

CHAPTER 2022-212

Committee Substitute for Committee Substitute for Senate Bill No. 1798

An act relating to sexually related offenses; amending s. 775.0847, F.S.; redefining terms; defining the term “identifiable minor”; revising the list of circumstances under which specified offenses may be reclassified; amending s. 784.049, F.S.; increasing the monetary damages that an aggrieved person may receive as a result of violations relating to sexual cyberharassment; amending s. 827.071, F.S.; defining and redefining terms; conforming provisions to changes made by the act; amending s. 828.126, F.S.; revising definitions; revising the prohibition on sexual activities with animals; increasing the criminal penalties for such sexual activities; requiring courts to issue orders prohibiting persons convicted of such sexual activities from engaging in specified activities, from residing in certain households, or from engaging in occupations or positions in which animals are present; revising applicability; creating s. 836.13, F.S.; defining terms; prohibiting the willful and malicious promotion of certain sexual depictions without consent; providing criminal penalties; providing a civil cause of action; providing applicability; providing construction; creating s. 836.14, F.S.; defining terms; prohibiting a person from committing theft of sexually explicit images with the intent to promote such images; prohibiting the willful possession of sexually explicit images with the intent to promote such images and with certain knowledge; prohibiting the promotion of sexually explicit images of identifiable persons for financial gain, without consent; providing criminal penalties; providing a civil cause of action; providing applicability; providing construction; amending s. 847.001, F.S.; redefining terms; defining the terms “identifiable minor” and “promote”; amending s. 847.011, F.S.; authorizing law enforcement officers to arrest certain persons without a warrant; authorizing a search warrant to be issued for further investigation upon proper affidavits being made; amending s. 847.0137, F.S.; deleting the definition of the term “minor”; redefining the term “transmit”; conforming provisions to changes made by the act; amending s. 921.0022, F.S.; ranking offenses created by this act for purposes of the severity ranking chart of the Criminal Punishment Code; conforming provisions to changes made by the act; amending ss. 288.1254 and 847.0141, F.S.; conforming cross-references; providing an effective date.

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

Section 1. Section 775.0847, Florida Statutes, is amended to read:

775.0847 Possession or promotion of certain images of child pornography; reclassification.—

(1) For purposes of this section:

(a) “Child” or “minor” means any person, whose identity is known or unknown, younger less than 18 years of age.

(b) “Child pornography” means:

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

2. 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.

(c) “Identifiable minor” means a person:

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

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

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

(d)(e) “Sadomasochistic abuse” means flagellation or torture by or upon a person or the condition of being fettered, bound, or otherwise physically restrained, for the purpose of deriving sexual satisfaction, or satisfaction brought about as a result of sadistic violence, from inflicting harm on another or receiving such harm oneself.

(e)(d) “Sexual battery” means oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, sexual battery does not include an act done for a bona fide medical purpose.

(f)(e) “Sexual bestiality” means any sexual act, actual or simulated, between a person and an animal involving the sex organ of the one and the mouth, anus, or vagina of the other.

(g)(f) “Sexual conduct” means actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, or sadomasochistic abuse; actual or simulated lewd exhibition of the genitals; actual physical contact with a person’s clothed or unclothed genitals, pubic area, buttocks, or, if such person is a female, breast with the intent to arouse or gratify the sexual desire of either party; or any act or conduct which constitutes sexual battery or simulates that sexual battery is being or will be committed. A mother’s breastfeeding of her baby does not under any circumstance constitute “sexual conduct.”

(2) A violation of s. 827.071, s. 847.0135, s. 847.0137, or s. 847.0138 shall be reclassified to the next higher degree as provided in subsection (3) if:

(a) The offender possesses 10 or more images of any form of child pornography regardless of content; and

(b) The content of at least one image contains one or more of the following:

1. A child who is younger than the age of 5.
2. Sadosomochistic abuse involving a child.
3. Sexual battery involving a child.
4. Sexual bestiality involving a child.
5. Any motion picture, film, video, or computer-generated motion picture, film, or video movie involving a child, regardless of length and regardless of whether the motion picture, film, video, or computer-generated motion picture, film, or video movie contains sound.

(3)(a) In the case of a felony of the third degree, the offense is reclassified to a felony of the second degree.

(b) In the case of a felony of the second degree, the offense is reclassified to a felony of the first degree.

For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, a felony offense that is reclassified under this section is ranked one level above the ranking under s. 921.0022 or s. 921.0023 of the offense committed.

