

1 A bill to be entitled

2 An act relating to prohibited acts in connection with
3 obscene or lewd materials; amending s. 847.011, F.S.;
4 prohibiting a person from knowingly selling, lending,
5 giving away, distributing, transmitting, showing, or
6 transmuting; offering to commit such actions; having
7 in his or her possession, custody, or control with the
8 intent to commit such actions; or advertising in any
9 manner an obscene, child-like sex doll; providing
10 criminal penalties; prohibiting a person from
11 knowingly having in his or her possession, custody, or
12 control an obscene, child-like sex doll; providing
13 criminal penalties; reenacting ss. 772.102(1)(a),
14 847.02, 847.03, 847.09(2), 895.02(8)(a),
15 921.0022(3)(f), 933.02, 933.03, and 943.325(2)(g),
16 F.S., relating to the definition of the term "criminal
17 activity," the confiscation of obscene material, an
18 officer seizing obscene material, legislative intent,
19 the definition of the term "racketeering activity,"
20 level 6 of the offense severity ranking chart, grounds
21 for the issuance of a search warrant, destruction of
22 obscene prints and literature, and the definition of
23 the term "qualifying offender," respectively, to
24 incorporate the amendment made to s. 847.011, F.S., in
25 references thereto; providing an effective date.

26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50

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

Section 1. Present subsections (5) through (10) of section 847.011, Florida Statutes, are redesignated as subsections (6) through (11), respectively, and a new subsection (5) is added to that section, 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. A person who knowingly has in his or her possession, custody, or control an obscene, child-like sex doll commits a

51 misdemeanor of the first degree, punishable as provided in s.
52 775.082 or s. 775.083.

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

56 Section 2. For the purpose of incorporating the amendment
57 made by this act to section 847.011, Florida Statutes, in a
58 reference thereto, paragraph (a) of subsection (1) of section
59 772.102, Florida Statutes, is reenacted to read:

60 772.102 Definitions.—As used in this chapter, the term:

61 (1) "Criminal activity" means to commit, to attempt to
62 commit, to conspire to commit, or to solicit, coerce, or
63 intimidate another person to commit:

64 (a) Any crime that is chargeable by indictment or
65 information under the following provisions:

66 1. Section 210.18, relating to evasion of payment of
67 cigarette taxes.

68 2. Section 414.39, relating to public assistance fraud.

69 3. Section 440.105 or s. 440.106, relating to workers'
70 compensation.

71 4. Part IV of chapter 501, relating to telemarketing.

72 5. Chapter 517, relating to securities transactions.

73 6. Section 550.235 or s. 550.3551, relating to dogracing
74 and horseracing.

75 7. Chapter 550, relating to jai alai frontons.

- 76 8. Chapter 552, relating to the manufacture, distribution,
77 and use of explosives.
- 78 9. Chapter 562, relating to beverage law enforcement.
- 79 10. Section 624.401, relating to transacting insurance
80 without a certificate of authority, s. 624.437(4)(c)1., relating
81 to operating an unauthorized multiple-employer welfare
82 arrangement, or s. 626.902(1)(b), relating to representing or
83 aiding an unauthorized insurer.
- 84 11. Chapter 687, relating to interest and usurious
85 practices.
- 86 12. Section 721.08, s. 721.09, or s. 721.13, relating to
87 real estate timeshare plans.
- 88 13. Chapter 782, relating to homicide.
- 89 14. Chapter 784, relating to assault and battery.
- 90 15. Chapter 787, relating to kidnapping or human
91 trafficking.
- 92 16. Chapter 790, relating to weapons and firearms.
- 93 17. Former s. 796.03, s. 796.04, s. 796.05, or s. 796.07,
94 relating to prostitution.
- 95 18. Chapter 806, relating to arson.
- 96 19. Section 810.02(2)(c), relating to specified burglary
97 of a dwelling or structure.
- 98 20. Chapter 812, relating to theft, robbery, and related
99 crimes.
- 100 21. Chapter 815, relating to computer-related crimes.

