

FLORIDA STATE OBSCENITY & LIBRARY/SCHOOL FILTERING STATUTES

(Last Updated Summer 2012)

Fla. Stat.

Fla. Stat. § 847.001. Definitions

- As used in this chapter, the term:
 - (1) "Adult" means a person 18 years of age or older.
 - (2) "Adult entertainment establishment" means the following terms as defined:
 - (a) "Adult bookstore" means any corporation, partnership, or business of any kind which restricts or purports to restrict admission only to adults, which has as part of its stock books, magazines, other periodicals, videos, discs, or other graphic media and which offers, sells, provides, or rents for a fee any sexually oriented material.
 - (b) "Adult theater" means an enclosed building or an enclosed space within a building used for presenting either films, live plays, dances, or other performances that are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specific sexual activities for observation by patrons, and which restricts or purports to restrict admission only to adults.
 - (c) "Special Cabaret" means any business that features persons who engage in specific sexual activities for observation by patrons, and which restricts or purports to restrict admission only to adults.
 - (d) "Unlicensed massage establishment" means any business or enterprise that offers, sells, or provides, or that holds itself out as offering, selling, or providing, massages that include bathing, physical massage, rubbing, kneading, anointing, stroking, manipulating, or other tactile stimulation of the human body by either male or female employees or attendants, by hand or by any electrical or mechanical device, on or off the premises. The term "unlicensed massage establishment" does not include an establishment licensed under s. 480.043 which routinely provides medical services by state-licensed health care practitioners and massage therapists licensed under s. 480.041.
 - (3) "Child pornography" means any image depicting a minor engaged in sexual conduct.
 - (4) "Computer" means an electronic, magnetic, optical, electrochemical, or other high-speed data processing device performing logical, arithmetic, or storage functions and includes any data storage facility or communications facility directly related to or operating in conjunction with such device. The term also includes: any online service, Internet service, or local bulletin board; any electronic storage device, including a floppy disk or other magnetic storage device; or any compact disc that has read-only memory and the capacity to store audio, video, or written materials.
 - (5) "Deviate sexual intercourse" means sexual conduct between persons not married to each other consisting of contact between the penis and the anus, the mouth and the penis, or the mouth and the vulva.

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- (6) "Harmful to minors" means any reproduction, imitation, characterization, description, exhibition, presentation, or representation, of whatever kind or form, depicting nudity, sexual conduct, or sexual excitement when it:
 - (a) Predominantly appeals to a prurient, shameful, or morbid interest;
 - (b) Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material or conduct for minors; and
 - (c) Taken as a whole, is without serious literary, artistic, political, or scientific value for minors.
 - A mother's breastfeeding of her baby is not under any circumstance "harmful to minors."
- (7) "Masochism" means sexual gratification achieved by a person through, or the association of sexual activity with, submission or subjection to physical pain, suffering, humiliation, torture, or death.
- (8) "Minor" means any person under the age of 18 years.
- (9) "Nudity" means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering; or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple; or the depiction of covered male genitals in a discernibly turgid state. A mother's breastfeeding of her baby does not under any circumstance constitute "nudity," irrespective of whether or not the nipple is covered during or incidental to feeding.
- (10) "Obscene" means the status of material which:
 - (a) The average person, applying contemporary community standards, would find, taken as a whole, appeals to the prurient interest;
 - (b) Depicts or describes, in a patently offensive way, sexual conduct as specifically defined herein; and
 - (c) Taken as a whole, lacks serious literary, artistic, political, or scientific value.
 - A mother's breastfeeding of her baby is not under any circumstance "obscene."
- (11) "Person" includes individuals, children, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.
- (12) "Sadism" means sexual gratification achieved through, or the association of sexual activity with, the infliction of physical pain, suffering, humiliation, torture, or death upon another person or an animal.
- (13) "Sadomasochistic abuse" means flagellation or torture by or upon a person or animal, or the condition of being fettered, bound, or otherwise physically restrained, for the purpose of deriving sexual satisfaction, or satisfaction brought about as a result of sadistic violence, from inflicting harm on another or receiving such harm oneself.
- (14) "Sexual battery" means oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, "sexual battery" does not include an act done for a bona fide medical purpose.