Section 2. Paragraph (b) of subsection (5) of section 784.049, Florida Statutes, is amended to read:

784.049 Sexual cyberharassment.—

(5) An aggrieved person may initiate a civil action against a person who violates this section to obtain all appropriate relief in order to prevent or remedy a violation of this section, including the following:

(b) Monetary damages to include ~~\$10,000~~ \$5,000 or actual damages incurred as a result of a violation of this section, whichever is greater.

Section 3. Section 827.071, Florida Statutes, is amended to read:

827.071 Sexual performance by a child; child pornography; penalties.

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

(a) “Child” or “minor” means any person, whose identity is known or unknown, younger than 18 years of age.

(b) “Child pornography” means:

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

2. 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.

~~(c)(a)~~ “Deviate sexual intercourse” means sexual conduct between persons not married to each other consisting of contact between the penis and the anus, the mouth and the penis, or the mouth and the vulva.

(d) “Identifiable minor” means a person:

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

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

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

~~(e)(b)~~ “Intentionally view” means to deliberately, purposefully, and voluntarily view. Proof of intentional viewing requires establishing more than a single image, motion picture, exhibition, show, image, data, computer depiction, representation, or other presentation over any period of time.

~~(f)(e)~~ “Performance” means any play, motion picture, photograph, or dance or any other visual representation exhibited before an audience.

~~(g)(d)~~ “Promote” means to procure, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, transmute, publish, distribute, circulate, disseminate, present, exhibit, send, post, share, or advertise or to offer or agree to do the same.

~~(h)(e)~~ “Sadomasochistic abuse” means flagellation or torture by or upon a person, or the condition of being fettered, bound, or otherwise physically restrained, for the purpose of deriving sexual satisfaction from inflicting harm on another or receiving such harm oneself.

~~(i)(f)~~ “Sexual battery” means oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, “sexual battery” does not include an act done for a bona fide medical purpose.

~~(j)(g)~~ “Sexual bestiality” means any sexual act between a person and an animal involving the sex organ of the one and the mouth, anus, or vagina of the other.

(k)(h) “Sexual conduct” means actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, or sadomasochistic abuse; actual or simulated lewd exhibition of the genitals; actual physical contact with a person’s clothed or unclothed genitals, pubic area, buttocks, or, if such person is a female, breast, with the intent to arouse or gratify the sexual desire of either party; or any act or conduct which constitutes sexual battery or simulates that sexual battery is being or will be committed. A mother’s breastfeeding of her baby does not under any circumstance constitute “sexual conduct.”

(l)(i) “Sexual performance” means any performance or part thereof which includes sexual conduct by a child ~~of less than 18 years of age~~.

(m)(j) “Simulated” means the explicit depiction of conduct set forth in paragraph (k) (h) which creates the appearance of such conduct and which exhibits any uncovered portion of the breasts, genitals, or buttocks.

(2) A person is guilty of the use of a child in a sexual performance if, knowing the character and content thereof, he or she employs, authorizes, or induces a child ~~less than 18 years of age~~ to engage in a sexual performance or, being a parent, legal guardian, or custodian of such child, consents to the participation by such child in a sexual performance. A person who ~~Whoever~~ violates this subsection commits ~~is guilty of~~ a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) A person is guilty of promoting a sexual performance by a child when, knowing the character and content thereof, he or she produces, directs, or promotes any performance which includes sexual conduct by a child ~~less than 18 years of age~~. A person who ~~Whoever~~ violates this subsection commits ~~is guilty of~~ a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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

(5)(a) It is unlawful for any person to knowingly possess, control, or intentionally view a photograph, motion picture, exhibition, show, representation, image, data, computer depiction, or other presentation which, in whole or in part, he or she knows to include child pornography ~~any sexual conduct by a child~~. 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 sexual conduct by more than one child, then each such child in each such photograph, motion picture, exhibition, show, representation, image, data, computer depiction, or other presentation that is knowingly possessed, controlled, or intentionally viewed is a separate offense. A person who violates this paragraph subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

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

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

Section 4. Section 828.126, Florida Statutes, is amended to read:

828.126 Sexual activities involving animals.—

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

(a) ~~“Sexual conduct” means any touching or fondling by a person, either directly or through clothing, of the sex organs or anus of an animal or any transfer or transmission of semen by the person upon any part of the animal for the purpose of sexual gratification or arousal of the person.~~

