

1 A bill to be entitled
 2 An act relating to sexual images; amending s. 827.071,
 3 F.S.; providing criteria that may be used to evidence
 4 actual or simulated lewd exhibition of the genitals;
 5 amending s. 836.13, F.S.; defining the term
 6 "generate"; prohibiting a person from willfully
 7 generating an altered sexual depiction of an
 8 identifiable person, without the consent of the
 9 identifiable person; providing a criminal penalty;
 10 revising applicability; amending s. 921.0022, F.S.;
 11 ranking an offense created by the act for purposes of
 12 the offense severity ranking chart of the Criminal
 13 Punishment Code; making a conforming change; providing
 14 an effective date.

15
 16 Be It Enacted by the Legislature of the State of Florida:

17
 18 **Section 1. Paragraph (1) of subsection (1) of section**
 19 **827.071, Florida Statutes, is amended, and subsections (2)**
 20 **through (5) of that section are republished, to read:**

21 827.071 Sexual performance by a child; child pornography;
 22 penalties.—

23 (1) As used in this section, the following definitions
 24 shall apply:

25 (1) 1. "Sexual conduct" means actual or simulated sexual

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

36 | 2. As used in subparagraph 1., "actual or simulated lewd
37 | exhibition of the genitals" may be evidenced by the overall
38 | content of an image, taking into account the age of the minor
39 | depicted and, including, but not limited to, whether:

40 | a. The focal point of the image is on the minor's
41 | genitals;

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

44 | c. The minor is depicted in an unnatural pose, or in
45 | inappropriate attire, considering the age of the minor;

46 | d. The image suggests sexual coyness or a willingness to
47 | engage in sexual conduct; or

48 | e. The image is intended or designed to elicit a sexual
49 | response in the viewer.

50 | (2) A person is guilty of the use of a child in a sexual

51 performance if, knowing the character and content thereof, he or
52 she employs, authorizes, or induces a child to engage in a
53 sexual performance or, being a parent, legal guardian, or
54 custodian of such child, consents to the participation by such
55 child in a sexual performance. A person who violates this
56 subsection commits a felony of the second degree, punishable as
57 provided in s. 775.082, s. 775.083, or s. 775.084.

58 (3) A person is guilty of promoting a sexual performance
59 by a child when, knowing the character and content thereof, he
60 or she produces, directs, or promotes any performance which
61 includes sexual conduct by a child. 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 (4) It is unlawful for any person to possess with the
65 intent to promote any photograph, motion picture, exhibition,
66 show, representation, or other presentation which, in whole or
67 in part, includes child pornography. The possession of three or
68 more copies of such photograph, motion picture, representation,
69 or presentation is prima facie evidence of an intent to promote.
70 A person who violates this subsection commits a felony of the
71 second degree, punishable as provided in s. 775.082, s. 775.083,
72 or s. 775.084.

73 (5) (a) It is unlawful for any person to knowingly possess,
74 control, or intentionally view a photograph, motion picture,
75 exhibition, show, representation, image, data, computer

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

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

93 **Section 2. Paragraphs (b) through (e) of subsection (1) of**
94 **section 836.13, Florida Statutes, are redesignated as paragraphs**
95 **(c) through (f), respectively, a new paragraph (b) is added to**
96 **that subsection, subsections (2) through (8) of that section are**
97 **renumbered as subsections (3) through (9), respectively, present**
98 **subsections (4), (5), and (6), are amended, and a new subsection**
99 **(2) is added to that section, to read:**

100 836.13 Generation or promotion of an altered sexual

101 depiction; prohibited acts; penalties; applicability.—

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

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

107 (2) A person who willfully generates any altered sexual
108 depiction of an identifiable person, without the consent of the
109 identifiable person, commits a felony of the third degree,
110 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

111 ~~(5)-(4)~~ The presence of a disclaimer within an altered
112 sexual depiction which notifies a viewer that the person or
113 persons depicted did not consent to or participate in the
114 generation ~~creation~~ or promotion of the material, or that the
115 person or persons depicted did not actually perform the actions
116 portrayed, is not a defense and does not relieve a person of
117 criminal liability under this section.

118 ~~(6)-(5)~~ An aggrieved person may initiate a civil action
119 against a person who violates subsection (2) or subsection (3)
120 to obtain appropriate relief in order to prevent or remedy a
121 violation of subsection (2) or subsection (3), including all of
122 the following:

123 (a) Injunctive relief.

124 (b) Monetary damages to include \$10,000 or actual damages
125 incurred as a result of a violation of subsection (2) or

126 subsection (3), whichever is greater.

127 (c) Reasonable attorney fees and costs.