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- (15) "Sexual bestiality" means any sexual act, actual or simulated, between a person and an animal involving the sex organ of the one and the mouth, anus, or vagina of the other.
- (16) "Sexual conduct" means actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, or sadomasochistic abuse; actual 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."
- (17) "Sexual excitement" means the condition of the human male or female genitals when in a state of sexual stimulation or arousal.
- (18) "Sexually oriented material" means any book, article, magazine, publication, or written matter of any kind or any drawing, etching, painting, photograph, motion picture film, or sound recording that depicts sexual activity, actual or simulated, involving human beings or human beings and animals, that exhibits uncovered human genitals or the pubic region in a lewd or lascivious manner, or that exhibits human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- (19) "Simulated" means the explicit depiction of conduct described in subsection (16) which creates the appearance of such conduct and which exhibits any uncovered portion of the breasts, genitals, or buttocks.
- (20) "Specific sexual activities" includes the following sexual activities and the exhibition of the following anatomical areas:
 - (a) Human genitals in the state of sexual stimulation or arousal.
 - (b) Acts of human masturbation, sexual intercourse, sodomy, cunnilingus, fellatio, or any excretory function, or representation thereof.
 - (c) The fondling or erotic touching of human genitals, the pubic region, the buttocks, or the female breasts.
 - (d) Less than completely and opaquely covered:
 - 1. Human genitals or the pubic region.
 - 2. Buttocks.
 - 3. Female breasts below the top of the areola.
 - 4. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

§ 847.002. Child pornography prosecutions

- (1) Any law enforcement officer who, pursuant to a criminal investigation, recovers images or movies of child pornography shall:
 - (a) Provide such images or movies to the law enforcement agency representative assigned to the Child Victim Identification Program at the National Center for Missing and Exploited Children, as required by the center's guidelines.

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- (b) Request the law enforcement agency contact information from the Child Victim Identification Program for any images or movies recovered which contain an identified victim of child pornography as defined in s. 960.03.
- (c) Provide case information to the Child Victim Identification Program, as required by the National Center for Missing and Exploited Children guidelines, in any case where the law enforcement officer identifies a previously unidentified victim of child pornography.
- (2) Any law enforcement officer submitting a case for prosecution which involves the production, promotion, or possession of child pornography shall submit to the designated prosecutor the law enforcement agency contact information provided by the Child Victim Identification Program at the National Center for Missing and Exploited Children, for any images or movies involved in the case which contain the depiction of an identified victim of child pornography as defined in s. 960.03.
- (3) In every filed case involving an identified victim of child pornography, as defined in s. 960.03, the prosecuting agency shall enter the following information into the Victims in Child Pornography Tracking Repeat Exploitation database maintained by the Office of the Attorney General:
 - (a) The case number and agency file number.
 - (b) The named defendant.
 - (c) The circuit court division and county.
 - (d) Current court dates and the status of the case.
 - (e) Contact information for the prosecutor assigned.
 - (f) Verification that the prosecutor is or is not in possession of a victim impact statement and will use the statement in sentencing.

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

- (1)
 - (a) Except as provided in paragraph (c), any person who knowingly sells, lends, gives away, distributes, transmits, shows, or transmutes, or offers to sell, lend, give away, distribute, transmit, show, or transmute, or has in his or her possession, custody, or control with intent to sell, lend, give away, distribute, transmit, show, transmute, or advertise in any manner, any obscene book, magazine, periodical, pamphlet, newspaper, comic book, story paper, written or printed story or article, writing, paper, card, picture, drawing, photograph, motion picture film, figure, image, phonograph record, or wire or tape or other recording, or any written, printed, or recorded matter of any such character which may or may not require mechanical or other means to be transmuted into auditory, visual, or sensory representations of such character, or any article or instrument for obscene use, or purporting to be for obscene use or purpose; or who knowingly designs, copies, draws, photographs, poses for, writes, prints, publishes, or in any manner whatsoever manufactures or prepares any such material, matter, article, or thing of any such character; or who knowingly writes, prints, publishes, or utters, or causes to be written, printed, published, or uttered, any advertisement or notice of any kind, giving information, directly or indirectly, stating, or purporting to state, where, how, of whom, or by what means any, or what purports to be any, such material,

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matter, article, or thing of any such character can be purchased, obtained, or had; or who in any manner knowingly hires, employs, uses, or permits any person knowingly to do or assist in doing any act or thing mentioned above, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. A person who, after having been convicted of a violation of this subsection, thereafter violates any of its provisions, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