(b) “Sexual contact with an animal” means any act committed between a person and an animal for the purpose of sexual gratification, abuse, or financial gain which involves:

(a) Contact between the sex organ or anus of one and the mouth, sex organ, or anus of the other;

(b) The fondling of the sex organ or anus of an animal; or

(c) The insertion, however slight, of any part of the body of a person or any object into the vaginal or anal opening of an animal, or the insertion of any part of the body of an animal into the vaginal or anal opening of a person contact, however slight, between the mouth, sex organ, or anus of a person and the sex organ or anus of an animal, or any penetration, however slight, of any part of the body of the person into the sex organ or anus of an animal, or any penetration of the sex organ or anus of the person into the mouth of the animal, for the purpose of sexual gratification or sexual arousal of the person.

(2) A person may not:

(a) ~~Knowingly engage in any sexual conduct or sexual contact with an animal;~~

(b) Knowingly cause, aid, or abet another person to engage in any ~~sexual conduct or~~ sexual contact with an animal;

(c) Knowingly permit any ~~sexual conduct or~~ sexual contact with an animal to be conducted on any premises under his or her charge or control; ~~or~~

(d) Knowingly organize, promote, conduct, ~~advertise,~~ aid, abet, participate in as an observer, or advertise, offer, solicit, or accept an offer of an animal for the purpose of sexual contact with such animal, or perform any service in the furtherance of an act involving any ~~sexual conduct or~~ sexual contact with an animal; ~~or~~

(e) Knowingly film, distribute, or possess any pornographic image or video of a person and an animal engaged in any of the activities prohibited by this section for a commercial or recreational purpose.

(3) A person who violates this section commits a ~~felony of the third misdemeanor of the first degree,~~ punishable as provided in s. 775.082, ~~or s. 775.083, or s. 775.084.~~

(4) In addition to other penalties prescribed by law, the court shall issue an order prohibiting a person convicted under this section from harboring, owning, possessing, or exercising control over any animal; from residing in any household in which animals are present; and from engaging in an occupation, whether paid or unpaid, or participating in a volunteer position at any establishment at which animals are present. The order may be effective for up to 5 years after the date of the conviction, regardless of whether adjudication is withheld.

(5)(4) This section does not apply to accepted animal husbandry practices, including, but not limited to, bona fide agricultural purposes, assistance with the birthing process or artificial insemination of an animal for reproductive purposes, accepted conformation judging practices, or accepted veterinary medical practices.

Section 5. Section 836.13, Florida Statutes, is created to read:

836.13 Promotion of an altered sexual depiction; prohibited acts; penalties; applicability.—

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

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

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

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

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

(b) “Identifiable person” means a person who is recognizable as an actual person by the person’s face, likeness, or other distinguishing characteristic, such as a unique birthmark, or other recognizable feature.

(c) “Nude body parts” means the human male or female genitals, pubic area, or buttocks with less than fully opaque covering; or the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple; or the depiction of covered male genitals in a discernibly turgid state. The term does not under any circumstances include a mother breastfeeding her baby.

(d) “Promote” means to issue, sell, give, provide, lend, mail, deliver, transfer, transmit, transmute, publish, distribute, circulate, disseminate, present, exhibit, send, post, share, or advertise or to offer or agree to do the same.

(e) “Visual depiction” includes, but is not limited to, a photograph, picture, image, motion picture, film, video, or other visual representation.

(2) A person who willfully and maliciously promotes any altered sexual depiction of an identifiable person, without the consent of the identifiable person, and who knows or reasonably should have known that such visual depiction was an altered sexual depiction, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Every act, thing, or transaction prohibited by this section constitutes a separate offense and is punishable as such.

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

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

(a) Injunctive relief.

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

(c) Reasonable attorney fees and costs.

(6) The criminal and civil penalties of this section do not apply to:

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

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

(c) A person reporting unlawful activity; or

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

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

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

Section 6. Section 836.14, Florida Statutes, is created to read:

836.14 Theft or unauthorized promotion of a sexually explicit image.—

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

(a) “Identifiable person” has the same meaning as in s. 836.13.

(b) “Promote” has the same meaning as in s. 836.13.

(c) “Sexually explicit image” means any image depicting an identifiable person portraying nudity as defined in s. 847.001 or an identifiable person engaging in sexual conduct as defined in s. 847.001.

