

1 A bill to be entitled
 2 An act relating to sexual images; amending s. 827.071,
 3 F.S.; revising definitions; prohibiting lewd imagery
 4 or depictions involving a child; prohibiting the
 5 creation of such depictions; providing criminal
 6 penalties; amending s. 836.13, F.S.; defining the term
 7 "generate"; prohibiting the generation of nude photos
 8 involving identifiable persons; amending s. 921.0022,
 9 F.S.; ranking offenses created by this act for
 10 purposes of the severity ranking chart of the Criminal
 11 Punishment Code; providing an effective date.

12
 13 Be It Enacted by the Legislature of the State of Florida:

14
 15 **Section 1. Paragraphs (b) and (1) of subsection (1) of**
 16 **section 827.071, Florida Statutes, are amended, and subsections**
 17 **(2) through (5) of that section are republished, to read:**

18 827.071 Sexual performance by a child; child pornography;
 19 penalties.—

20 (1) As used in this section, the following definitions
 21 shall apply:

22 (b) "Child pornography" means:

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

24 ~~or~~

25 2. Any image that has been created, altered, adapted, or

26 | modified by electronic, mechanical, or other means, to portray
27 | an identifiable minor engaged in sexual conduct; or

28 | 3. Any image depicting a minor with actual or simulated
29 | exhibition of the genitals.

30 | (1)1. "Sexual conduct" means actual or simulated sexual
31 | intercourse, deviate sexual intercourse, sexual bestiality,
32 | masturbation, or sadomasochistic abuse; actual or simulated lewd
33 | exhibition of the genitals; actual physical contact with a
34 | person's clothed or unclothed genitals, pubic area, buttocks,
35 | or, if such person is a female, breast, with the intent to
36 | arouse or gratify the sexual desire of either party; or any act
37 | or conduct which constitutes sexual battery or simulates that
38 | sexual battery is being or will be committed. A mother's
39 | breastfeeding of her baby does not under any circumstance
40 | constitute "sexual conduct."

41 | 2. As used in subparagraph 1., the term "actual or lewd
42 | exhibition of the genitals" may be evidenced by the overall
43 | content of the visual depiction, taking into account the age of
44 | the minor and, including, but not limited to, whether:

45 | a. The focal point of the visual depiction is on the
46 | child's genitalia or pubic area;

47 | b. The setting of the visual depiction is sexually
48 | suggestive or in a place or pose generally associated with
49 | sexual activity;

50 c. The child is depicted in an unnatural pose, or in
51 inappropriate attire, considering the age of the child;

52 d. The visual depiction suggests sexual coyness or a
53 willingness to engage in sexual activity; or

54 e. The visual depiction is intended or designed to elicit
55 a sexual response in the viewer.

56 (2) A person is guilty of the use of a child in a sexual
57 performance if, knowing the character and content thereof, he or
58 she employs, authorizes, or induces a child to engage in a
59 sexual performance or, being a parent, legal guardian, or
60 custodian of such child, consents to the participation by such
61 child in a sexual performance. A person who violates this
62 subsection commits a felony of the second degree, punishable as
63 provided in s. 775.082, s. 775.083, or s. 775.084.

64 (3) A person is guilty of promoting a sexual performance
65 by a child when, knowing the character and content thereof, he
66 or she produces, directs, or promotes any performance which
67 includes sexual conduct by a child. A person who violates this
68 subsection commits a felony of the second degree, punishable as
69 provided in s. 775.082, s. 775.083, or s. 775.084.

70 (4) It is unlawful for any person to possess with the
71 intent to promote any photograph, motion picture, exhibition,
72 show, representation, or other presentation which, in whole or
73 in part, includes child pornography. The possession of three or
74 more copies of such photograph, motion picture, representation,

75 or presentation is prima facie evidence of an intent to promote.
76 A person who violates this subsection commits a felony of the
77 second degree, punishable as provided in s. 775.082, s. 775.083,
78 or s. 775.084.

79 (5) (a) It is unlawful for any person to knowingly possess,
80 control, or intentionally view a photograph, motion picture,
81 exhibition, show, representation, image, data, computer
82 depiction, or other presentation which, in whole or in part, he
83 or she knows to include child pornography. The possession,
84 control, or intentional viewing of each such photograph, motion
85 picture, exhibition, show, image, data, computer depiction,
86 representation, or presentation is a separate offense. If such
87 photograph, motion picture, exhibition, show, representation,
88 image, data, computer depiction, or other presentation includes
89 child pornography depicting more than one child, then each such
90 child in each such photograph, motion picture, exhibition, show,
91 representation, image, data, computer depiction, or other
92 presentation that is knowingly possessed, controlled, or
93 intentionally viewed is a separate offense. A person who
94 violates this paragraph commits a felony of the third degree,
95 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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

99 **Section 2. Paragraphs (b) through (e) of subsection (1) of**

100 **section 836.13, Florida Statutes, are redesignated as paragraphs**
 101 **(c) through (f), respectively, a new paragraph (b) is added to**
 102 **that subsection, subsections (3) through (8) of that section are**
 103 **renumbered as subsections (4) through (9), respectively, present**
 104 **subsection (5) is amended, and a new subsection (3) is added to**
 105 **that section, to read:**

106 836.13 ~~Promotion of an~~ Altered sexual depiction;
 107 prohibited acts; penalties; applicability.-

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

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

113 (3) A person who willfully generates or possesses any
 114 altered sexual depiction of an identifiable person, without the
 115 consent of the identifiable person, and who knows or reasonably
 116 should have known that such visual depiction was an altered
 117 sexual depiction, commits a felony of the third degree,
 118 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

119 (6)~~(5)~~ An aggrieved person may initiate a civil action
 120 against a person who violates subsection (2) or subsection (3)
 121 to obtain appropriate relief in order to prevent or remedy a
 122 violation of subsection (2) or subsection (3), including all of
 123 the following:

124 (a) Injunctive relief.

