

1 A bill to be entitled
2 An act relating to pornography; amending s. 847.001,
3 F.S.; revising the definitions of the terms "child
4 pornography" and "minor"; amending s. 847.0135, F.S.;
5 revising terminology to provide for separate offenses
6 of computer pornography under certain circumstances;
7 amending s. 847.0137, F.S.; deleting a definition;
8 revising the definition of the term "transmit";
9 revising terminology to provide for separate offenses
10 of transmission of child pornography under certain
11 circumstances; providing legislative intent;
12 reenacting ss. 92.561(1) and 960.197(1) (b), F.S.,
13 relating to the prohibition on reproduction of child
14 pornography and assistance to victims of online sexual
15 exploitation and child pornography, respectively, to
16 incorporate the amendment made by the act to s.
17 847.011, F.S., in references thereto; reenacting s.
18 775.0847(2), F.S., relating to reclassification of
19 certain offenses, to incorporate the amendments made
20 by the act to ss. 847.0135 and 847.0137, F.S., in
21 references thereto; reenacting ss. 794.056(1),
22 856.022(1), 905.34(8), 938.085, 943.0435(1) (a),
23 944.606(1) (b), 944.607(1) (a), 948.06(8) (c),
24 960.03(3) (e), 960.197(1) (a), and 921.0022(3) (e), F.S.,
25 relating to the Rape Crisis Program Trust Fund,
26 certain loitering and prowling offenses, grand jury

27 powers and duties, additional cost to fund rape crisis
 28 centers, sexual offender registration, notification
 29 upon release of sexual offenders, notification to the
 30 Department of Law Enforcement of sexual offender
 31 information, violation of probation or community
 32 control, definitions relating to crime victim
 33 assistance, assistance to certain victims, and the
 34 offense severity ranking chart, respectively, to
 35 incorporate the amendment made by the act to s.
 36 847.0137, F.S., in references thereto; providing an
 37 effective date.

38
 39 Be It Enacted by the Legislature of the State of Florida:

40
 41 Section 1. Subsections (3) and (8) of section 847.001,
 42 Florida Statutes, are amended to read:

43 847.001 Definitions.—As used in this chapter, the term:

44 (3) "Child pornography" means an ~~any~~ image depicting a
 45 minor engaged in sexual conduct.

46 (8) "Minor" means a ~~any~~ person under the age of 18 years.

47 Section 2. Subsection (2) of section 847.0135, Florida
 48 Statutes, is amended to read:

49 847.0135 Computer pornography; prohibited computer usage;
 50 traveling to meet minor; penalties.—

51 (2) COMPUTER PORNOGRAPHY.—A person who:

52 (a) Knowingly compiles, enters into, or transmits by use

53 of computer;

54 (b) Makes, prints, publishes, or reproduces by other
55 computerized means;

56 (c) Knowingly causes or allows to be entered into or
57 transmitted by use of computer; or

58 (d) Buys, sells, receives, exchanges, or disseminates,
59

60 a ~~any~~ notice, statement, or advertisement of a ~~any~~ minor's name,
61 telephone number, place of residence, physical characteristics,
62 or other descriptive or identifying information for purposes of
63 facilitating, encouraging, offering, or soliciting sexual
64 conduct of or with a ~~any~~ minor, or the visual depiction of such
65 conduct, commits a felony of the third degree, punishable as
66 provided in s. 775.082, s. 775.083, or s. 775.084. The fact that
67 an undercover operative or law enforcement officer was involved
68 in the detection and investigation of an offense under this
69 section shall not constitute a defense to a prosecution under
70 this section.

71 Section 3. Section 847.0137, Florida Statutes, is amended
72 to read:

73 847.0137 Transmission of pornography by electronic device
74 or equipment prohibited; penalties.—

75 (1) For purposes of this section, the term:

76 ~~(a) "Minor" means any person less than 18 years of age.~~

77 ~~(b) "transmit" means the act of sending and causing to be~~
78 delivered, including the act of providing access for receiving

79 and causing to be delivered, an ~~any~~ image, information, or data
 80 ~~from one or more persons or places to one or more other persons~~
 81 ~~or places~~ over or through any medium, including the Internet or
 82 ~~an interconnected network,~~ by use of ~~any~~ electronic equipment or
 83 other device.