(2) A person who commits a theft in violation of s. 812.014 of a sexually explicit image with the intent to promote such image commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) A person who willfully possesses with the intent to promote a sexually explicit image for the purpose of pecuniary or any other financial gain, when he or she knows or should have known the image was obtained in violation of subsection (2), commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) A person who willfully promotes, through the use of print media, an Internet website, or other electronic means, for the purpose of pecuniary or

any other financial gain a sexually explicit image without consent of the identifiable person commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5) Every act, thing, or transaction prohibited by this section constitutes a separate offense and is punishable as such.

(6) An aggrieved person may initiate a civil action against a person who violates this section to obtain all appropriate relief in order to prevent or remedy a violation of this section, including the following:

(a) Injunctive relief.

(b) Monetary damages to include \$10,000 or actual damages incurred as a result of a violation of this section, whichever is greater.

(c) Reasonable attorney fees and costs.

(7) The criminal and civil penalties of this section do not apply to:

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

(b) A law enforcement officer, as defined in s. 943.10, or any local, state, federal, or military law enforcement agency that disseminates a sexually explicit image in connection with the performance of his or her duties as a law enforcement officer or the duties of the law enforcement agency;

(c) A person reporting unlawful activity;

(d) A person participating in a hearing, trial, or other legal proceeding;

(e) Sexually explicit images involving voluntary exposure in a public or commercial setting; or

(f) Sexually explicit images possessed or promoted by a bona fide news media organization for a legitimate and newsworthy purpose.

(8) A violation of this section is committed within this state if any conduct that is an element of the offense, or any harm to the depicted individual resulting from the offense, occurs within this state.

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

Section 7. Present subsections (7) through (11) and (12) through (20) of section 847.001, Florida Statutes, are redesignated as subsections (8) through (12) and (14) through (22), respectively, new subsections (7) and (13) are added to that section, and subsection (3) and present subsections (8), (16), and (19) of that section are amended, to read:

847.001 Definitions.—As used in this chapter, the term:

(3) “Child pornography” means:

(a) Any image depicting a minor engaged in sexual conduct; or

(b) 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.

(7) “Identifiable minor” means a person:

(a) Who was a minor at the time the image was created, altered, adapted, or modified, or whose image as a minor was used in the creating, altering, adapting, or modifying of the image; and

(b) Who is recognizable as an actual person by the person’s face, likeness, or other distinguishing characteristic, such as a unique birthmark, or other recognizable feature.

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

(9)(8) “Minor” or “child” means any person, whose identity is known or unknown, younger than under the age of 18 years of age.

(13) “Promote” means to procure, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, transmute, publish, distribute, circulate, disseminate, present, exhibit, send, post, share, or advertise or to offer or agree to do the same.

(18)(16) “Sexual conduct” means actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, or sadomasochistic abuse; actual or simulated lewd exhibition of the genitals; actual physical contact with a person’s clothed or unclothed genitals, pubic area, buttocks, or, if such person is a female, breast with the intent to arouse or gratify the sexual desire of either party; or any act or conduct which constitutes sexual battery or simulates that sexual battery is being or will be committed. A mother’s breastfeeding of her baby does not under any circumstance constitute “sexual conduct.”

(21)(19) “Simulated” means the explicit depiction of conduct described in subsection (18) (16) which creates the appearance of such conduct and which exhibits any uncovered portion of the breasts, genitals, or buttocks.

Section 8. Subsection (5) of section 847.011, Florida Statutes, is amended to read:

847.011 Prohibition of certain acts in connection with obscene, lewd, etc., materials; penalty.—

(5)(a)1. A person may not knowingly sell, lend, give away, distribute, transmit, show, or transmute; offer to sell, lend, give away, distribute, transmit, show, or transmute; have in his or her possession, custody, or control with the intent to sell, lend, give away, distribute, transmit, show, or transmute; or advertise in any manner an obscene, child-like sex doll.

2.a. Except as provided in sub-subparagraph b., a person who violates this paragraph commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

b. A person who is convicted of violating this paragraph a second or subsequent time commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b)1. Except as provided in subparagraph 2., a person who knowingly has in his or her possession, custody, or control an obscene, child-like sex doll commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

2. A person who is convicted of violating this paragraph a second or subsequent time commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

(c)1. A law enforcement officer may arrest without a warrant any person who he or she has probable cause to believe has violated paragraph (b).

2. Upon proper affidavits being made, a search warrant may be issued to further investigate a violation of paragraph (b), including to search a private dwelling.

