

CHAPTER 2025-99

Committee Substitute for Committee Substitute for House Bill No. 757

An act relating to sexual images; creating s. 800.045, F.S.; providing definitions; prohibiting a person from possessing with the intent to promote specified depictions including a lewd or lascivious image; prohibiting a person from soliciting, possessing, controlling, or intentionally viewing a depiction including a lewd or lascivious image; providing criminal penalties; providing applicability; amending s. 827.071, F.S.; providing criteria that may be used to evidence actual or simulated lewd exhibition of the genitals; prohibiting a person from soliciting a depiction including child pornography; providing a criminal penalty; amending s. 836.13, F.S.; defining the term “generate”; prohibiting a person from willfully generating an altered sexual depiction of an identifiable person without the consent of the identifiable person; prohibiting a person from soliciting an altered sexual depiction of an identifiable person without the consent of the identifiable person; prohibiting a person from possessing with the intent to maliciously promote an altered sexual depiction of an identifiable person without the consent of the identifiable person; providing criminal penalties; revising applicability; amending s. 921.0022, F.S.; ranking offenses created by the act 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. Section 800.045, Florida Statutes, is created to read:

800.045 Lewd or lascivious images; penalties.—

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

(a) “Identifiable minor” means a person:

1. Who was less than 16 years of age at the time the image was created, altered, adapted, or modified, or whose image as a person less than 16 years of age 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.

(b) “Intentionally view” has the same meaning as in s. 827.071.

(c) “Lewd or lascivious image” means:

1. Any image depicting lewd or lascivious exhibition in violation of s. 800.04(7); or

2. Any image that has been created, altered, adapted, or modified by electronic, mechanical, or other means, to portray lewd or lascivious exhibition in violation of s. 800.04(7) committed in the presence of an identifiable minor.

(d) “Promote” has the same meaning as in s. 827.071.

(2) 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 a lewd or lascivious image. 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 violates this subsection commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3)(a) It is unlawful for any person to knowingly solicit, 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 a lewd or lascivious image. The solicitation, 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 a lewd or lascivious image depicting more than one minor, then each such minor in each such photograph, motion picture, exhibition, show, representation, image, data, computer depiction, or other presentation that is knowingly solicited, possessed, controlled, or intentionally viewed is a separate offense. 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) Paragraph (a) does not apply to any material solicited, possessed, controlled, or intentionally viewed as part of a law enforcement investigation.

(4) 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 punishing the sexual performance or the sexual exploitation of children.

Section 2. Paragraph (1) of subsection (1) and subsection (5) of section 827.071, Florida Statutes, are amended, and subsections (2) through (4) of that section are republished, to read:

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

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

~~(1)~~ “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. As used in subparagraph 1., “actual or simulated lewd exhibition of the genitals” may be evidenced by the overall content of an image, taking into account the age of the minor depicted and, including, but not limited to, whether:

a. The focal point of the image is on the minor’s genitals;

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

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

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

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

(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 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 violates this subsection commits 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. A person who violates this subsection commits 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. 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 violates this subsection commits 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 solicit, 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. The solicitation, possession, control, or intentional viewing of each such photograph, motion picture, exhibition, show, image, data, computer depiction, representation, or presentation is a separate offense. If such photograph, motion picture, exhibition, show, representation, image, data, computer depiction, or other presentation includes child pornography depicting more than one child, then each such child in each such photograph, motion picture, exhibition, show, representation, image, data, computer depiction, or other presentation that is knowingly solicited, possessed, controlled, or intentionally viewed is a separate offense. 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) Paragraph (a) does not apply to any material solicited, possessed, controlled, or intentionally viewed as part of a law enforcement investigation.

Section 3. Paragraphs (b) through (e) of subsection (1) of section 836.13, Florida Statutes, are redesignated as paragraphs (c) through (f), respectively, a new paragraph (b) is added to that subsection, subsections (3) through (8) of that section are renumbered as subsections (5) through (10), respectively, present subsections (2), (4), (5), and (6), are amended, and new subsections (2) and (3) are added to that section, to read:

836.13 ~~Promotion of an~~ Altered sexual depictions ~~depiction~~; prohibited acts; penalties; applicability.—

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

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

(2) A person who willfully generates any altered sexual depiction of an identifiable person, without the consent of the identifiable person, 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 solicits 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.

~~(4)~~(2) A person who willfully and maliciously promotes, or possesses with the intent to maliciously promote, 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.

~~(6)~~(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 ~~generation~~ 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.

~~(7)~~(5) An aggrieved person may initiate a civil action against a person who violates subsection (2) or subsection (4) to obtain appropriate relief in order to prevent or remedy a violation of subsection (2) or subsection (4), 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) or subsection (4), whichever is greater.
- (c) Reasonable attorney fees and costs.