- (b) The knowing possession by any person of three or more identical or similar materials, matters, articles, or things coming within the provisions of paragraph (a) is prima facie evidence of the violation of the paragraph.
- (c) A person who commits a violation of paragraph (a) or subsection (2) which is based on materials that depict a minor engaged in any act or conduct that is harmful to minors commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
- (d) A person's ignorance of a minor's age, a minor's misrepresentation of his or her age, a bona fide belief of a minor's age, or a minor's consent may not be raised as a defense in a prosecution for one or more violations of paragraph (a) or subsection (2).
- (2) Except as provided in paragraph (1)(c), a person who knowingly has in his or her possession, custody, or control any obscene book, magazine, periodical, pamphlet, newspaper, comic book, story paper, written or printed story or article, writing, paper, card, picture, drawing, photograph, motion picture film, film, any sticker, decal, emblem or other device attached to a motor vehicle containing obscene descriptions, photographs, or depictions, any figure, image, phonograph record, or wire or tape or other recording, or any written, printed, or recorded matter of any such character which may or may not require mechanical or other means to be transmuted into auditory, visual, or sensory representations of such character, or any article or instrument for obscene use, or purporting to be for obscene use or purpose, without intent to sell, lend, give away, distribute, transmit, show, transmute, or advertise the same, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. A person who, after having been convicted of violating this subsection, thereafter violates any of its provisions commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. In any prosecution for such possession, it is not necessary to allege or prove the absence of such intent.
- (3) No person shall as a condition to a sale, allocation, consignment, or delivery for resale of any paper, magazine, book, periodical, or publication require that the purchaser or consignee receive for resale any other article, paper, magazine, book, periodical, or publication reasonably believed by the purchaser or consignee to be obscene, and no person shall deny or threaten to deny or revoke any franchise or impose or threaten to impose any penalty, financial or otherwise, by reason of the failure of any person to accept any such article, paper, magazine, book, periodical, or publication, or by reason of the return thereof. Whoever violates this subsection is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
- (4) Any person who knowingly promotes, conducts, performs, or participates in an obscene show, exhibition, or performance by live persons or a live person before an

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audience is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Any person who, after having been convicted of violating this subsection, thereafter violates any of its provisions and is convicted thereof is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

- (5) Every act, thing, or transaction forbidden by this section shall constitute a separate offense and shall be punishable as such.
- (6) Proof that a defendant knowingly committed any act or engaged in any conduct referred to in this section may be made by showing that at the time such act was committed or conduct engaged in the defendant had actual knowledge of the contents or character of the material, matter, article, or thing possessed or otherwise dealt with, by showing facts and circumstances from which it may fairly be inferred that he or she had such knowledge, or by showing that he or she had knowledge of such facts and circumstances as would put a person of ordinary intelligence and caution on inquiry as to such contents or character.
- (7) There shall be no right of property in any of the materials, matters, articles, or things possessed or otherwise dealt with in violation of this section; and, upon the seizure of any such material, matter, article, or thing by any authorized law enforcement officer, the same shall be held by the arresting agency. When the same is no longer required as evidence, the prosecuting officer or any claimant may move the court in writing for the disposition of the same and, after notice and hearing, the court, if it finds the same to have been possessed or otherwise dealt with in violation of this section, shall order the sheriff to destroy the same in the presence of the clerk; otherwise, the court shall order the same returned to the claimant if the claimant shows that he or she is entitled to possession. If destruction is ordered, the sheriff and clerk shall file a certificate of compliance.
- (8)
 - (a) The circuit court has jurisdiction to enjoin a threatened violation of this section upon complaint filed by the state attorney or attorney for a municipality in the name of the state upon the relation of such state attorney or attorney for a municipality.
 - (b) After the filing of such a complaint, the judge to whom it is presented may grant an order restraining the person complained of until final hearing or further order of the court. Whenever the relator state attorney or attorney for a municipality requests a judge of such court to set a hearing upon an application for such a restraining order, such judge shall set such hearing for a time within 3 days after the making of such request. No such order shall be made unless such judge is satisfied that sufficient notice of the application therefor has been given to the party restrained of the time when and place where the application for such restraining order is to be made; however, such notice shall be dispensed with when it is manifest to such judge, from the sworn allegations of the complaint or the affidavit of the plaintiff or other competent person, that the apprehended violation will be committed if an immediate remedy is not afforded.
 - (c) The person sought to be enjoined shall be entitled to a trial of the issues within 1 day after joinder of issue, and a decision shall be rendered by the court within 2 days of the conclusion of the trial.