84 (2) Notwithstanding ss. 847.012 and 847.0133, a ~~any~~ person
 85 in this state who knew or reasonably should have known that he
 86 or she was transmitting child pornography, ~~as defined in s.~~
 87 ~~847.001,~~ to another person in this state or in another
 88 jurisdiction commits a felony of the third degree, punishable as
 89 provided in s. 775.082, s. 775.083, or s. 775.084.

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

96 (4) This section shall not be construed to prohibit
 97 prosecution of a person in this state or another jurisdiction
 98 for a violation of any law of this state, including a law
 99 providing for greater penalties than prescribed in this section,
 100 for the transmission of child pornography, ~~as defined in s.~~
 101 ~~847.001,~~ to a ~~any~~ person in this state.

102 (5) A person is subject to prosecution in this state
 103 pursuant to chapter 910 for an ~~any~~ act or conduct proscribed by
 104 this section, including a person in a jurisdiction other than

105 | this state, if the act or conduct violates subsection (3).

106 | (6) ~~The provisions of~~ This section does ~~de~~ not apply to
107 | subscription-based transmissions such as list servers.

108 | Section 4. The amendment made by this act to s.
109 | 847.0137(1), Florida Statutes, adding the phrase "including the
110 | act of providing access for receiving and causing to be
111 | delivered," is intended to clarify existing law. The Legislature
112 | finds that the opinion in *Smith v. State*, 40 Fla. L. Weekly D738
113 | (Fla. 4th DCA Mar. 25, 2015), correctly construes the
114 | legislative intent for the statutory definition of the term
115 | "transmit" and that the opinion in *Biller v. State*, 109 So. 3d
116 | 1240 (Fla. 5th DCA, 2013), incorrectly construes the legislative
117 | intent for such definition.

118 | Section 5. For the purpose of incorporating the amendment
119 | made by this act to section 847.001, Florida Statutes, in a
120 | reference thereto, subsection (1) of section 92.561, Florida
121 | Statutes, is reenacted to read:

122 | 92.561 Prohibition on reproduction of child pornography.—

123 | (1) In a criminal proceeding, any property or material
124 | that portrays sexual performance by a child as defined in s.
125 | 827.071, or constitutes child pornography as defined in s.
126 | 847.001, must remain secured or locked in the care, custody, and
127 | control of a law enforcement agency, the state attorney, or the
128 | court.

129 | Section 6. For the purpose of incorporating the amendment
130 | made by this act to section 847.001, Florida Statutes, in a

131 reference thereto, paragraph (b) of subsection (1) of section
132 960.197, Florida Statutes, is reenacted to read:

133 960.197 Assistance to victims of online sexual
134 exploitation and child pornography.—

135 (1) Notwithstanding the criteria set forth in s. 960.13
136 for crime victim compensation awards, the department may award
137 compensation for counseling and other mental health services to
138 treat psychological injury or trauma to:

139 (b) Any person who, while younger than age 18, was
140 depicted in any image or movie, regardless of length, of child
141 pornography as defined in s. 847.001, who has been identified by
142 a law enforcement agency or the National Center for Missing and
143 Exploited Children as an identified victim of child pornography,
144 who suffers psychiatric or psychological injury as a direct
145 result of the crime, and who does not otherwise sustain a
146 personal injury or death.

147 Section 7. For the purpose of incorporating the amendments
148 made by this act to sections 847.0135 and 847.0137, Florida
149 Statutes, in references thereto, subsection (2) of section
150 775.0847, Florida Statutes, is reenacted to read:

151 775.0847 Possession or promotion of certain images of
152 child pornography; reclassification.—

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

156 (a) The offender possesses 10 or more images of any form

157 of child pornography regardless of content; and

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

- 160 1. A child who is younger than the age of 5.
- 161 2. Sadomasochistic abuse involving a child.
- 162 3. Sexual battery involving a child.
- 163 4. Sexual bestiality involving a child.
- 164 5. Any movie involving a child, regardless of length and
 165 regardless of whether the movie contains sound.