Section 9. Subsections (1) through (4) of section 847.0137, Florida Statutes, are amended to read:

847.0137 Transmission of pornography by electronic device or equipment prohibited; penalties.—

(1) As used in this section, the term ~~For purposes of this section:~~

(a) ~~“Minor” means any person less than 18 years of age.~~

(b) ~~“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 from one or more persons or places to one or more other persons or places over or through any medium,~~

including the Internet or an interconnected network, by use of any electronic equipment or other device.

(2) Notwithstanding ss. 847.012 and 847.0133, any person in this state who knew or reasonably should have known that he or she was transmitting child pornography, as defined in s. 847.001, to another person in this state or in another jurisdiction commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Notwithstanding ss. 847.012 and 847.0133, any person in any jurisdiction other than this state who knew or reasonably should have known that he or she was transmitting child pornography, as defined in s. 847.001, to any person in this state commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) This section shall not be construed to preclude ~~prohibit~~ prosecution of a person in this state or another jurisdiction for a violation of any law of this state, including a law providing for greater penalties than prescribed in this section, for the transmission of child pornography, as defined in s. 847.001, to any person in this state.

The provisions of this section do not apply to subscription-based transmissions such as list servers.

Section 10. Paragraphs (c) through (f) of subsection (3) of section 921.0022, Florida Statutes, are amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

(c) LEVEL 3

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 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.

Florida Statute	Felony Degree	Description
319.33(1)(c)	3rd	Procure or pass title on stolen vehicle.
319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
327.35(2)(b)	3rd	Felony BUI.
328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
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.
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.
379.2431 (1)(e)7.	3rd	Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.
400.9935(4)(a) or (b)	3rd	Operating a clinic, or offering services requiring licensure, without a license.
400.9935(4)(e)	3rd	Filing a false license application or other required information or failing to report information.
440.1051(3)	3rd	False report of workers' compensation fraud or retaliation for making such a report.
501.001(2)(b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
624.401(4)(a)	3rd	Transacting insurance without a certificate of authority.

Florida Statute	Felony Degree	Description
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.
697.08	3rd	Equity skimming.
790.15(3)	3rd	Person directs another to discharge firearm from a vehicle.
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)(c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but less than \$10,000.
812.0145(2)(c)	3rd	Theft from person 65 years of age or older; \$300 or more but less than \$10,000.
812.015(8)(b)	3rd	Retail theft with intent to sell; conspires with others.
812.081(2)	3rd	Theft of a trade secret.
815.04(5)(b)	2nd	Computer offense devised to defraud or obtain property.
817.034(4)(a)3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000.
817.233	3rd	Burning to defraud insurer.
817.234 (8)(b) & (c)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.
817.234(11)(a)	3rd	Insurance fraud; property value less than \$20,000.
817.236	3rd	Filing a false motor vehicle insurance application.

Florida Statute	Felony Degree	Description
817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
817.413(2)	3rd	Sale of used goods of \$1,000 or more as new.
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.
831.29	2nd	Possession of instruments for counterfeiting driver licenses or identification cards.
<u>836.13(2)</u>	<u>3rd</u>	<u>Person who promotes an altered sexual depiction of an identifiable person without consent.</u>
838.021(3)(b)	3rd	Threatens unlawful harm to public servant.
843.19	2nd	Injure, disable, or kill police, fire, or SAR canine or police horse.
860.15(3)	3rd	Overcharging for repairs and parts.
870.01(2)	3rd	Riot.
870.01(4)	3rd	Inciting a riot.
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).
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.
893.13(4)(c)	3rd	Use or hire of minor; deliver to minor other controlled substances.
893.13(6)(a)	3rd	Possession of any controlled substance other than felony possession of cannabis.

Florida Statute	Felony Degree	Description
893.13(7)(a)8.	3rd	Withhold information from practitioner regarding previous receipt of or prescription for a controlled substance.
893.13(7)(a)9.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
893.13(7)(a)10.	3rd	Affix false or forged label to package of controlled substance.
893.13(7)(a)11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
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.
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.
893.13(8)(a)3.	3rd	Knowingly write a prescription for a controlled substance for a fictitious person.
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.
918.13(1)(a)	3rd	Alter, destroy, or conceal investigation evidence.
944.47 (1)(a)1. & 2.	3rd	Introduce contraband to correctional facility.
944.47(1)(c)	2nd	Possess contraband while upon the grounds of a correctional institution.
985.721	3rd	Escapes from a juvenile facility (secure detention or residential commitment facility).