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- (d) In any action brought as provided in this subsection, no bond or undertaking shall be required of the state attorney or the municipality or its attorney before the issuance of a restraining order provided for by paragraph (b), and there shall be no liability on the part of the state or the state attorney or the municipality or its attorney for costs or for damages sustained by reason of such restraining order in any case where a final decree is rendered in favor of the person sought to be enjoined.
- (e) Every person who has possession, custody, or control of, or otherwise deals with, any of the materials, matters, articles, or things described in this section, after the service upon him or her of a summons and complaint in an action for injunction brought under this subsection, is chargeable with knowledge of the contents and character thereof.
- (9) The several sheriffs and state attorneys shall vigorously enforce this section within their respective jurisdictions.
- (10) This section shall not apply to the exhibition of motion picture films permitted by s. 847.013.

§ 847.012. Harmful materials; sale or distribution to minors or using minors in production prohibited; penalty

- (1) As used in this section, "knowingly" means having the general knowledge of, reason to know, or a belief or ground for belief which warrants further inspection or inquiry of both:
 - (a) The character and content of any material described in this section which is reasonably susceptible of examination by the defendant; and
 - (b) The age of the minor.
- (2) A person's ignorance of a minor's age, a minor's misrepresentation of his or her age, a bona fide belief of a minor's age, or a minor's consent may not be raised as a defense in a prosecution for a violation of this section.
- (3) A person may not knowingly sell, rent, or loan for monetary consideration to a minor:
 - (a) Any picture, photograph, drawing, sculpture, motion picture film, videocassette, or similar visual representation or image of a person or portion of the human body which depicts nudity or sexual conduct, sexual excitement, sexual battery, bestiality, or sadomasochistic abuse and which is harmful to minors; or
 - (b) Any book, pamphlet, magazine, printed matter however reproduced, or sound recording that contains any matter defined in s. 847.001, explicit and detailed verbal descriptions or narrative accounts of sexual excitement, or sexual conduct and that is harmful to minors.
- (4) A person may not knowingly use a minor in the production of any material described in subsection (3), regardless of whether the material is intended for distribution to minors or is actually distributed to minors.
- (5) Any person violating any provision of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
- (6) Every act, thing, or transaction forbidden by this section constitutes a separate offense and is punishable as such.

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- (7)
 - (a) The circuit court has jurisdiction to enjoin a violation of this section upon complaint filed by the state attorney in the name of the state upon the relation of such state attorney.
 - (b) After the filing of such a complaint, the judge to whom it is presented may grant an order restraining the person complained of until final hearing or further order of the court. Whenever the relator state attorney requests a judge of such court to set a hearing upon an application for a restraining order, the judge shall set the hearing for a time within 3 days after the making of the request. The order may not be made unless the judge is satisfied that sufficient notice of the application therefor has been given to the party restrained of the time when and place where the application for the restraining order is to be made.
 - (c) The person sought to be enjoined is entitled to a trial of the issues within 1 day after joinder of issue, and a decision shall be rendered by the court within 2 days after the conclusion of the trial.
 - (d) If a final decree of injunction is entered, it must contain a provision directing the defendant having the possession, custody, or control of the materials, matters, articles, or things affected by the injunction to surrender the same to the sheriff and requiring the sheriff to seize and destroy the same. The sheriff shall file a certificate of her or his compliance.
 - (e) In any action brought as provided in this section, a bond or undertaking may not be required of the state or the state attorney before the issuance of a restraining order provided for by paragraph (b), and the state or the state attorney may not be held liable for costs or for damages sustained by reason of the restraining order in any case where a final decree is rendered in favor of the person sought to be enjoined.
 - (f) Every person who has possession, custody, or control of, or otherwise deals with, any of the materials, matters, articles, or things described in this section, after the service upon her or him of a summons and complaint in an action for injunction brought under this section, is chargeable with knowledge of the contents and character thereof.
- (8) The several sheriffs and state attorneys shall vigorously enforce this section within their respective jurisdictions.
- (9) This section does not apply to the exhibition of motion pictures, shows, presentations, or other representations regulated under s. 847.013.