101 22. Chapter 817, relating to fraudulent practices, false
102 pretenses, fraud generally, and credit card crimes.

103 23. Section 827.071, relating to commercial sexual
104 exploitation of children.

105 24. Chapter 831, relating to forgery and counterfeiting.

106 25. Chapter 832, relating to issuance of worthless checks
107 and drafts.

108 26. Section 836.05, relating to extortion.

109 27. Chapter 837, relating to perjury.

110 28. Chapter 838, relating to bribery and misuse of public
111 office.

112 29. Chapter 843, relating to obstruction of justice.

113 30. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or
114 s. 847.07, relating to obscene literature and profanity.

115 31. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s.
116 849.25, relating to gambling.

117 32. Chapter 893, relating to drug abuse prevention and
118 control.

119 33. Section 914.22 or s. 914.23, relating to witnesses,
120 victims, or informants.

121 34. Section 918.12 or s. 918.13, relating to tampering
122 with jurors and evidence.

123 Section 3. For the purpose of incorporating the amendment
124 made by this act to section 847.011, Florida Statutes, in a
125 reference thereto, section 847.02, Florida Statutes, is

126 reenacted to read:

127 847.02 Confiscation of obscene material.—Whenever anyone
 128 is convicted under s. 847.011, the court in awarding sentence
 129 shall make an order confiscating said obscene material and
 130 authorize the sheriff of the county in which the material is
 131 held to destroy the same. The sheriff shall file with the court
 132 a certificate of his or her compliance.

133 Section 4. For the purpose of incorporating the amendment
 134 made by this act to section 847.011, Florida Statutes, in a
 135 reference thereto, section 847.03, Florida Statutes, is
 136 reenacted to read:

137 847.03 Officer to seize obscene material.—Whenever any
 138 officer arrests any person charged with any offense under s.
 139 847.011, the officer shall seize said obscene material and take
 140 the same into his or her custody to await the sentence of the
 141 court upon the trial of the offender.

142 Section 5. For the purpose of incorporating the amendment
 143 made by this act to section 847.011, Florida Statutes, in a
 144 reference thereto, subsection (2) of section 847.09, Florida
 145 Statutes, is reenacted to read:

146 847.09 Legislative intent.—

147 (2) Nothing in ss. 847.07–847.09 shall be construed to
 148 repeal or in any way supersede the provisions of s. 847.011, s.
 149 847.012, or s. 847.013.

150 Section 6. For the purpose of incorporating the amendment

151 made by this act to section 847.011, Florida Statutes, in a
152 reference thereto, paragraph (a) of subsection (8) of section
153 895.02, Florida Statutes, is reenacted to read:

154 895.02 Definitions.—As used in ss. 895.01-895.08, the
155 term:

156 (8) "Racketeering activity" means to commit, to attempt to
157 commit, to conspire to commit, or to solicit, coerce, or
158 intimidate another person to commit:

159 (a) Any crime that is chargeable by petition, indictment,
160 or information under the following provisions of the Florida
161 Statutes:

162 1. Section 210.18, relating to evasion of payment of
163 cigarette taxes.

164 2. Section 316.1935, relating to fleeing or attempting to
165 elude a law enforcement officer and aggravated fleeing or
166 eluding.

167 3. Section 403.727(3)(b), relating to environmental
168 control.

169 4. Section 409.920 or s. 409.9201, relating to Medicaid
170 fraud.

171 5. Section 414.39, relating to public assistance fraud.

172 6. Section 440.105 or s. 440.106, relating to workers'
173 compensation.