(d) LEVEL 4

Florida Statute	Felony Degree	Description
316.1935(3)(a)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
499.0051(1)	3rd	Failure to maintain or deliver transaction history, transaction information, or transaction statements.
499.0051(5)	2nd	Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.
517.07(1)	3rd	Failure to register securities.
517.12(1)	3rd	Failure of dealer, associated person, or issuer of securities to register.
784.07(2)(b)	3rd	Battery of law enforcement officer, firefighter, etc.
784.074(1)(c)	3rd	Battery of sexually violent predators facility staff.
784.075	3rd	Battery on detention or commitment facility staff.
784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.
784.08(2)(c)	3rd	Battery on a person 65 years of age or older.
784.081(3)	3rd	Battery on specified official or employee.
784.082(3)	3rd	Battery by detained person on visitor or other detainee.
784.083(3)	3rd	Battery on code inspector.
784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.
787.03(1)	3rd	Interference with custody; wrongly takes minor from appointed guardian.
787.04(2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.

Florida Statute	Felony Degree	Description
787.04(3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.
787.07	3rd	Human smuggling.
790.115(1)	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.
790.115(2)(b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
790.115(2)(c)	3rd	Possessing firearm on school property.
800.04(7)(c)	3rd	Lewd or lascivious exhibition; offender less than 18 years.
806.135	2nd	Destroying or demolishing a memorial or historic property.
810.02(4)(a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
810.02(4)(b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.
810.06	3rd	Burglary; possession of tools.
810.08(2)(c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
812.014(2)(c)3.	3rd	Grand theft, 3rd degree \$10,000 or more but less than \$20,000.
812.014 (2)(c)4.-10.	3rd	Grand theft, 3rd degree; specified items.
812.0195(2)	3rd	Dealing in stolen property by use of the Internet; property stolen \$300 or more.
817.505(4)(a)	3rd	Patient brokering.
817.563(1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.
817.568(2)(a)	3rd	Fraudulent use of personal identification information.

Florida Statute	Felony Degree	Description
817.625(2)(a)	3rd	Fraudulent use of scanning device, skimming device, or reencoder.
817.625(2)(c)	3rd	Possess, sell, or deliver skimming device.
828.125(1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.
<u>836.14(2)</u>	<u>3rd</u>	<u>Person who commits theft of a sexually explicit image with intent to promote it.</u>
<u>836.14(3)</u>	<u>3rd</u>	<u>Person who willfully possesses a sexually explicit image with certain knowledge, intent, and purpose.</u>
837.02(1)	3rd	Perjury in official proceedings.
837.021(1)	3rd	Make contradictory statements in official proceedings.
838.022	3rd	Official misconduct.
839.13(2)(a)	3rd	Falsifying records of an individual in the care and custody of a state agency.
839.13(2)(c)	3rd	Falsifying records of the Department of Children and Families.
843.021	3rd	Possession of a concealed handcuff key by a person in custody.
843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
843.15(1)(a)	3rd	Failure to appear while on bail for felony (bond estreatment or bond jumping).
847.0135(5)(c)	3rd	Lewd or lascivious exhibition using computer; offender less than 18 years.
870.01(3)	2nd	Aggravated rioting.
870.01(5)	2nd	Aggravated inciting a riot.
874.05(1)(a)	3rd	Encouraging or recruiting another to join a criminal gang.
893.13(2)(a)1.	2nd	Purchase of cocaine (or other s. 893.03(1)(a), (b), or (d), (2)(a), (2)(b), or (2)(c)5. drugs).
914.14(2)	3rd	Witnesses accepting bribes.

Florida Statute	Felony Degree	Description
914.22(1)	3rd	Force, threaten, etc., witness, victim, or informant.
914.23(2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.
916.1085 (2)(c)1.	3rd	Introduction of specified contraband into certain DCF facilities.
918.12	3rd	Tampering with jurors.
934.215	3rd	Use of two-way communications device to facilitate commission of a crime.
944.47(1)(a)6.	3rd	Introduction of contraband (cellular telephone or other portable communication device) into correctional institution.
951.22(1)(h), (j) & (k)	3rd	Intoxicating drug, instrumentality or other device to aid escape, or cellular telephone or other portable communication device introduced into county detention facility.