§ 847.0125. Retail display of materials harmful to minors prohibited

- (1) "*Knowingly*" defined.. -- As used in this section, "knowingly" means having general knowledge of, reason to know, or a belief or ground for belief which warrants further inspection or inquiry of both:
 - (a) The character and content of any material described herein which is reasonably susceptible of examination by the defendant, and

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- (b) The age of the minor; however, an honest mistake shall constitute an excuse from liability hereunder if the defendant made a reasonable bona fide attempt to ascertain the true age of such minor.
- (2) *Offenses and penalties.*
 - (a) It is unlawful for anyone offering for sale in a retail establishment open to the general public any book, magazine, or other printed material, the cover of which depicts material which is harmful to minors, to knowingly exhibit such book, magazine, or material in such establishment in such a way that it is on open display to, or within the convenient reach of, minors who may frequent the retail establishment. Such items shall, however, be displayed, either individually or collectively, behind an opaque covering which conceals the book, magazine, or other printed material.
 - (b) It is unlawful for anyone offering for sale in a retail establishment open to the general public any book, magazine, or other printed material, the content of which exploits, is devoted to, or is principally made up of descriptions or depictions of material which is harmful to minors, to knowingly exhibit such book, magazine, or material in such establishment in such a way that it is within the convenient reach of minors who may frequent the retail establishment.
 - (c) A violation of any provision of this section constitutes a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

§ 847.013. Exposing minors to harmful motion pictures, exhibitions, shows, presentations, or representations

- (1) *"Knowingly" defined.* -- As used in this section "knowingly" means having general knowledge of, reason to know, or a belief or ground for belief which warrants further inspection or inquiry of both:
 - (a) The character and content of any motion picture described herein which is reasonably susceptible of examination by the defendant, or the character of any exhibition, presentation, representation, or show described herein, other than a motion picture show, which is reasonably susceptible of being ascertained by the defendant; and
 - (b) The age of the minor.
- (2) *Minor's age.* -- A person's ignorance of a minor's age, a minor's misrepresentation of his or her age, a bona fide belief of a minor's age, or a minor's consent may not be raised as a defense in a prosecution for a violation of this section.
- (3) *Offenses and penalties.*
 - (a) A person may not knowingly exhibit for a monetary consideration to a minor or knowingly sell or rent a videotape of a motion picture to a minor or knowingly sell to a minor an admission ticket or pass or knowingly admit a minor for a monetary consideration to premises whereon there is exhibited a motion picture, exhibition, show, representation, or other presentation which, in whole or in part, depicts nudity, sexual conduct, sexual excitement, sexual battery, bestiality, or sadomasochistic abuse and which is harmful to minors.

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- (b) A person may not knowingly rent or sell, or loan to a minor for monetary consideration, a videocassette or a videotape of a motion picture, or similar presentation, which, in whole or in part, depicts nudity, sexual conduct, sexual excitement, sexual battery, bestiality, or sadomasochistic abuse and which is harmful to minors.
- (c) The provisions of paragraph (a) do not apply to a minor when the minor is accompanied by his or her parents or either of them.
- (d) A minor may not falsely represent to the owner of any premises mentioned in paragraph (a), or to the owner's agent, or to any person mentioned in paragraph (b), that the minor is 17 years of age or older, with the intent to procure the minor's admission to such premises, or the minor's purchase or rental of a videotape, for a monetary consideration.
- (e) A person may not knowingly make a false representation to the owner of any premises mentioned in paragraph (a), or to the owner's agent, or to any person mentioned in paragraph (b), that he or she is the parent of any minor or that any minor is 17 years of age or older, with intent to procure the minor's admission to the premises or to aid the minor in procuring admission thereto, or to aid or enable the minor's purchase or rental of a videotape, for a monetary consideration.
- (f) A violation of any provision of this subsection constitutes a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.
- (4) *Injunctive proceedings.*
 - (a) The circuit court has jurisdiction to enjoin a threatened violation of subsection (2) upon complaint filed by the state attorney in the name of the state upon the relation of such state attorney.
 - (b) After the filing of such a complaint, the judge to whom it is presented may grant an order restraining the person or persons complained of until final hearing or further order of the court. Whenever the relator requests a judge of the court to set a hearing upon an application for a restraining order, the judge shall set the hearing for a time within 3 days after the making of the request. An order may not be made unless the judge is satisfied that sufficient notice of the application therefor has been given to the person or persons restrained of the time when and place where the application for the restraining order is to be heard. However, the notice shall be dispensed with when it is manifest to the judge, from the allegations of a sworn complaint or independent affidavit, sworn to by the relator or by some person associated with him or her in the field of law enforcement and filed by the relator, that the apprehended violation will be committed if an immediate remedy is not afforded.
 - (c) The person or persons sought to be enjoined are entitled to a trial of the issues within 1 day after joinder of issue, and a decision shall be rendered by the court within 2 days after the conclusion of the trial.
 - (d) In any action brought as provided in this section, a bond or undertaking is not required of the state or the relator state attorney before the issuance of a restraining order provided for by this section, and there is no liability on the part of the state or the relator state attorney for costs or damages sustained by reason of such restraining order in any case in which a final decree is rendered in favor of the person or persons sought to be enjoined.