166 Section 8. For the purpose of incorporating the amendment
 167 made by this act to section 847.0137, Florida Statutes, in a
 168 reference thereto, subsection (1) of section 794.056, Florida
 169 Statutes, is reenacted to read:

170 794.056 Rape Crisis Program Trust Fund.—

171 (1) The Rape Crisis Program Trust Fund is created within
 172 the Department of Health for the purpose of providing funds for
 173 rape crisis centers in this state. Trust fund moneys shall be
 174 used exclusively for the purpose of providing services for
 175 victims of sexual assault. Funds credited to the trust fund
 176 consist of those funds collected as an additional court
 177 assessment in each case in which a defendant pleads guilty or
 178 nolo contendere to, or is found guilty of, regardless of
 179 adjudication, an offense provided in s. 775.21(6) and (10)(a),
 180 (b), and (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s.
 181 784.045; s. 784.048; s. 784.07; s. 784.08; s. 784.081; s.
 182 784.082; s. 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); s.

183 787.025; s. 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08;
 184 former s. 796.03; former s. 796.035; s. 796.04; s. 796.05; s.
 185 796.06; s. 796.07(2)(a)-(d) and (i); s. 800.03; s. 800.04; s.
 186 810.14; s. 810.145; s. 812.135; s. 817.025; s. 825.102; s.
 187 825.1025; s. 827.071; s. 836.10; s. 847.0133; s. 847.0135(2); s.
 188 847.0137; s. 847.0145; s. 943.0435(4)(c), (7), (8), (9)(a),
 189 (13), and (14)(c); or s. 985.701(1). Funds credited to the trust
 190 fund also shall include revenues provided by law, moneys
 191 appropriated by the Legislature, and grants from public or
 192 private entities.

193 Section 9. For the purpose of incorporating the amendment
 194 made by this act to section 847.0137, Florida Statutes, in a
 195 reference thereto, subsection (1) of section 856.022, Florida
 196 Statutes, is reenacted to read:

197 856.022 Loitering or prowling by certain offenders in
 198 close proximity to children; penalty.—

199 (1) Except as provided in subsection (2), this section
 200 applies to a person convicted of committing, or attempting,
 201 soliciting, or conspiring to commit, any of the criminal
 202 offenses proscribed in the following statutes in this state or
 203 similar offenses in another jurisdiction against a victim who
 204 was under 18 years of age at the time of the offense: s. 787.01,
 205 s. 787.02, or s. 787.025(2)(c), where the victim is a minor and
 206 the offender was not the victim's parent or guardian; s.
 207 787.06(3)(g); s. 794.011, excluding s. 794.011(10); s. 794.05;
 208 former s. 796.03; former s. 796.035; s. 800.04; s. 825.1025; s.

209 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s.
 210 847.0137; s. 847.0138; s. 847.0145; s. 985.701(1); or any
 211 similar offense committed in this state which has been
 212 redesignated from a former statute number to one of those listed
 213 in this subsection, if the person has not received a pardon for
 214 any felony or similar law of another jurisdiction necessary for
 215 the operation of this subsection and a conviction of a felony or
 216 similar law of another jurisdiction necessary for the operation
 217 of this subsection has not been set aside in any postconviction
 218 proceeding.

219 Section 10. For the purpose of incorporating the amendment
 220 made by this act to section 847.0137, Florida Statutes, in
 221 references thereto, subsection (8) of section 905.34, Florida
 222 Statutes, is reenacted to read:

223 905.34 Powers and duties; law applicable.—The jurisdiction
 224 of a statewide grand jury impaneled under this chapter shall
 225 extend throughout the state. The subject matter jurisdiction of
 226 the statewide grand jury shall be limited to the offenses of:

227 (8) Any violation of s. 847.0135, s. 847.0137, or s.
 228 847.0138 relating to computer pornography and child exploitation
 229 prevention, or any offense related to a violation of s.
 230 847.0135, s. 847.0137, or s. 847.0138 or any violation of
 231 chapter 827 where the crime is facilitated by or connected to
 232 the use of the Internet or any device capable of electronic data
 233 storage or transmission;

234

235 or any attempt, solicitation, or conspiracy to commit any
 236 violation of the crimes specifically enumerated above, when any
 237 such offense is occurring, or has occurred, in two or more
 238 judicial circuits as part of a related transaction or when any
 239 such offense is connected with an organized criminal conspiracy
 240 affecting two or more judicial circuits. The statewide grand
 241 jury may return indictments and presentments irrespective of the
 242 county or judicial circuit where the offense is committed or
 243 triable. If an indictment is returned, it shall be certified and
 244 transferred for trial to the county where the offense was
 245 committed. The powers and duties of, and law applicable to,
 246 county grand juries shall apply to a statewide grand jury except
 247 when such powers, duties, and law are inconsistent with the
 248 provisions of ss. 905.31-905.40.