128 ~~(7)-(6)~~ The criminal and civil penalties of this section do
129 not apply to:

130 (a) A provider of an interactive computer service as
131 defined in 47 U.S.C. s. 230(f), of an information service as
132 defined in 47 U.S.C. s. 153, or of a communications service as
133 defined in s. 202.11 which provides the transmission, storage,
134 or caching of electronic communications or messages of others;
135 another related telecommunications or commercial mobile radio
136 service; or content provided by another person;

137 (b) A law enforcement officer, as defined in s. 943.10, or
138 any local, state, federal, or military law enforcement agency
139 engaged in ~~that promotes an altered sexual depiction in~~
140 ~~connection with~~ the performance of his or her duties as a law
141 enforcement officer or the duties of the law enforcement agency;

142 (c) A person reporting unlawful activity; or

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

145 **Section 3. Paragraph (c) of subsection (3) of section**
146 **921.0022, Florida Statutes, is amended to read:**

147 921.0022 Criminal Punishment Code; offense severity
148 ranking chart.—

149 (3) OFFENSE SEVERITY RANKING CHART

150 (c) LEVEL 3

151	Florida	Felony	
	Statute	Degree	Description
152	119.10 (2) (b)	3rd	Unlawful use of confidential information from police reports.
153	316.066 (3) (b) - (d)	3rd	Unlawfully obtaining or using confidential crash reports.
154	316.193 (2) (b)	3rd	Felony DUI, 3rd conviction.
155	316.1935 (2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.
156	319.30 (4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
157	319.33 (1) (a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.

158	319.33 (1) (c)	3rd	Procure or pass title on stolen vehicle.
159	319.33 (4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
160	327.35 (2) (b)	3rd	Felony BUI.
161	328.05 (2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
162	328.07 (4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
163	376.302 (5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
164	379.2431	3rd	Taking, disturbing, mutilating,

165	(1) (e) 5.		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.
166	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.
167	379.2431 (1) (e) 7.	3rd	Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.
168	400.9935 (4) (a) or (b)	3rd	Operating a clinic, or offering services requiring licensure, without a license.

169	400.9935 (4) (e)	3rd	Filing a false license application or other required information or failing to report information.
170	440.1051 (3)	3rd	False report of workers' compensation fraud or retaliation for making such a report.
171	501.001 (2) (b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
172	624.401 (4) (a)	3rd	Transacting insurance without a certificate of authority.
173	624.401 (4) (b) 1.	3rd	Transacting insurance without a certificate of authority; premium collected less than \$20,000.
	626.902 (1) (a) & (b)	3rd	Representing an unauthorized insurer.

174	697.08	3rd	Equity skimming.
175	790.15 (3)	3rd	Person directs another to discharge firearm from a vehicle.
176	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.
177	806.10 (1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
178	806.10 (2)	3rd	Interferes with or assaults firefighter in performance of duty.
179	810.09 (2) (b)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
180			

181	810.145 (2) (c)	3rd	Digital voyeurism; 19 years of age or older.
182	812.014 (2) (c) 2.	3rd	Grand theft; \$5,000 or more but less than \$10,000.
183	812.0145 (2) (c)	3rd	Theft from person 65 years of age or older; \$300 or more but less than \$10,000.
184	812.015 (8) (b)	3rd	Retail theft with intent to sell; conspires with others.
185	812.081 (2)	3rd	Theft of a trade secret.
186	815.04 (4) (b)	2nd	Computer offense devised to defraud or obtain property.
187	817.034 (4) (a) 3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000.
188	817.233	3rd	Burning to defraud insurer.

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189	817.234 (8) (b) & (c)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.
190	817.234 (11) (a)	3rd	Insurance fraud; property value less than \$20,000.
191	817.236	3rd	Filing a false motor vehicle insurance application.
192	817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
193	817.413 (2)	3rd	Sale of used goods of \$1,000 or more as new.
194	817.49 (2) (b) 1.	3rd	Willful making of a false report of a crime causing great bodily harm, permanent disfigurement, or permanent disability.
	831.28 (2) (a)	3rd	Counterfeiting a payment

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

195

831.29 2nd

Possession of instruments for counterfeiting driver licenses or identification cards.

196

836.13 (2) 3rd

Person who generates an altered sexual depiction of an identifiable person without consent.

197

836.13 (3) 3rd
~~836.13 (2)~~

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

198

838.021 (3) (b) 3rd

Threatens unlawful harm to public servant.

199

847.01385 3rd

Harmful communication to a minor.

200

201	860.15(3)	3rd	Overcharging for repairs and parts.
202	870.01(2)	3rd	Riot.
203	870.01(4)	3rd	Inciting a riot.
204	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).
205	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.
	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.

206

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

207

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

208

893.13 (7) (a) 8. 3rd Withhold information from
 practitioner regarding previous
 receipt of or prescription for
 a controlled substance.

209

893.13 (7) (a) 9. 3rd Obtain or attempt to obtain
 controlled substance by fraud,
 forgery, misrepresentation,
 etc.

210

893.13 (7) (a) 10. 3rd Affix false or forged label to
 package of controlled

substance.

211

893.13(7)(a)11. 3rd Furnish false or fraudulent material information on any document or record required by chapter 893.

212

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.

213

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.

214

893.13(8)(a)3. 3rd Knowingly write a prescription for a controlled substance for

a fictitious person.

215

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.

216

918.13(1)

3rd

Tampering with or fabricating physical evidence.

217

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

3rd

Introduce contraband to correctional facility.

218

944.47(1)(c)

2nd

Possess contraband while upon the grounds of a correctional institution.

219

985.721

3rd

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

220

221

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