring a child,<sup>29</sup> sexual battery,<sup>30</sup> lewd battery or lewd molestation committed upon or in the presence of persons less than 16 years of age,<sup>31</sup> lewd battery or lewd molestation committed upon or in the presence of an elderly or disabled person,<sup>32</sup> sexual performance by a child,<sup>33</sup> offenses relating to selling or buying of minors,<sup>34</sup> or a similar offense under a former designation, if such offense was committed when the person was 18 years of age or older and the person:

- Caused serious personal injury to the victim as a result of the commission of the offense;
- Used or threatened to use a deadly weapon during the commission of the offense;
- Victimized more than one person during the course of the criminal episode applicable to the offense;
- Committed the offense while under the jurisdiction of a court for a felony offense committed in Florida or another jurisdiction, or for a non-felony offense in another jurisdiction that would have been a felony if it had been committed in Florida; or
- Has previously been convicted of any of the previously described offenses or any offense under a former statutory designation which is similar in elements to any of the previously described offenses.

Dangerous sexual felony offenders must be sentenced to a mandatory minimum term of:

- 25 years imprisonment if the specified offense was committed before October 1, 2014; and
- 50 years imprisonment if the specified offense was committed on or after October 1, 2014.<sup>35</sup>

#### **Federal Penalties for Repeated Sexual Offenses Against Children**

Under 18 U.S.C. 3559(e), a person who is convicted of a “federal sex offense” in which a minor is the victim must be sentenced to life imprisonment if the person has a prior sex conviction in which a minor was the victim, unless a sentence of death is imposed.

<sup>26</sup> S. [847.0135\(5\), F.S.](#)

<sup>27</sup> *Id.*

<sup>28</sup> S. [847.0145\(1\)-\(2\), F.S.](#)

<sup>29</sup> S. [787.025\(2\)\(c\), F.S.](#)

<sup>30</sup> S. [794.011\(2\), \(3\), \(4\), \(5\), or \(8\), F.S.](#)

<sup>31</sup> S. [800.04\(4\)-\(5\), F.S.](#)

<sup>32</sup> S. [825.1025\(2\)-\(3\), F.S.](#)

<sup>33</sup> S. [827.071\(2\)-\(4\), F.S.](#)

<sup>34</sup> S. [847.0145, F.S.](#)

<sup>35</sup> S. [794.0115\(2\)\(e\), F.S.](#) A dangerous sexual felony offender may be sentenced above his or her mandatory minimum threshold up to, and including, life imprisonment.

A “federal sex offense” includes a violation under:

- Sex trafficking of children under 18 U.S.C. 1591.
- Aggravated sexual abuse under 18 U.S.C. 2241.
- Sexual abuse under 18 U.S.C. 2242.
- Abusive sexual contact under 18 U.S.C. 2244(a)(1).
- Sexual abuse resulting in death under 18 U.S.C. 2245.
- Sexual exploitation of children under 18 U.S.C. 2251.
- Selling or buying of children under 18 U.S.C. 2251A.
- Coercion and enticement of a minor into prostitution under 18 U.S.C. 2422(b).
- Transportation of minors under 18 U.S.C. 2423(a).

### **Criminal Punishment Code**

Felony offenses which are subject to the Criminal Punishment Code (CPC)<sup>36</sup> are listed in a single offense severity ranking chart (OSRC),<sup>37</sup> which uses 10 offense levels to rank felonies from least severe to most severe. Each felony offense listed in the OSRC is assigned a level according to the severity of the offense.<sup>38,39</sup> A person’s primary offense, any other current offenses, and prior convictions are scored using the points designated for the offense severity level of each offense.<sup>40,41</sup> The final score calculation, following the scoresheet formula, determines the lowest permissible sentence that a trial court may impose, absent a valid reason for departure.<sup>42</sup>

A [mandatory minimum sentence](#) takes precedence over the lowest permissible sentence under the scoresheet if the lowest permissible sentence is less than the mandatory minimum sentence. However, if the lowest permissible sentence exceeds the mandatory sentence for a specified offense, the requirements of the CPC and any mandatory minimum penalties apply.<sup>43</sup>

### **Gain-Time**

DOC may not grant incentive gain-time for sentences imposed for the following offenses committed on or after October 1, 2014:<sup>44</sup>

- Murder under [s. 782.04\(1\)\(a\)2.c., F.S.](#), when committed by a person engaged in the perpetration of, or in the attempt to perpetrate a sexual battery.
- Kidnapping under [s. 787.01\(3\)\(a\)2. or 3., F.S.](#), upon a child under the age of 13 when, in the course of committing the offense, a person commits sexual battery.
- False imprisonment under [s. 787.02\(3\)\(a\)2. or 3., F.S.](#), when the victim is a child under the age 13, and when the person, in the course of committing the offense, commits sexual battery or lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition.
- Sexual battery under [s. 794.011, F.S.](#), excluding [s. 794.011\(10\), F.S.](#)
- Lewd or lascivious battery or molestation upon or in the presence of persons less than 16 years of age under [s. 800.04, F.S.](#)
- Lewd or lascivious battery or molestation upon an elderly or disabled person under [s. 825.1025, F.S.](#)

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<sup>36</sup> All felony offenses, with the exception of capital felonies, committed on or after October 1, 1998, are subject to the Criminal Punishment Code. [S. 921.002, F.S.](#)

<sup>37</sup> [S. 921.0022, F.S.](#)

<sup>38</sup> [S. 921.0022\(2\), F.S.](#)

<sup>39</sup> Felony offenses that are not listed in the OSRC default to statutorily assigned levels, as follows: an unlisted third-degree felony defaults to a level 1; an unlisted second-degree felony defaults to a level 4; an unlisted first-degree felony defaults to a level 7; an unlisted first-degree felony punishable by life defaults to a level 9; and an unlisted life felony defaults to a level 10. [S. 921.0023, F.S.](#)

<sup>40</sup> Ss. [921.0022](#) and [921.0024, F.S.](#)

<sup>41</sup> A person may also accumulate points for factors such as victim injury points, community sanction violation points, and certain sentencing multipliers. [S. 921.0024\(1\), F.S.](#)

<sup>42</sup> If a person scores more than 44 points, the lowest permissible sentence is a specified term of months in state prison, determined by a formula. If a person scores 44 points or fewer, the court may impose a nonprison sanction, such as a county jail sentence, probation, or community control. [S. 921.0024\(2\), F.S.](#)

<sup>43</sup> Department of Corrections, [Scoresheet Preparation Manual](#), Sept. 1, 2024 (last visited May 5, 2025).

<sup>44</sup> [S. 944.275\(4\)\(e\)1., F.S.](#)

- Computer pornography involving a victim less than 16 years of age under [s. 847.0135\(5\), F.S.](#)

Sentences imposed for offenses committed on or after July 1, 2023, are also ineligible to receive incentive gain-time if the offense is for committing or attempting, soliciting, or conspiring to commit a violation of the above crimes.<sup>45</sup>

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<sup>45</sup> S. [944.275\(4\)\(e\)2., F.S.](#)