249 Section 11. For the purpose of incorporating the amendment
 250 made by this act to section 847.0137, Florida Statutes, in a
 251 reference thereto, section 938.085, Florida Statutes, is
 252 reenacted to read:

253 938.085 Additional cost to fund rape crisis centers.—In
 254 addition to any sanction imposed when a person pleads guilty or
 255 nolo contendere to, or is found guilty of, regardless of
 256 adjudication, a violation of s. 775.21(6) and (10)(a), (b), and
 257 (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s. 784.045;
 258 s. 784.048; s. 784.07; s. 784.08; s. 784.081; s. 784.082; s.
 259 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); 787.025; s.
 260 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08; former s.

261 796.03; former s. 796.035; s. 796.04; s. 796.05; s. 796.06; s.
 262 796.07(2)(a)-(d) and (i); s. 800.03; s. 800.04; s. 810.14; s.
 263 810.145; s. 812.135; s. 817.025; s. 825.102; s. 825.1025; s.
 264 827.071; s. 836.10; s. 847.0133; s. 847.0135(2); s. 847.0137; s.
 265 847.0145; s. 943.0435(4)(c), (7), (8), (9)(a), (13), and
 266 (14)(c); or s. 985.701(1), the court shall impose a surcharge of
 267 \$151. Payment of the surcharge shall be a condition of
 268 probation, community control, or any other court-ordered
 269 supervision. The sum of \$150 of the surcharge shall be deposited
 270 into the Rape Crisis Program Trust Fund established within the
 271 Department of Health by chapter 2003-140, Laws of Florida. The
 272 clerk of the court shall retain \$1 of each surcharge that the
 273 clerk of the court collects as a service charge of the clerk's
 274 office.

275 Section 12. For the purpose of incorporating the amendment
 276 made by this act to section 847.0137, Florida Statutes, in
 277 references thereto, paragraph (a) of subsection (1) of section
 278 943.0435, Florida Statutes, is reenacted to read:

279 943.0435 Sexual offenders required to register with the
 280 department; penalty.—

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

282 (a)1. "Sexual offender" means a person who meets the
 283 criteria in sub-subparagraph a., sub-subparagraph b., sub-
 284 subparagraph c., or sub-subparagraph d., as follows:

285 a.(I) Has been convicted of committing, or attempting,
 286 soliciting, or conspiring to commit, any of the criminal

287 offenses proscribed in the following statutes in this state or
 288 similar offenses in another jurisdiction: s. 393.135(2); s.
 289 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where
 290 the victim is a minor and the defendant is not the victim's
 291 parent or guardian; s. 787.06(3)(b), (d), (f), or (g); former s.
 292 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s. 794.05;
 293 former s. 796.03; former s. 796.035; s. 800.04; s. 810.145(8);
 294 s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s.
 295 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; s.
 296 916.1075(2); or s. 985.701(1); or any similar offense committed
 297 in this state which has been redesignated from a former statute
 298 number to one of those listed in this sub-sub-subparagraph; and

299 (II) Has been released on or after October 1, 1997, from
 300 the sanction imposed for any conviction of an offense described
 301 in sub-sub-subparagraph (I). For purposes of sub-sub-
 302 subparagraph (I), a sanction imposed in this state or in any
 303 other jurisdiction includes, but is not limited to, a fine,
 304 probation, community control, parole, conditional release,
 305 control release, or incarceration in a state prison, federal
 306 prison, private correctional facility, or local detention
 307 facility;

308 b. Establishes or maintains a residence in this state and
 309 who has not been designated as a sexual predator by a court of
 310 this state but who has been designated as a sexual predator, as
 311 a sexually violent predator, or by another sexual offender
 312 designation in another state or jurisdiction and was, as a

313 result of such designation, subjected to registration or
314 community or public notification, or both, or would be if the
315 person were a resident of that state or jurisdiction, without
316 regard to whether the person otherwise meets the criteria for
317 registration as a sexual offender;