174 7. Section 443.071(4), relating to creation of a
175 fictitious employer scheme to commit reemployment assistance

- 176 fraud.
- 177 8. Section 465.0161, relating to distribution of medicinal
- 178 drugs without a permit as an Internet pharmacy.
- 179 9. Section 499.0051, relating to crimes involving
- 180 contraband, adulterated, or misbranded drugs.
- 181 10. Part IV of chapter 501, relating to telemarketing.
- 182 11. Chapter 517, relating to sale of securities and
- 183 investor protection.
- 184 12. Section 550.235 or s. 550.3551, relating to dogracing
- 185 and horseracing.
- 186 13. Chapter 550, relating to jai alai frontons.
- 187 14. Section 551.109, relating to slot machine gaming.
- 188 15. Chapter 552, relating to the manufacture,
- 189 distribution, and use of explosives.
- 190 16. Chapter 560, relating to money transmitters, if the
- 191 violation is punishable as a felony.
- 192 17. Chapter 562, relating to beverage law enforcement.
- 193 18. Section 624.401, relating to transacting insurance
- 194 without a certificate of authority, s. 624.437(4)(c)1., relating
- 195 to operating an unauthorized multiple-employer welfare
- 196 arrangement, or s. 626.902(1)(b), relating to representing or
- 197 aiding an unauthorized insurer.
- 198 19. Section 655.50, relating to reports of currency
- 199 transactions, when such violation is punishable as a felony.
- 200 20. Chapter 687, relating to interest and usurious

- 201 practices.
- 202 21. Section 721.08, s. 721.09, or s. 721.13, relating to
- 203 real estate timeshare plans.
- 204 22. Section 775.13(5)(b), relating to registration of
- 205 persons found to have committed any offense for the purpose of
- 206 benefiting, promoting, or furthering the interests of a criminal
- 207 gang.
- 208 23. Section 777.03, relating to commission of crimes by
- 209 accessories after the fact.
- 210 24. Chapter 782, relating to homicide.
- 211 25. Chapter 784, relating to assault and battery.
- 212 26. Chapter 787, relating to kidnapping or human
- 213 trafficking.
- 214 27. Chapter 790, relating to weapons and firearms.
- 215 28. Chapter 794, relating to sexual battery, but only if
- 216 such crime was committed with the intent to benefit, promote, or
- 217 further the interests of a criminal gang, or for the purpose of
- 218 increasing a criminal gang member's own standing or position
- 219 within a criminal gang.
- 220 29. Former s. 796.03, former s. 796.035, s. 796.04, s.
- 221 796.05, or s. 796.07, relating to prostitution.
- 222 30. Chapter 806, relating to arson and criminal mischief.
- 223 31. Chapter 810, relating to burglary and trespass.
- 224 32. Chapter 812, relating to theft, robbery, and related
- 225 crimes.

- 226 | 33. Chapter 815, relating to computer-related crimes.
- 227 | 34. Chapter 817, relating to fraudulent practices, false
- 228 | pretenses, fraud generally, credit card crimes, and patient
- 229 | brokering.
- 230 | 35. Chapter 825, relating to abuse, neglect, or
- 231 | exploitation of an elderly person or disabled adult.
- 232 | 36. Section 827.071, relating to commercial sexual
- 233 | exploitation of children.
- 234 | 37. Section 828.122, relating to fighting or baiting
- 235 | animals.
- 236 | 38. Chapter 831, relating to forgery and counterfeiting.
- 237 | 39. Chapter 832, relating to issuance of worthless checks
- 238 | and drafts.
- 239 | 40. Section 836.05, relating to extortion.
- 240 | 41. Chapter 837, relating to perjury.
- 241 | 42. Chapter 838, relating to bribery and misuse of public
- 242 | office.
- 243 | 43. Chapter 843, relating to obstruction of justice.
- 244 | 44. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or
- 245 | s. 847.07, relating to obscene literature and profanity.
- 246 | 45. Chapter 849, relating to gambling, lottery, gambling
- 247 | or gaming devices, slot machines, or any of the provisions
- 248 | within that chapter.
- 249 | 46. Chapter 874, relating to criminal gangs.
- 250 | 47. Chapter 893, relating to drug abuse prevention and

251 control.

252 48. Chapter 896, relating to offenses related to financial
253 transactions.

254 49. Sections 914.22 and 914.23, relating to tampering with
255 or harassing a witness, victim, or informant, and retaliation
256 against a witness, victim, or informant.

257 50. Sections 918.12 and 918.13, relating to tampering with
258 jurors and evidence.