~~(8)~~(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 engaged in ~~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.

Section 4. Paragraphs (b) and (c) 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

(b) LEVEL 2

Florida Statute	Felony Degree	Description
379.2431 (1)(e)3.	3rd	Possession of 11 or fewer marine turtle eggs in violation of the Marine Turtle Protection Act.
379.2431 (1)(e)4.	3rd	Possession of more than 11 marine turtle eggs in violation of the Marine Turtle Protection Act.
403.413(6)(c)	3rd	Dumps waste litter exceeding 500 lbs. in weight or 100 cubic feet in volume or any quantity for commercial purposes, or hazardous waste.
517.07(2)	3rd	Failure to furnish a prospectus meeting requirements.
590.28(1)	3rd	Intentional burning of lands.
784.03(3)	3rd	Battery during a riot or an aggravated riot.
784.05(3)	3rd	Storing or leaving a loaded firearm within reach of minor who uses it to inflict injury or death.
787.04(1)	3rd	In violation of court order, take, entice, etc., minor beyond state limits.
806.13(1)(b)3.	3rd	Criminal mischief; damage \$1,000 or more to public communication or any other public service.
806.13(3)	3rd	Criminal mischief; damage of \$200 or more to a memorial or historic property.
810.061(2)	3rd	Impairing or impeding telephone or power to a dwelling; facilitating or furthering burglary.
810.09(2)(d)	3rd	Trespassing on posted commercial horticulture property.
812.014(2)(c)1.	3rd	Grand theft, 3rd degree; \$750 or more but less than \$5,000.
812.014(2)(d)1.	3rd	Grand theft, 3rd degree; \$40 or more but less than \$750, taken from dwelling or its unenclosed curtilage.

Florida Statute	Felony Degree	Description
812.014(2)(e)2.	3rd	Petit theft, 1st degree; less than \$40 taken from dwelling or its unenclosed curtilage with one prior theft conviction.
812.015(7)	3rd	Possession, use, or attempted use of an antishoplifting or inventory control device countermeasure.
817.234(1)(a)2.	3rd	False statement in support of insurance claim.
817.481(3)(a)	3rd	Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over \$300.
817.52(3)	3rd	Failure to redeliver hired vehicle.
817.54	3rd	With intent to defraud, obtain mortgage note, etc., by false representation.
817.60(5)	3rd	Dealing in credit cards of another.
817.60(6)(a)	3rd	Forgery; purchase goods, services with false card.
817.61	3rd	Fraudulent use of credit cards over \$100 or more within 6 months.
826.04	3rd	Knowingly marries or has sexual intercourse with person to whom related.
831.01	3rd	Forgery.
831.02	3rd	Uttering forged instrument; utters or publishes alteration with intent to defraud.
831.07	3rd	Forging bank bills, checks, drafts, or promissory notes.
831.08	3rd	Possessing 10 or more forged notes, bills, checks, or drafts.
831.09	3rd	Uttering forged notes, bills, checks, drafts, or promissory notes.
831.11	3rd	Bringing into the state forged bank bills, checks, drafts, or notes.
832.05(3)(a)	3rd	Cashing or depositing item with intent to defraud.
<u>836.13(3)</u>	<u>3rd</u>	<u>Soliciting an altered sexual depiction of an identifiable person without consent.</u>

Florida Statute	Felony Degree	Description
843.01(2)	3rd	Resist police canine or police horse with violence; under certain circumstances.
843.08	3rd	False personation.
843.19(3)	3rd	Touch or strike police, fire, SAR canine or police horse.
893.13(2)(a)2.	3rd	Purchase of any 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 other than cannabis.
893.147(2)	3rd	Manufacture or delivery of drug paraphernalia.

(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.
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.

Florida Statute	Felony Degree	Description
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.
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.
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.

Florida Statute	Felony Degree	Description
<u>800.045(3)</u>	<u>3rd</u>	<u>Possess, control, or intentionally view any photographic material, motion picture, etc., which includes a lewd or lascivious image.</u>
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)(b)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
810.145(2)(c)	3rd	Digital voyeurism; 19 years of age or older.
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(4)(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.
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.

Florida Statute	Felony Degree	Description
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>Generating an altered sexual depiction of an identifiable person without consent.</u>
<u>836.13(4)</u> 836.13(2)	3rd	<u>Promoting, or possessing with intent to promote,</u> Person who promotes an altered sexual depiction of an identifiable person without consent.
838.021(3)(b)	3rd	Threatens unlawful harm to public servant.
847.01385	3rd	Harmful communication to a minor.
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)	3rd	Tampering with or fabricating physical 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).

Section 5. This act shall take effect October 1, 2025.

Approved by the Governor May 27, 2025.

Filed in Office Secretary of State May 27, 2025.