318 c. Establishes or maintains a residence in this state who
319 is in the custody or control of, or under the supervision of,
320 any other state or jurisdiction as a result of a conviction for
321 committing, or attempting, soliciting, or conspiring to commit,
322 any of the criminal offenses proscribed in the following
323 statutes or similar offense in another jurisdiction: s.
324 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s.
325 787.025(2)(c), where the victim is a minor and the defendant is
326 not the victim's parent or guardian; s. 787.06(3)(b), (d), (f),
327 or (g); former s. 787.06(3)(h); s. 794.011, excluding s.
328 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s.
329 800.04; s. 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s.
330 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s.
331 847.0145; s. 916.1075(2); or s. 985.701(1); or any similar
332 offense committed in this state which has been redesignated from
333 a former statute number to one of those listed in this sub-
334 subparagraph; or

335 d. On or after July 1, 2007, has been adjudicated
336 delinquent for committing, or attempting, soliciting, or
337 conspiring to commit, any of the criminal offenses proscribed in
338 the following statutes in this state or similar offenses in

339 another jurisdiction when the juvenile was 14 years of age or
 340 older at the time of the offense:

341 (I) Section 794.011, excluding s. 794.011(10);

342 (II) Section 800.04(4)(a)2. where the victim is under 12
 343 years of age or where the court finds sexual activity by the use
 344 of force or coercion;

345 (III) Section 800.04(5)(c)1. where the court finds
 346 molestation involving unclothed genitals; or

347 (IV) Section 800.04(5)(d) where the court finds the use of
 348 force or coercion and unclothed genitals.

349 2. For all qualifying offenses listed in sub-subparagraph
 350 (1)(a)1.d., the court shall make a written finding of the age of
 351 the offender at the time of the offense.

352
 353 For each violation of a qualifying offense listed in this
 354 subsection, except for a violation of s. 794.011, the court
 355 shall make a written finding of the age of the victim at the
 356 time of the offense. For a violation of s. 800.04(4), the court
 357 shall also make a written finding indicating whether the offense
 358 involved sexual activity and indicating whether the offense
 359 involved force or coercion. For a violation of s. 800.04(5), the
 360 court shall also make a written finding that the offense did or
 361 did not involve unclothed genitals or genital area and that the
 362 offense did or did not involve the use of force or coercion.

363 Section 13. For the purpose of incorporating the amendment
 364 made by this act to section 847.0137, Florida Statutes, in a

365 reference thereto, paragraph (b) of subsection (1) of section
366 944.606, Florida Statutes, is reenacted to read:

367 944.606 Sexual offenders; notification upon release.—

368 (1) As used in this section:

369 (b) "Sexual offender" means a person who has been
370 convicted of committing, or attempting, soliciting, or
371 conspiring to commit, any of the criminal offenses proscribed in
372 the following statutes in this state or similar offenses in
373 another jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01,
374 s. 787.02, or s. 787.025(2)(c), where the victim is a minor and
375 the defendant is not the victim's parent or guardian; s.
376 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s.
377 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03;
378 former s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; s.
379 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s.
380 847.0137; s. 847.0138; s. 847.0145; s. 916.1075(2); or s.
381 985.701(1); or any similar offense committed in this state which
382 has been redesignated from a former statute number to one of
383 those listed in this subsection, when the department has
384 received verified information regarding such conviction; an
385 offender's computerized criminal history record is not, in and
386 of itself, verified information.

387 Section 14. For the purpose of incorporating the amendment
388 made by this act to section 847.0137, Florida Statutes, in a
389 reference thereto, paragraph (a) of subsection (1) of section
390 944.607, Florida Statutes, is reenacted to read:

391 944.607 Notification to Department of Law Enforcement of
 392 information on sexual offenders.—

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

394 (a) "Sexual offender" means a person who is in the custody
 395 or control of, or under the supervision of, the department or is
 396 in the custody of a private correctional facility:

397 1. On or after October 1, 1997, as a result of a
 398 conviction for committing, or attempting, soliciting, or
 399 conspiring to commit, any of the criminal offenses proscribed in
 400 the following statutes in this state or similar offenses in
 401 another jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01,
 402 s. 787.02, or s. 787.025(2)(c), where the victim is a minor and
 403 the defendant is not the victim's parent or guardian; s.
 404 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s.
 405 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03;
 406 former s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; s.
 407 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s.
 408 847.0137; s. 847.0138; s. 847.0145; s. 916.1075(2); or s.
 409 985.701(1); or any similar offense committed in this state which
 410 has been redesignated from a former statute number to one of
 411 those listed in this paragraph; or

412 2. Who establishes or maintains a residence in this state
 413 and who has not been designated as a sexual predator by a court
 414 of this state but who has been designated as a sexual predator,
 415 as a sexually violent predator, or by another sexual offender
 416 designation in another state or jurisdiction and was, as a

417 result of such designation, subjected to registration or
418 community or public notification, or both, or would be if the
419 person were a resident of that state or jurisdiction, without
420 regard as to whether the person otherwise meets the criteria for
421 registration as a sexual offender.

