

CHAPTER 2012-39

Senate Bill No. 436

An act relating to video voyeurism; amending s. 810.145, F.S.; revising the definition of the term “place and time when a person has a reasonable expectation of privacy” to include the interior of a residential dwelling; increasing the classification of specified video voyeurism offenses; amending s. 921.0022, F.S.; ranking a violation of s. 810.145(8)(b), F.S., above its default value for purposes of the offense severity ranking chart of the Criminal Punishment Code; providing an effective date.

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

Section 1. Paragraph (c) of subsection (1) and subsections (6), (7), and (8) of section 810.145, Florida Statutes, are amended to read:

810.145 Video voyeurism.—

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

(c) “Place and time when a person has a reasonable expectation of privacy” means a place and time when a reasonable person would believe that he or she could fully disrobe in privacy, without being concerned that the person’s undressing was being viewed, recorded, or broadcasted by another, including, but not limited to, the interior of a residential dwelling, bathroom, changing room, fitting room, dressing room, or tanning booth.

(6) Except as provided in subsections (7) and (8);

(a) A person who is under 19 years of age and who violates this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) A person who is 19 years of age or older and who violates this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(7) A person who violates this section and who has previously been convicted of or adjudicated delinquent for any violation of this section commits a felony of the second ~~third~~ degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(8)(a) A person who is:

1. Eighteen years of age or older who is responsible for the welfare of a child younger than 16 years of age, regardless of whether the person knows or has reason to know the age of the child, and who commits an offense under this section against that child;

2. Eighteen years of age or older who is employed at a private school as defined in s. 1002.01; a school as defined in s. 1003.01; or a voluntary prekindergarten education program as described in s. 1002.53(3)(a), (b), or (c) and who commits an offense under this section against a student of the private school, school, or voluntary prekindergarten education program; or

3. Twenty-four years of age or older who commits an offense under this section against a child younger than 16 years of age, regardless of whether the person knows or has reason to know the age of the child

commits a felony of the ~~second~~ third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A person who violates this subsection and who has previously been convicted of or adjudicated delinquent for any violation of this section commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 2. Paragraph (f) of subsection (3) of section 921.0022, Florida Statutes, is amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

(f) LEVEL 6

Florida Statute	Felony Degree	Description
316.193(2)(b)	3rd	Felony DUI, 4th or subsequent conviction.
499.0051(3)	2nd	Knowing forgery of pedigree papers.
499.0051(4)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.
499.0051(5)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.
775.0875(1)	3rd	Taking firearm from law enforcement officer.
784.021(1)(a)	3rd	Aggravated assault; deadly weapon without intent to kill.
784.021(1)(b)	3rd	Aggravated assault; intent to commit felony.
784.041	3rd	Felony battery; domestic battery by strangulation.
784.048(3)	3rd	Aggravated stalking; credible threat.

Florida Statute	Felony Degree	Description
784.048(5)	3rd	Aggravated stalking of person under 16.
784.07(2)(c)	2nd	Aggravated assault on law enforcement officer.
784.074(1)(b)	2nd	Aggravated assault on sexually violent predators facility staff.
784.08(2)(b)	2nd	Aggravated assault on a person 65 years of age or older.
784.081(2)	2nd	Aggravated assault on specified official or employee.
784.082(2)	2nd	Aggravated assault by detained person on visitor or other detainee.
784.083(2)	2nd	Aggravated assault on code inspector.
787.02(2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
790.115(2)(d)	2nd	Discharging firearm or weapon on school property.
790.161(2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property.
790.164(1)	2nd	False report of deadly explosive, weapon of mass destruction, or act of arson or violence to state property.
790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.
794.011(8)(a)	3rd	Solicitation of minor to participate in sexual activity by custodial adult.
794.05(1)	2nd	Unlawful sexual activity with specified minor.
800.04(5)(d)	3rd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender less than 18 years.
800.04(6)(b)	2nd	Lewd or lascivious conduct; offender 18 years of age or older.
806.031(2)	2nd	Arson resulting in great bodily harm to firefighter or any other person.

Florida Statute	Felony Degree	Description
810.02(3)(c)	2nd	Burglary of occupied structure; unarmed; no assault or battery.
<u>810.145(8)(b)</u>	<u>2nd</u>	<u>Video voyeurism; certain minor victims; 2nd or subsequent offense.</u>
812.014(2)(b)1.	2nd	Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree.
812.014(6)	2nd	Theft; property stolen \$3,000 or more; coordination of others.
812.015(9)(a)	2nd	Retail theft; property stolen \$300 or more; second or subsequent conviction.
812.015(9)(b)	2nd	Retail theft; property stolen \$3,000 or more; coordination of others.
812.13(2)(c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).
817.034(4)(a)1.	1st	Communications fraud, value greater than \$50,000.
817.4821(5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.
825.102(1)	3rd	Abuse of an elderly person or disabled adult.
825.102(3)(c)	3rd	Neglect of an elderly person or disabled adult.
825.1025(3)	3rd	Lewd or lascivious molestation of an elderly person or disabled adult.
825.103(2)(c)	3rd	Exploiting an elderly person or disabled adult and property is valued at less than \$20,000.
827.03(1)	3rd	Abuse of a child.
827.03(3)(c)	3rd	Neglect of a child.
827.071(2) & (3)	2nd	Use or induce a child in a sexual performance, or promote or direct such performance.
836.05	2nd	Threats; extortion.
836.10	2nd	Written threats to kill or do bodily injury.
843.12	3rd	Aids or assists person to escape.

Florida Statute	Felony Degree	Description
847.011	3rd	Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors.
847.012	3rd	Knowingly using a minor in the production of materials harmful to minors.
847.0135(2)	3rd	Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.
914.23	2nd	Retaliation against a witness, victim, or informant, with bodily injury.
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.
944.40	2nd	Escapes.
944.46	3rd	Harboring, concealing, aiding escaped prisoners.
944.47(1)(a)5.	2nd	Introduction of contraband (firearm, weapon, or explosive) into correctional facility.
951.22(1)	3rd	Intoxicating drug, firearm, or weapon introduced into county facility.

Section 3. This act shall take effect July 1, 2012.

Approved by the Governor April 6, 2012.

Filed in Office Secretary of State April 6, 2012.