

1 A bill to be entitled
2 An act relating to protection of minors; providing a
3 short title; amending s. 775.21, F.S.; requiring a
4 person convicted of a second or subsequent violation
5 of specified video voyeurism provisions to register as
6 a sexual predator; amending s. 827.071, F.S.;
7 providing that if more than one child is involved in a
8 violation of provisions prohibiting sexual performance
9 by a child, each child involved in the violation
10 creates a separate offense; amending s. 943.0435,
11 F.S.; requiring a person convicted of video voyeurism
12 violations to register as a sexual offender; amending
13 ss. 944.606 and 944.607, F.S.; revising the definition
14 of the term "sexual offender" to include persons
15 convicted of specified video voyeurism provisions;
16 amending s. 810.145, F.S.; increasing the
17 classification of specified video voyeurism offenses
18 involving minors; amending s. 921.0022, F.S.; ranking
19 a violation of s. 810.145(8)(b), F.S., above its
20 default value for purposes of the offense severity
21 ranking chart of the Criminal Punishment Code;
22 providing an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:

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26 Section 1. This act may be cited as the "Protect Our
27 Children Act of 2012."

28 Section 2. Paragraph (a) of subsection (4) of section
 29 775.21, Florida Statutes, is amended to read:

30 775.21 The Florida Sexual Predators Act.—

31 (4) SEXUAL PREDATOR CRITERIA.—

32 (a) For a current offense committed on or after October 1,
 33 1993, upon conviction, an offender shall be designated as a
 34 "sexual predator" under subsection (5), and subject to
 35 registration under subsection (6) and community and public
 36 notification under subsection (7) if:

37 1. The felony is:

38 a. A capital, life, or first-degree felony violation, or
 39 any attempt thereof, of s. 787.01 or s. 787.02, where the victim
 40 is a minor and the defendant is not the victim's parent or
 41 guardian, or s. 794.011, s. 800.04, or s. 847.0145, or a
 42 violation of a similar law of another jurisdiction; or

43 b. Any felony violation, or any attempt thereof, of s.
 44 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a
 45 minor and the defendant is not the victim's parent or guardian;
 46 s. 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s.
 47 796.035; s. 800.04; s. 810.145(8); s. 825.1025(2)(b); s.
 48 827.071; s. 847.0135(5); s. 847.0145; or s. 985.701(1); or a
 49 violation of a similar law of another jurisdiction, and the
 50 offender has previously been convicted of or found to have
 51 committed, or has pled nolo contendere or guilty to, regardless
 52 of adjudication, any violation of s. 787.01, s. 787.02, or s.
 53 787.025(2)(c), where the victim is a minor and the defendant is
 54 not the victim's parent or guardian; s. 794.011, excluding s.
 55 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s.

56 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135,
 57 excluding s. 847.0135(6); s. 847.0145; or s. 985.701(1); or a
 58 violation of a similar law of another jurisdiction;

59 2. The offender has not received a pardon for any felony
 60 or similar law of another jurisdiction that is necessary for the
 61 operation of this paragraph; and

62 3. A conviction of a felony or similar law of another
 63 jurisdiction necessary to the operation of this paragraph has
 64 not been set aside in any postconviction proceeding.

65 Section 3. Paragraph (a) of subsection (5) of section
 66 827.071, Florida Statutes, is amended to read:

67 827.071 Sexual performance by a child; penalties.—

68 (5) (a) It is unlawful for any person to knowingly possess,
 69 control, or intentionally view a photograph, motion picture,
 70 exhibition, show, representation, image, data, computer
 71 depiction, or other presentation which, in whole or in part, he
 72 or she knows to include any sexual conduct by a child. The
 73 possession, control, or intentional viewing of each such
 74 photograph, motion picture, exhibition, show, image, data,
 75 computer depiction, representation, or presentation is a
 76 separate offense. If such photograph, motion picture,
 77 exhibition, show, representation, image, data, computer
 78 depiction, or other presentation includes sexual conduct by more
 79 than one child, then each such child in each such photograph,
 80 motion picture, exhibition, show, representation, image, data,
 81 computer depiction, or other presentation that is knowingly
 82 possessed, controlled, or intentionally viewed is a separate
 83 offense. A person who violates this subsection commits a felony

84 of the third degree, punishable as provided in s. 775.082, s.
 85 775.083, or s. 775.084.