422 Section 15. For the purpose of incorporating the amendment
423 made by this act to section 847.0137, Florida Statutes, in a
424 reference thereto, paragraph (c) of subsection (8) of section
425 948.06, Florida Statutes, is reenacted to read:

426 948.06 Violation of probation or community control;
427 revocation; modification; continuance; failure to pay
428 restitution or cost of supervision.—

429 (8)

430 (c) For purposes of this section, the term "qualifying
431 offense" means any of the following:

432 1. Kidnapping or attempted kidnapping under s. 787.01,
433 false imprisonment of a child under the age of 13 under s.
434 787.02(3), or luring or enticing a child under s. 787.025(2)(b)
435 or (c).

436 2. Murder or attempted murder under s. 782.04, attempted
437 felony murder under s. 782.051, or manslaughter under s. 782.07.

438 3. Aggravated battery or attempted aggravated battery
439 under s. 784.045.

440 4. Sexual battery or attempted sexual battery under s.
441 794.011(2), (3), (4), or (8)(b) or (c).

442 5. Lewd or lascivious battery or attempted lewd or

443 lascivious battery under s. 800.04(4), lewd or lascivious
444 molestation under s. 800.04(5)(b) or (c)2., lewd or lascivious
445 conduct under s. 800.04(6)(b), lewd or lascivious exhibition
446 under s. 800.04(7)(b), or lewd or lascivious exhibition on
447 computer under s. 847.0135(5)(b).

448 6. Robbery or attempted robbery under s. 812.13,
449 carjacking or attempted carjacking under s. 812.133, or home
450 invasion robbery or attempted home invasion robbery under s.
451 812.135.

452 7. Lewd or lascivious offense upon or in the presence of
453 an elderly or disabled person or attempted lewd or lascivious
454 offense upon or in the presence of an elderly or disabled person
455 under s. 825.1025.

456 8. Sexual performance by a child or attempted sexual
457 performance by a child under s. 827.071.

458 9. Computer pornography under s. 847.0135(2) or (3),
459 transmission of child pornography under s. 847.0137, or selling
460 or buying of minors under s. 847.0145.

461 10. Poisoning food or water under s. 859.01.

462 11. Abuse of a dead human body under s. 872.06.

463 12. Any burglary offense or attempted burglary offense
464 that is either a first degree felony or second degree felony
465 under s. 810.02(2) or (3).

466 13. Arson or attempted arson under s. 806.01(1).

467 14. Aggravated assault under s. 784.021.

468 15. Aggravated stalking under s. 784.048(3), (4), (5), or

469 (7).

470 16. Aircraft piracy under s. 860.16.

471 17. Unlawful throwing, placing, or discharging of a
472 destructive device or bomb under s. 790.161(2), (3), or (4).

473 18. Treason under s. 876.32.

474 19. Any offense committed in another jurisdiction which
475 would be an offense listed in this paragraph if that offense had
476 been committed in this state.

477 Section 16. For the purpose of incorporating the amendment
478 made by this act to section 847.0137, Florida Statutes, in a
479 reference thereto, paragraph (e) of subsection (3) of section
480 960.03, Florida Statutes, is reenacted to read:

481 960.03 Definitions; ss. 960.01-960.28.—As used in ss.
482 960.01-960.28, unless the context otherwise requires, the term:

483 (3) "Crime" means:

484 (e) A violation of s. 827.071, s. 847.0135, s. 847.0137,
485 or s. 847.0138, related to online sexual exploitation and child
486 pornography.