259 Section 7. For the purpose of incorporating the amendment
260 made by this act to section 847.011, Florida Statutes, in a
261 reference thereto, paragraph (f) of subsection (3) of section
262 921.0022, Florida Statutes, is reenacted to read:

263 921.0022 Criminal Punishment Code; offense severity
264 ranking chart.—

265 (3) OFFENSE SEVERITY RANKING CHART

266 (f) LEVEL 6

267

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

269

			subsequent conviction.
270	400.9935 (4) (c)	2nd	Operating a clinic, or offering services requiring licensure, without a license.
271	499.0051 (2)	2nd	Knowing forgery of transaction history, transaction information, or transaction statement.
272	499.0051 (3)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.
273	499.0051 (4)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.
274	775.0875 (1)	3rd	Taking firearm from law enforcement officer.
275	784.021 (1) (a)	3rd	Aggravated assault; deadly weapon without

276			intent to kill.
	784.021 (1) (b)	3rd	Aggravated assault; intent to commit felony.
277			
	784.041	3rd	Felony battery; domestic battery by strangulation.
278			
	784.048 (3)	3rd	Aggravated stalking; credible threat.
279			
	784.048 (5)	3rd	Aggravated stalking of person under 16.
280			
	784.07 (2) (c)	2nd	Aggravated assault on law enforcement officer.
281			
	784.074 (1) (b)	2nd	Aggravated assault on sexually violent predators facility staff.
282			
	784.08 (2) (b)	2nd	Aggravated assault on a person 65 years of age

			or older.
283	784.081 (2)	2nd	Aggravated assault on specified official or employee.
284	784.082 (2)	2nd	Aggravated assault by detained person on visitor or other detainee.
285	784.083 (2)	2nd	Aggravated assault on code inspector.
286	787.02 (2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
287	790.115 (2) (d)	2nd	Discharging firearm or weapon on school property.
288	790.161 (2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property.

289	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.
290	790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.
291	794.011 (8) (a)	3rd	Solicitation of minor to participate in sexual activity by custodial adult.
292	794.05 (1)	2nd	Unlawful sexual activity with specified minor.
293	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

294			years.
295	800.04 (6) (b)	2nd	Lewd or lascivious conduct; offender 18 years of age or older.
296	806.031 (2)	2nd	Arson resulting in great bodily harm to firefighter or any other person.
297	810.02 (3) (c)	2nd	Burglary of occupied structure; unarmed; no assault or battery.
298	810.145 (8) (b)	2nd	Video voyeurism; certain minor victims; 2nd or subsequent offense.
299	812.014 (2) (b) 1.	2nd	Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree.

CS/CS/HB 1107

2019

300	812.014 (6)	2nd	Theft; property stolen \$3,000 or more; coordination of others.
301	812.015 (9) (a)	2nd	Retail theft; property stolen \$300 or more; second or subsequent conviction.
302	812.015 (9) (b)	2nd	Retail theft; property stolen \$3,000 or more; coordination of others.
303	812.13 (2) (c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).
304	817.4821 (5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.
305	817.505 (4) (b)	2nd	Patient brokering; 10 or more patients.
	825.102 (1)	3rd	Abuse of an elderly

306	825.102 (3) (c)	3rd	person or disabled adult.
307	825.1025 (3)	3rd	Neglect of an elderly person or disabled adult.
308	825.103 (3) (c)	3rd	Lewd or lascivious molestation of an elderly person or disabled adult.
309	827.03 (2) (c)	3rd	Exploiting an elderly person or disabled adult and property is valued at less than \$10,000.
310	827.03 (2) (d)	3rd	Abuse of a child.
311	827.071 (2) & (3)	2nd	Neglect of a child. Use or induce a child in a sexual performance, or promote or direct such performance.

312	836.05	2nd	Threats; extortion.
313	836.10	2nd	Written threats to kill, do bodily injury, or conduct a mass shooting or an act of terrorism.
314	843.12	3rd	Aids or assists person to escape.
315	847.011	3rd	Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors.
316	847.012	3rd	Knowingly using a minor in the production of materials harmful to minors.
317	847.0135 (2)	3rd	Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.