86 Section 4. Paragraph (a) of subsection (1) of section
 87 943.0435, Florida Statutes, is amended to read:

88 943.0435 Sexual offenders required to register with the
 89 department; penalty.—

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

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

94 a.(I) Has been convicted of committing, or attempting,
 95 soliciting, or conspiring to commit, any of the criminal
 96 offenses proscribed in the following statutes in this state or
 97 similar offenses in another jurisdiction: s. 787.01, s. 787.02,
 98 or s. 787.025(2)(c), where the victim is a minor and the
 99 defendant is not the victim's parent or guardian; s. 794.011,
 100 excluding s. 794.011(10); s. 794.05; s. 796.03; s. 796.035; s.
 101 800.04; s. 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s.
 102 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s.
 103 847.0145; or s. 985.701(1); or any similar offense committed in
 104 this state which has been redesignated from a former statute
 105 number to one of those listed in this sub-sub-subparagraph; and

106 (II) Has been released on or after October 1, 1997, from
 107 the sanction imposed for any conviction of an offense described
 108 in sub-sub-subparagraph (I). For purposes of sub-sub-
 109 subparagraph (I), a sanction imposed in this state or in any
 110 other jurisdiction includes, but is not limited to, a fine,
 111 probation, community control, parole, conditional release,

112 control release, or incarceration in a state prison, federal
113 prison, private correctional facility, or local detention
114 facility;

115 b. Establishes or maintains a residence in this state and
116 who has not been designated as a sexual predator by a court of
117 this state but who has been designated as a sexual predator, as
118 a sexually violent predator, or by another sexual offender
119 designation in another state or jurisdiction and was, as a
120 result of such designation, subjected to registration or
121 community or public notification, or both, or would be if the
122 person were a resident of that state or jurisdiction, without
123 regard to whether the person otherwise meets the criteria for
124 registration as a sexual offender;

125 c. Establishes or maintains a residence in this state who
126 is in the custody or control of, or under the supervision of,
127 any other state or jurisdiction as a result of a conviction for
128 committing, or attempting, soliciting, or conspiring to commit,
129 any of the criminal offenses proscribed in the following
130 statutes or similar offense in another jurisdiction: s. 787.01,
131 s. 787.02, or s. 787.025(2)(c), where the victim is a minor and
132 the defendant is not the victim's parent or guardian; s.
133 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s.
134 796.035; s. 800.04; s. 810.145(8); s. 825.1025; s. 827.071; s.
135 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s.
136 847.0138; s. 847.0145; or s. 985.701(1); or any similar offense
137 committed in this state which has been redesignated from a
138 former statute number to one of those listed in this sub-
139 subparagraph; or

140 d. On or after July 1, 2007, has been adjudicated
 141 delinquent for committing, or attempting, soliciting, or
 142 conspiring to commit, any of the criminal offenses proscribed in
 143 the following statutes in this state or similar offenses in
 144 another jurisdiction when the juvenile was 14 years of age or
 145 older at the time of the offense:

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

147 (II) Section 800.04(4) (b) where the victim is under 12
 148 years of age or where the court finds sexual activity by the use
 149 of force or coercion;

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

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

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

157
 158 For each violation of a qualifying offense listed in this
 159 subsection, the court shall make a written finding of the age of
 160 the victim at the time of the offense. For a violation of s.
 161 800.04(4), the court shall additionally make a written finding
 162 indicating that the offense did or did not involve sexual
 163 activity and indicating that the offense did or did not involve
 164 force or coercion. For a violation of s. 800.04(5), the court
 165 shall additionally make a written finding that the offense did
 166 or did not involve unclothed genitals or genital area and that
 167 the offense did or did not involve the use of force or coercion.

168 Section 5. Paragraph (b) of subsection (1) of section
 169 944.606, Florida Statutes, is amended to read:

170 944.606 Sexual offenders; notification upon release.—

171 (1) As used in this section:

172 (b) "Sexual offender" means a person who has been
 173 convicted of committing, or attempting, soliciting, or
 174 conspiring to commit, any of the criminal offenses proscribed in
 175 the following statutes in this state or similar offenses in
 176 another jurisdiction: s. 787.01, s. 787.02, or s. 787.025(2)(c),
 177 where the victim is a minor and the defendant is not the
 178 victim's parent or guardian; s. 794.011, excluding s.
 179 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s.
 180 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135,
 181 excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145;
 182 or s. 985.701(1); or any similar offense committed in this state
 183 which has been redesignated from a former statute number to one
 184 of those listed in this subsection, when the department has
 185 received verified information regarding such conviction; an
 186 offender's computerized criminal history record is not, in and
 187 of itself, verified information.

188 Section 6. Paragraph (a) of subsection (1) of section
 189 944.607, Florida Statutes, is amended to read:

190 944.607 Notification to Department of Law Enforcement of
 191 information on sexual offenders.—

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

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

196 1. On or after October 1, 1997, as a result of a
 197 conviction for committing, or attempting, soliciting, or
 198 conspiring to commit, any of the criminal offenses proscribed in
 199 the following statutes in this state or similar offenses in
 200 another jurisdiction: s. 787.01, s. 787.02, or s. 787.025(2)(c),
 201 where the victim is a minor and the defendant is not the
 202 victim's parent or guardian; s. 794.011, excluding s.
 203 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s.
 204 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135,
 205 excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145;
 206 or s. 985.701(1); or any similar offense committed in this state
 207 which has been redesignated from a former statute number to one
 208 of those listed in this paragraph; or

209 2. Who establishes or maintains a residence in this state
 210 and who has not been designated as a sexual predator by a court
 211 of this state but who has been designated as a sexual predator,
 212 as a sexually violent predator, or by another sexual offender
 213 designation in another state or jurisdiction and was, as a
 214 result of such designation, subjected to registration or
 215 community or public notification, or both, or would be if the
 216 person were a resident of that state or jurisdiction, without
 217 regard as to whether the person otherwise meets the criteria for
 218 registration as a sexual offender.