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- (e) Every person who has possession, custody, or control of, or otherwise deals with, any motion picture, exhibition, show, representation, or presentation described in this section, after the service upon him or her of a summons and complaint in an action for injunction brought under this section, is chargeable with knowledge of the contents or character thereof.
- (5) *Legislative intent.* -- In order to make the application and enforcement of this section uniform throughout the state, it is the intent of the Legislature to preempt the field, to the exclusion of counties and municipalities, insofar as it concerns exposing persons under 17 years of age to harmful motion pictures, exhibitions, shows, representations, presentations, and commercial or sexual exploitation. To that end, it is hereby declared that every county ordinance and every municipal ordinance adopted prior to July 1, 1969, and relating to such subject shall stand abrogated and unenforceable on and after such date and that no county, municipality, or consolidated county-municipal government shall have the power to adopt any ordinance relating to that subject on or after such effective date.

§ 847.0133. Protection of minors; prohibition of certain acts in connection with obscenity; penalty

- (1) A person may not knowingly sell, rent, loan, give away, distribute, transmit, or show any obscene material to a minor. For purposes of this section "obscene material" means any obscene book, magazine, periodical, pamphlet, newspaper, comic book, story paper, written or printed story or article, writing paper, card, picture, drawing, photograph, motion picture film, figure, image, videotape, videocassette, phonograph record, or wire or tape or other recording, or any written, printed, or recorded matter of any such character which may or may not require mechanical or other means to be transmuted into auditory, visual, or sensory representations of such character, or any article or instrument for obscene use, or purporting to be for obscene use or purpose. The term "obscene" has the same meaning as set forth in s. 847.001.
- (2) As used in this section "knowingly" has the same meaning set forth in s. 847.012(1). A "minor" is any person under the age of 18 years.
- (3) A violation of the provisions of this section constitutes a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

§ 847.0134. Prohibition of adult entertainment establishment that displays, sells, or distributes materials harmful to minors within 2,500 feet of a school

- (1) Except for those establishments that are legally operating or have been granted a permit from a local government to operate as adult entertainment establishments on or before July 1, 2001, an adult entertainment establishment that sells, rents, loans, distributes, transmits, shows, or exhibits any obscene material, as described in s. 847.0133, or presents live entertainment or a motion picture, slide, or other exhibit that, in whole or in part, depicts nudity, sexual conduct, sexual excitement, sexual battery, sexual bestiality, or sadomasochistic abuse and that is harmful to

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minors, as described in s. 847.001, may not be located within 2,500 feet of the real property that comprises a public or private elementary school, middle school, or secondary school unless the county or municipality approves the location under proceedings as provided in s. 125.66(4) for counties or s. 166.041(3)(c) for municipalities.

- (2) A violation of this section constitutes a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

§ 847.0135. Computer pornography; traveling to meet minor; penalties

- (1) *Short title.* -- This section shall be known and may be cited as the "Computer Pornography and Child Exploitation Prevention Act."
- (2) *Computer pornography.* -- A person who:
 - (a) Knowingly compiles, enters into, or transmits by use of computer;
 - (b) Makes, prints, publishes, or reproduces by other computerized means;
 - (c) Knowingly causes or allows to be entered into or transmitted by use of computer; or
 - (d) Buys, sells, receives, exchanges, or disseminates,
 - any notice, statement, or advertisement of any minor's name, telephone number, place of residence, physical characteristics, or other descriptive or identifying information for purposes of facilitating, encouraging, offering, or soliciting sexual conduct of or with any minor, or the visual depiction of such conduct, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The fact that an undercover operative or law enforcement officer was involved in the detection and investigation of an offense under this section shall not constitute a defense to a prosecution under this section.
- (3) *Certain uses of computer services or devices prohibited.* -- Any person who knowingly uses a computer online service, Internet service, local bulletin board service, or any other device capable of electronic data storage or transmission to:
 - (a) Seduce, solicit, lure, or entice, or attempt to seduce, solicit, lure, or entice, a child or another person believed by the person to be a child, to commit any illegal act described in chapter 794, chapter 800, or chapter 827, or to otherwise engage in any unlawful sexual conduct with a child or with another person believed by the person to be a child; or
 - (b) Solicit, lure, or entice, or attempt to solicit, lure, or entice a parent, legal guardian, or custodian of a child or a person believed to be a parent, legal guardian, or custodian of a child to consent to the participation of such child in any act described in chapter 794, chapter 800, or chapter 827, or to otherwise engage in any sexual conduct,
 - commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Any person who, in violating this subsection, misrepresents his or her age, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Each separate use of a computer online service, Internet service, local bulletin board service, or any other device capable of electronic data storage or transmission wherein

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an offense described in this section is committed may be charged as a separate offense.