487 Section 17. For the purpose of incorporating the amendment
488 made by this act to section 847.0137, Florida Statutes, in a
489 reference thereto, paragraph (a) of subsection (1) of section
490 960.197, Florida Statutes, is reenacted to read:

491 960.197 Assistance to victims of online sexual
492 exploitation and child pornography.—

493 (1) Notwithstanding the criteria set forth in s. 960.13
494 for crime victim compensation awards, the department may award

495 compensation for counseling and other mental health services to
 496 treat psychological injury or trauma to:

497 (a) A child younger than 18 years of age who suffers
 498 psychiatric or psychological injury as a direct result of online
 499 sexual exploitation under any provision of s. 827.071, s.
 500 847.0135, s. 847.0137, or s. 847.0138, and who does not
 501 otherwise sustain a personal injury or death; or

502 Section 18. For the purpose of incorporating the amendment
 503 made by this act to section 847.0137, Florida Statutes, in
 504 references thereto, paragraph (e) of subsection (3) of section
 505 921.0022, Florida Statutes, is reenacted to read:

506 921.0022 Criminal Punishment Code; offense severity
 507 ranking chart.—

508 (3) OFFENSE SEVERITY RANKING CHART

509 (e) LEVEL 5

510

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.

511

512

513

CS/CS/HB 365

2016

514	322.34 (6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
515	327.30 (5)	3rd	Vessel accidents involving personal injury; leaving scene.
516	379.367 (4)	3rd	Willful molestation of a commercial harvester's spiny lobster trap, line, or buoy.
517	379.3671 (2) (c) 3.	3rd	Willful molestation, possession, or removal of a commercial harvester's trap contents or trap gear by another harvester.
518	381.0041 (11) (b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
519	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.

520

440.381 (2) 2nd Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.

521

624.401 (4) (b) 2. 2nd Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.

522

626.902 (1) (c) 2nd Representing an unauthorized insurer; repeat offender.

523

790.01 (2) 3rd Carrying a concealed firearm.

524

790.162 2nd Threat to throw or discharge destructive device.

525

790.163 (1) 2nd False report of deadly explosive or weapon of mass destruction.

526

790.221 (1) 2nd Possession of short-barreled

shotgun or machine gun.

527

790.23 2nd Felons in possession of
firearms, ammunition, or
electronic weapons or devices.

528

796.05 (1) 2nd Live on earnings of a
prostitute; 1st offense.

529

800.04 (6) (c) 3rd Lewd or lascivious conduct;
offender less than 18 years of
age.

530

800.04 (7) (b) 2nd Lewd or lascivious exhibition;
offender 18 years of age or
older.

531

806.111 (1) 3rd Possess, manufacture, or
dispense fire bomb with intent
to damage any structure or
property.

532

812.0145 (2) (b) 2nd Theft from person 65 years of
age or older; \$10,000 or more
but less than \$50,000.

533

CS/CS/HB 365

2016

534	812.015 (8)	3rd	Retail theft; property stolen is valued at \$300 or more and one or more specified acts.
535	812.019 (1)	2nd	Stolen property; dealing in or trafficking in.
536	812.131 (2) (b)	3rd	Robbery by sudden snatching.
537	812.16 (2)	3rd	Owning, operating, or conducting a chop shop.
538	817.034 (4) (a) 2.	2nd	Communications fraud, value \$20,000 to \$50,000.
539	817.234 (11) (b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
540	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.

541	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.
542	817.625 (2) (b)	2nd	Second or subsequent fraudulent use of scanning device or reencoder.
543	825.1025 (4)	3rd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
544	827.071 (4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.
	827.071 (5)	3rd	Possess, control, or intentionally view any

photographic material, motion picture, etc., which includes sexual conduct by a child.

545

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.

546

843.01 3rd Resist officer with violence to person; resist arrest with violence.

547

847.0135 (5) (b) 2nd Lewd or lascivious exhibition using computer; offender 18 years or older.

548

847.0137 3rd Transmission of pornography by (2) & (3) electronic device or equipment.

549

847.0138 3rd Transmission of material (2) & (3) harmful to minors to a minor by electronic device or equipment.

550

874.05 (1) (b) 2nd Encouraging or recruiting

another to join a criminal gang; second or subsequent offense.

551 874.05 (2) (a) 2nd Encouraging or recruiting person under 13 years of age to join a criminal gang.

552 893.13 (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) 4. drugs).

553 893.13 (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) 5., (2) (c) 6., (2) (c) 7., (2) (c) 8., (2) (c) 9., (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.

554

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)4. drugs) within 1,000 feet of university.

555

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)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) within 1,000 feet of property used for religious services or a specified business site.

556

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)4. drugs) within 1,000 feet of public housing facility.

557