219 Section 7. Subsection (8) of section 810.145, Florida
 220 Statutes, are amended to read:

221 810.145 Video voyeurism.—

222 (8) (a) A person who is:

223 1. Eighteen years of age or older who is responsible for

224 the welfare of a child younger than 16 years of age, regardless
 225 of whether the person knows or has reason to know the age of the
 226 child, and who commits an offense under this section against
 227 that child;

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

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

239
 240 commits a felony of the second ~~third~~ degree, punishable as
 241 provided in s. 775.082, s. 775.083, or s. 775.084.

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

246 Section 8. Paragraph (f) of subsection (3) of section
 247 921.0022, Florida Statutes, is amended to read:

248 921.0022 Criminal Punishment Code; offense severity
 249 ranking chart.—

250 (3) OFFENSE SEVERITY RANKING CHART

251 (f) LEVEL 6

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

261	784.041	3rd	Felony battery; domestic battery by strangulation.
262	784.048 (3)	3rd	Aggravated stalking; credible threat.
263	784.048 (5)	3rd	Aggravated stalking of person under 16.
264	784.07 (2) (c)	2nd	Aggravated assault on law enforcement officer.
265	784.074 (1) (b)	2nd	Aggravated assault on sexually violent predators facility staff.
266	784.08 (2) (b)	2nd	Aggravated assault on a person 65 years of age or older.
267	784.081 (2)	2nd	Aggravated assault on specified official or employee.
268	784.082 (2)	2nd	Aggravated assault by detained person on visitor or other detainee.
	784.083 (2)	2nd	Aggravated assault on code

inspector.

269

787.02 (2) 3rd False imprisonment; restraining with purpose other than those in s. 787.01.

270

790.115 (2) (d) 2nd Discharging firearm or weapon on school property.

271

790.161 (2) 2nd Make, possess, or throw destructive device with intent to do bodily harm or damage property.

272

790.164 (1) 2nd False report of deadly explosive, weapon of mass destruction, or act of arson or violence to state property.

273

790.19 2nd Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.

274

794.011 (8) (a) 3rd Solicitation of minor to participate in sexual activity by custodial adult.

275

276	794.05 (1)	2nd	Unlawful sexual activity with specified minor.
277	800.04 (5) (d)	3rd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender less than 18 years.
278	800.04 (6) (b)	2nd	Lewd or lascivious conduct; offender 18 years of age or older.
279	806.031 (2)	2nd	Arson resulting in great bodily harm to firefighter or any other person.
280	810.02 (3) (c)	2nd	Burglary of occupied structure; unarmed; no assault or battery.
281	<u>810.145 (8) (b)</u>	<u>2nd</u>	<u>Video voyeurism; certain minor victims; 2nd or subsequent offense.</u>
282	812.014 (2) (b) 1.	2nd	Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree.

283	812.014 (6)	2nd	Theft; property stolen \$3,000 or more; coordination of others.
284	812.015 (9) (a)	2nd	Retail theft; property stolen \$300 or more; second or subsequent conviction.
285	812.015 (9) (b)	2nd	Retail theft; property stolen \$3,000 or more; coordination of others.
286	812.13 (2) (c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).
287	817.034 (4) (a) 1.	1st	Communications fraud, value greater than \$50,000.
288	817.4821 (5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.
289	825.102 (1)	3rd	Abuse of an elderly person or disabled adult.
290	825.102 (3) (c)	3rd	Neglect of an elderly person or disabled adult.

291	825.1025 (3)	3rd	Lewd or lascivious molestation of an elderly person or disabled adult.
292	825.103 (2) (c)	3rd	Exploiting an elderly person or disabled adult and property is valued at less than \$20,000.
293	827.03 (1)	3rd	Abuse of a child.
294	827.03 (3) (c)	3rd	Neglect of a child.
295	827.071 (2) & (3)	2nd	Use or induce a child in a sexual performance, or promote or direct such performance.
296	836.05	2nd	Threats; extortion.
297	836.10	2nd	Written threats to kill or do bodily injury.
298	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.

299

847.012 3rd Knowingly using a minor in the production of materials harmful to minors.

300

847.0135(2) 3rd Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.

301

914.23 2nd Retaliation against a witness, victim, or informant, with bodily injury.

302

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.

303

944.40 2nd Escapes.

304

944.46 3rd Harboring, concealing, aiding escaped prisoners.

305

944.47(1)(a)5. 2nd Introduction of contraband

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(firearm, weapon, or explosive)
into correctional facility.

306

951.22(1) 3rd Intoxicating drug, firearm, or
 weapon introduced into county
 facility.

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308

Section 9. This act shall take effect October 1, 2012.