- (4) *Traveling to meet a minor.* -- Any person who travels any distance either within this state, to this state, or from this state by any means, who attempts to do so, or who causes another to do so or to attempt to do so for the purpose of engaging in any illegal act described in chapter 794, chapter 800, or chapter 827, or to otherwise engage in other unlawful sexual conduct with a child or with another person believed by the person to be a child after using a computer online service, Internet service, local bulletin board service, or any other device capable of electronic data storage or transmission to:
 - (a) Seduce, solicit, lure, or entice or attempt to seduce, solicit, lure, or entice a child or another person believed by the person to be a child, to engage in any illegal act described in chapter 794, chapter 800, or chapter 827, or to otherwise engage in other unlawful sexual conduct with a child; or
 - (b) Solicit, lure, or entice or attempt to solicit, lure, or entice a parent, legal guardian, or custodian of a child or a person believed to be a parent, legal guardian, or custodian of a child to consent to the participation of such child in any act described in chapter 794, chapter 800, or chapter 827, or to otherwise engage in any sexual conduct,
 - commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
- (5) *Certain computer transmissions prohibited.*
 - (a) A person who:
 - 1. Intentionally masturbates;
 - 2. Intentionally exposes the genitals in a lewd or lascivious manner; or
 - 3. Intentionally commits any other sexual act that does not involve actual physical or sexual contact with the victim, including, but not limited to, sadomasochistic abuse, sexual bestiality, or the simulation of any act involving sexual activity
 - live over a computer online service, Internet service, or local bulletin board service and who knows or should know or has reason to believe that the transmission is viewed on a computer or television monitor by a victim who is less than 16 years of age, commits lewd or lascivious exhibition in violation of this subsection. The fact that an undercover operative or law enforcement officer was involved in the detection and investigation of an offense under this subsection shall not constitute a defense to a prosecution under this subsection.
 - (b) An offender 18 years of age or older who commits a lewd or lascivious exhibition using a computer commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
 - (c) An offender less than 18 years of age who commits a lewd or lascivious exhibition using a computer commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
 - (d) A mother's breastfeeding of her baby does not under any circumstance constitute a violation of this subsection.
- (6) *Owners or operators of computer services liable.* -- It is unlawful for any owner or operator of a computer online service, Internet service, or local bulletin board service knowingly to permit a subscriber to use the service to commit a violation of

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this section. Any person who violates this section commits a misdemeanor of the first degree, punishable by a fine not exceeding \$ 2,000.

- (7) *State criminal jurisdiction.* -- A person is subject to prosecution in this state pursuant to chapter 910 for any conduct proscribed by this section which the person engages in, while either within or outside this state, if by such conduct the person commits a violation of this section involving a child, a child's guardian, or another person believed by the person to be a child or a child's guardian.
- (8) *Effect of prosecution.* -- Prosecution of any person for an offense under this section shall not prohibit prosecution of that person in this state or another jurisdiction for a violation of any law of this state, including a law providing for greater penalties than prescribed in this section or any other crime punishing the sexual performance or the sexual exploitation of children.

§ 847.01357. Exploited children's civil remedy

- (1) Any person who, while under the age of 18, was a victim of a sexual abuse crime listed in chapter 794, chapter 800, chapter 827, or chapter 847, where any portion of such abuse was used in the production of child pornography, and who suffers personal or psychological injury as a result of the production, promotion, or possession of such images or movies, may bring an action in an appropriate state court against the producer, promoter, or possessor of such images or movies, regardless of whether the victim is now an adult. In any action brought under this section, a prevailing plaintiff shall recover the actual damages such person sustained and the cost of the suit, including reasonable attorney's fees. Any victim who is awarded damages under this section shall be deemed to have sustained damages of at least \$ 150,000.
- (2) Notwithstanding any other provisions of law, any action commenced under this section must be filed within 3 years after the later of:
 - (a) The conclusion of a related criminal case;
 - (b) The notification to the victim by a member of a law enforcement agency of the creation, possession, or promotion of pornographic images; or
 - (c) In the case of a victim younger than 18, within 3 years after the person reaches the age of 18.
- (3) Any victim who has a bona fide claim under this section shall, upon request, be provided a pseudonym, pursuant to s. 92.56(3), which shall be issued and maintained by the Department of Legal Affairs for use in all legal pleadings. This identifier shall be fully recognized in all courts in this state as a valid legal identity.
- (4) It is not a defense to a civil cause of action under this section that the respondent did not know the victim or commit the abuse depicted in any image of child pornography.
- (5) To prevent the further exploitation of victims for monetary gain by any other person, at the victim's request and pursuant to agency approval, the Office of the Attorney General may pursue cases on behalf of any Florida victim under this section. All damages obtained shall go to the victim, and the Office of the Attorney General may seek reasonable attorney's fees and costs as authorized under this section.