(e) LEVEL 5

Florida Statute	Felony Degree	Description
316.027(2)(a)	3rd	Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.
316.1935(4)(a)	2nd	Aggravated fleeing or eluding.
316.80(2)	2nd	Unlawful conveyance of fuel; obtaining fuel fraudulently.
322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
327.30(5)	3rd	Vessel accidents involving personal injury; leaving scene.

Florida Statute	Felony Degree	Description
379.365(2)(c)1.	3rd	Violation of rules relating to: willful molestation of stone crab traps, lines, or buoys; illegal bartering, trading, or sale, conspiring or aiding in such barter, trade, or sale, or supplying, agreeing to supply, aiding in supplying, or giving away stone crab trap tags or certificates; making, altering, forging, counterfeiting, or reproducing stone crab trap tags; possession of forged, counterfeit, or imitation stone crab trap tags; and engaging in the commercial harvest of stone crabs while license is suspended or revoked.
379.367(4)	3rd	Willful molestation of a commercial harvester's spiny lobster trap, line, or buoy.
379.407(5)(b)3.	3rd	Possession of 100 or more undersized spiny lobsters.
381.0041(11)(b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
440.10(1)(g)	2nd	Failure to obtain workers' compensation coverage.
440.105(5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
440.381(2)	3rd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
624.401(4)(b)2.	2nd	Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.
626.902(1)(c)	2nd	Representing an unauthorized insurer; repeat offender.
790.01(2)	3rd	Carrying a concealed firearm.
790.162	2nd	Threat to throw or discharge destructive device.
790.163(1)	2nd	False report of bomb, explosive, weapon of mass destruction, or use of firearms in violent manner.

Florida Statute	Felony Degree	Description
790.221(1)	2nd	Possession of short-barreled shotgun or machine gun.
790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
796.05(1)	2nd	Live on earnings of a prostitute; 1st offense.
800.04(6)(c)	3rd	Lewd or lascivious conduct; offender less than 18 years of age.
800.04(7)(b)	2nd	Lewd or lascivious exhibition; offender 18 years of age or older.
806.111(1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
812.0145(2)(b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.
812.015 (8)(a) & (c)-(e)	3rd	Retail theft; property stolen is valued at \$750 or more and one or more specified acts.
812.019(1)	2nd	Stolen property; dealing in or trafficking in.
812.081(3)	2nd	Trafficking in trade secrets.
812.131(2)(b)	3rd	Robbery by sudden snatching.
812.16(2)	3rd	Owning, operating, or conducting a chop shop.
817.034(4)(a)2.	2nd	Communications fraud, value \$20,000 to \$50,000.
817.234(11)(b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
817.2341(1), (2)(a) & (3)(a)	3rd	Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.
817.568(2)(b)	2nd	Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, \$5,000 or more or use of personal identification information of 10 or more persons.

Florida Statute	Felony Degree	Description
817.611(2)(a)	2nd	Traffic in or possess 5 to 14 counterfeit credit cards or related documents.
817.625(2)(b)	2nd	Second or subsequent fraudulent use of scanning device, skimming device, or reencoder.
825.1025(4)	3rd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
827.071(4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes <u>child pornography sexual conduct by a child.</u>
827.071(5)	3rd	Possess, control, or intentionally view any photographic material, motion picture, etc., which includes <u>child pornography sexual conduct by a child.</u>
828.12(2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
<u>836.14(4)</u>	<u>2nd</u>	<u>Person who willfully promotes for financial gain a sexually explicit image of an identifiable person without consent.</u>
839.13(2)(b)	2nd	Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.
843.01	3rd	Resist officer with violence to person; resist arrest with violence.
847.0135(5)(b)	2nd	Lewd or lascivious exhibition using computer; offender 18 years or older.
847.0137 (2) & (3)	3rd	Transmission of pornography by electronic device or equipment.
847.0138 (2) & (3)	3rd	Transmission of material harmful to minors to a minor by electronic device or equipment.
874.05(1)(b)	2nd	Encouraging or recruiting another to join a criminal gang; second or subsequent offense.
874.05(2)(a)	2nd	Encouraging or recruiting person under 13 years of age to join a criminal gang.

Florida Statute	Felony Degree	Description
893.13(1)(a)1.	2nd	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. drugs).
893.13(1)(c)2.	2nd	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) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
893.13(1)(d)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. drugs) within 1,000 feet of university.
893.13(1)(e)2.	2nd	Sell, manufacture, or deliver cannabis or other drug prohibited under 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) within 1,000 feet of property used for religious services or a specified business site.
893.13(1)(f)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), or (2)(a), (2)(b), or (2)(c)5. drugs) within 1,000 feet of public housing facility.
893.13(4)(b)	2nd	Use or hire of minor; deliver to minor other controlled substance.
893.1351(1)	3rd	Ownership, lease, or rental for trafficking in or manufacturing of controlled substance.