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

128 (c) Reasonable attorney fees and costs.

129 **Section 3. Paragraph (c) of subsection (3) of section**
 130 **921.0022, Florida Statutes, is amended to read:**

131 921.0022 Criminal Punishment Code; offense severity
 132 ranking chart.—

133 (3) OFFENSE SEVERITY RANKING CHART

134 (c) LEVEL 3

135

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

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patrol vehicle with siren and
lights activated.

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319.30(4) 3rd Possession by junkyard of motor
vehicle with identification
number plate removed.

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319.33(1)(a) 3rd Alter or forge any certificate
of title to a motor vehicle or
mobile home.

142

319.33(1)(c) 3rd Procure or pass title on stolen
vehicle.

143

319.33(4) 3rd With intent to defraud,
possess, sell, etc., a blank,
forged, or unlawfully obtained
title or registration.

144

327.35(2)(b) 3rd Felony BUI.

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328.05(2) 3rd Possess, sell, or counterfeit
fictitious, stolen, or
fraudulent titles or bills of
sale of vessels.

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146	328.07 (4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
147	376.302 (5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
148	379.2431 (1) (e) 5.	3rd	Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.
149	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.

150	379.2431 (1) (e) 7.	3rd	Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.
151	400.9935 (4) (a) or (b)	3rd	Operating a clinic, or offering services requiring licensure, without a license.
152	400.9935 (4) (e)	3rd	Filing a false license application or other required information or failing to report information.
153	440.1051 (3)	3rd	False report of workers' compensation fraud or retaliation for making such a report.
154	501.001 (2) (b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
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156	624.401 (4) (a)	3rd	Transacting insurance without a certificate of authority.
157	624.401 (4) (b) 1.	3rd	Transacting insurance without a certificate of authority; premium collected less than \$20,000.
158	626.902 (1) (a) & (b)	3rd	Representing an unauthorized insurer.
159	697.08	3rd	Equity skimming.
160	790.15 (3)	3rd	Person directs another to discharge firearm from a vehicle.
161	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.

162	806.10 (2)	3rd	Interferes with or assaults firefighter in performance of duty.
163	810.09 (2) (b)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
164	810.145 (2) (c)	3rd	Digital voyeurism; 19 years of age or older.
165	812.014 (2) (c) 2.	3rd	Grand theft; \$5,000 or more but less than \$10,000.
166	812.0145 (2) (c)	3rd	Theft from person 65 years of age or older; \$300 or more but less than \$10,000.
167	812.015 (8) (b)	3rd	Retail theft with intent to sell; conspires with others.
168	812.081 (2)	3rd	Theft of a trade secret.
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170	815.04 (4) (b)	2nd	Computer offense devised to defraud or obtain property.
171	817.034 (4) (a) 3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000.
172	817.233	3rd	Burning to defraud insurer.
173	817.234 (8) (b) & (c)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.
174	817.234 (11) (a)	3rd	Insurance fraud; property value less than \$20,000.
175	817.236	3rd	Filing a false motor vehicle insurance application.
176	817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.

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177	817.413 (2)	3rd	Sale of used goods of \$1,000 or more as new.
178	817.49 (2) (b) 1.	3rd	Willful making of a false report of a crime causing great bodily harm, permanent disfigurement, or permanent disability.
179	831.28 (2) (a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument with intent to defraud.
180	831.29	2nd	Possession of instruments for counterfeiting driver licenses or identification cards.
181	836.13 (2)	3rd	Person who promotes an altered sexual depiction of an identifiable person without consent.
	<u>836.13 (3)</u>	<u>3rd</u>	<u>Person who generates or</u>

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

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838.021 (3) (b) 3rd Threatens unlawful harm to
public servant.

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847.01385 3rd Harmful communication to a
minor.

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860.15 (3) 3rd Overcharging for repairs and
parts.

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870.01 (2) 3rd Riot.

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870.01 (4) 3rd Inciting a riot.

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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).

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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.

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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 facility.

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893.13(4)(c) 3rd Use or hire of minor; deliver
 to minor other controlled
 substances.

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893.13(6)(a) 3rd Possession of any controlled
 substance other than felony
 possession of cannabis.

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893.13(7)(a)8. 3rd Withhold information from
 practitioner regarding previous

197	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.
198	893.13 (8) (a) 3.	3rd	Knowingly write a prescription for a controlled substance for a fictitious person.
199	893.13 (8) (a) 4.	3rd	Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.
200	918.13 (1)	3rd	Tampering with or fabricating physical evidence.
201	944.47 (1) (a) 1. & 2.	3rd	Introduce contraband to correctional facility.

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944.47(1)(c) 2nd Possess contraband while upon
the grounds of a correctional
institution.

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985.721 3rd Escapes from a juvenile
facility (secure detention or
residential commitment
facility).

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