318

319	914.23	2nd	Retaliation against a witness, victim, or informant, with bodily injury.
320	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.
321	944.40	2nd	Escapes.
322	944.46	3rd	Harboring, concealing, aiding escaped prisoners.
323	944.47 (1) (a) 5.	2nd	Introduction of contraband (firearm, weapon, or explosive) into correctional facility.
	951.22 (1)	3rd	Intoxicating drug, firearm,

or weapon introduced into
county facility.

324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346

Section 8. For the purpose of incorporating the amendment made by this act to section 847.011, Florida Statutes, in a reference thereto, section 933.02, Florida Statutes, is reenacted to read:

933.02 Grounds for issuance of search warrant.—Upon proper affidavits being made, a search warrant may be issued under the provisions of this chapter upon any of the following grounds:

(1) When the property shall have been stolen or embezzled in violation of law;

(2) When any property shall have been used:

(a) As a means to commit any crime;

(b) In connection with gambling, gambling implements and appliances; or

(c) In violation of s. 847.011 or other laws in reference to obscene prints and literature;

(3) When any property constitutes evidence relevant to proving that a felony has been committed;

(4) When any property is being held or possessed:

(a) In violation of any of the laws prohibiting the manufacture, sale, and transportation of intoxicating liquors;

(b) In violation of the fish and game laws;

(c) In violation of the laws relative to food and drug; or

347 (d) In violation of the laws relative to citrus disease
348 pursuant to s. 581.184; or

349 (5) When the laws in relation to cruelty to animals, as
350 provided in chapter 828, have been or are violated in any
351 particular building or place.

352
353 This section also applies to any papers or documents used as a
354 means of or in aid of the commission of any offense against the
355 laws of the state.

356 Section 9. For the purpose of incorporating the amendment
357 made by this act to section 847.011, Florida Statutes, in a
358 reference thereto, section 933.03, Florida Statutes, is
359 reenacted to read:

360 933.03 Destruction of obscene prints and literature.—All
361 obscene prints and literature, or other things mentioned in s.
362 847.011 found by an officer in executing a search warrant, or
363 produced or brought into court, shall be safely kept so long as
364 is necessary for the purpose of being used as evidence in any
365 case, and as soon as may be afterwards, shall be destroyed by
366 order of the court before whom the case is brought.

367 Section 10. For the purpose of incorporating the amendment
368 made by this act to section 847.011, Florida Statutes, in a
369 reference thereto, paragraph (g) of subsection (2) of section
370 943.325, Florida Statutes, is reenacted to read:

371 943.325 DNA database.—

372 (2) DEFINITIONS.—As used in this section, the term:
 373 (g) "Qualifying offender" means any person, including
 374 juveniles and adults, who is:
 375 1.a. Committed to a county jail;
 376 b. Committed to or under the supervision of the Department
 377 of Corrections, including persons incarcerated in a private
 378 correctional institution operated under contract pursuant to s.
 379 944.105;
 380 c. Committed to or under the supervision of the Department
 381 of Juvenile Justice;
 382 d. Transferred to this state under the Interstate Compact
 383 on Juveniles, part XIII of chapter 985; or
 384 e. Accepted under Article IV of the Interstate Corrections
 385 Compact, part III of chapter 941; and who is:
 386 2.a. Convicted of any felony offense or attempted felony
 387 offense in this state or of a similar offense in another
 388 jurisdiction;
 389 b. Convicted of a misdemeanor violation of s. 784.048, s.
 390 810.14, s. 847.011, s. 847.013, s. 847.0135, or s. 877.26, or an
 391 offense that was found, pursuant to s. 874.04, to have been
 392 committed for the purpose of benefiting, promoting, or
 393 furthering the interests of a criminal gang as defined in s.
 394 874.03; or
 395 c. Arrested for any felony offense or attempted felony
 396 offense in this state.

397

Section 11. This act shall take effect October 1, 2019.