(f) LEVEL 6

Florida Statute	Felony Degree	Description
316.027(2)(b)	2nd	Leaving the scene of a crash involving serious bodily injury.
316.193(2)(b)	3rd	Felony DUI, 4th or subsequent conviction.
400.9935(4)(c)	2nd	Operating a clinic, or offering services requiring licensure, without a license.

Florida Statute	Felony Degree	Description
499.0051(2)	2nd	Knowing forgery of transaction history, transaction information, or transaction statement.
499.0051(3)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.
499.0051(4)	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.
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.

Florida Statute	Felony Degree	Description
790.164(1)	2nd	False report concerning bomb, explosive, weapon of mass destruction, act of arson or violence to state property, or use of firearms in violent manner.
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 of age; 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.
810.02(3)(c)	2nd	Burglary of occupied structure; unarmed; no assault or battery.
810.145(8)(b)	2nd	Video voyeurism; certain minor victims; 2nd or subsequent offense.
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 \$750 or more; second or subsequent conviction.
812.015(9)(b)	2nd	Retail theft; aggregated property stolen within 30 days is \$3,000 or more; coordination of others.
812.13(2)(c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).
817.4821(5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.
817.49(2)(b)2.	2nd	Willful making of a false report of a crime resulting in death.

Florida Statute	Felony Degree	Description
817.505(4)(b)	2nd	Patient brokering; 10 or more patients.
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(3)(c)	3rd	Exploiting an elderly person or disabled adult and property is valued at less than \$10,000.
827.03(2)(c)	3rd	Abuse of a child.
827.03(2)(d)	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.
<u>828.126(3)</u>	<u>3rd</u>	<u>Sexual activities involving animals.</u>
836.05	2nd	Threats; extortion.
836.10	2nd	Written or electronic threats to kill, do bodily injury, or conduct a mass shooting or an act of terrorism.
843.12	3rd	Aids or assists person to escape.
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.

Florida Statute	Felony Degree	Description
944.47(1)(a)5.	2nd	Introduction of contraband (firearm, weapon, or explosive) into correctional facility.
951.22(1)(i)	3rd	Firearm or weapon introduced into county detention facility.

Section 11. Paragraph (j) of subsection (1) of section 288.1254, Florida Statutes, is amended to read:

288.1254 Entertainment industry financial incentive program.—

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

(j) “Qualified production” means a production in this state meeting the requirements of this section. The term does not include a production:

1. In which, for the first 2 years of the incentive program, less than 50 percent, and thereafter, less than 60 percent, of the positions that make up its production cast and below-the-line production crew, or, in the case of digital media projects, less than 75 percent of such positions, are filled by legal residents of this state, whose residency is demonstrated by a valid Florida driver license or other state-issued identification confirming residency, or students enrolled full-time in a film-and-entertainment-related course of study at an institution of higher education in this state; or

2. That contains obscene content as defined in s. 847.001 ~~s. 847.001(10)~~.

Section 12. Subsection (1) of section 847.0141, Florida Statutes, is amended to read:

847.0141 Sexting; prohibited acts; penalties.—

(1) A minor commits the offense of sexting if he or she knowingly:

(a) Uses a computer, or any other device capable of electronic data transmission or distribution, to transmit or distribute to another minor any photograph or video of any person which depicts nudity, as defined in s. 847.001 ~~s. 847.001(9)~~, and is harmful to minors, as defined in s. 847.001 ~~s. 847.001(6)~~.

(b) Possesses a photograph or video of any person that was transmitted or distributed by another minor which depicts nudity, as defined in s. 847.001 ~~s. 847.001(9)~~, and is harmful to minors, as defined in s. 847.001 ~~s. 847.001(6)~~. A minor does not violate this paragraph if all of the following apply:

1. The minor did not solicit the photograph or video.

2. The minor took reasonable steps to report the photograph or video to the minor’s legal guardian or to a school or law enforcement official.
3. The minor did not transmit or distribute the photograph or video to a third party.

Section 13. This act shall take effect October 1, 2022.

Approved by the Governor June 24, 2022.

Filed in Office Secretary of State June 24, 2022.