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

- (1) For purposes of this section:
 - (a) "Minor" means any person less than 18 years of age.
 - (b) "Transmit" means the act of sending and causing to be delivered any image, information, or data from one or more persons or places to one or more other persons or places over or through any medium, including the Internet, by use of any electronic equipment or device.
- (2) Notwithstanding ss. 847.012 and 847.0133, any person in this state who knew or reasonably should have known that he or she was transmitting child pornography, as defined in s. 847.001, to another person in this state or in another jurisdiction commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
- (3) Notwithstanding ss. 847.012 and 847.0133, any person in any jurisdiction other than this state who knew or reasonably should have known that he or she was transmitting child pornography, as defined in s. 847.001, to any person in this state commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
- (4) This section shall not be construed to prohibit prosecution of a person in this state or another jurisdiction for a violation of any law of this state, including a law providing for greater penalties than prescribed in this section, for the transmission of child pornography, as defined in s. 847.001, to any person in this state.
- (5) A person is subject to prosecution in this state pursuant to chapter 910 for any act or conduct proscribed by this section, including a person in a jurisdiction other than this state, if the act or conduct violates subsection (3).
- The provisions of this section do not apply to subscription-based transmissions such as list servers.

§ 847.0138. Transmission of material harmful to minors to a minor by electronic device or equipment prohibited; penalties

- (1) For purposes of this section:
 - (a) "Known by the defendant to be a minor" means that the defendant had actual knowledge or believed that the recipient of the communication was a minor.
 - (b) "Transmit" means to send to a specific individual known by the defendant to be a minor via electronic mail.
- (2) Notwithstanding ss. 847.012 and 847.0133, any person who knew or believed that he or she was transmitting an image, information, or data that is harmful to minors, as defined in s. 847.001, to a specific individual known by the defendant to be a minor commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
- (3) Notwithstanding ss. 847.012 and 847.0133, any person in any jurisdiction other than this state who knew or believed that he or she was transmitting an image, information, or data that is harmful to minors, as defined in s. 847.001, to a specific individual known by the defendant to be a minor commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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

§ 847.0139. Immunity from civil liability for reporting child pornography, transmission of child pornography, or any image, information, or data harmful to minors to a minor in this state

Any person who reports to a law enforcement officer what the person reasonably believes to be child pornography, transmission of child pornography, or any image, information, or data that is harmful to minors to a minor in this state may not be held civilly liable for such reporting. For purposes of this section, such reporting may include furnishing the law enforcement officer with any image, information, or data that the person reasonably believes to be evidence of child pornography, transmission of child pornography, or an image, information, or data that is harmful to minors to a minor in this state.

§ 847.0141. Sexting; prohibited acts; penalties

- (1) A minor commits the offense of sexting if he or she knowingly:
 - (a) Uses a computer, or any other device capable of electronic data transmission or distribution, to transmit or distribute to another minor any photograph or video of any person which depicts nudity, as defined in s. 847.001(9), and is harmful to minors, as defined in s. 847.001(6).
 - (b) Possesses a photograph or video of any person that was transmitted or distributed by another minor which depicts nudity, as defined in s. 847.001(9), and is harmful to minors, as defined in s. 847.001(6). A minor does not violate this paragraph if all of the following apply:
 - 1. The minor did not solicit the photograph or video.
 - 2. The minor took reasonable steps to report the photograph or video to the minor's legal guardian or to a school or law enforcement official.
 - 3. The minor did not transmit or distribute the photograph or video to a third party.
- (2)
 - (a) The transmission or distribution of multiple photographs or videos prohibited by paragraph (1)(a) is a single offense if the photographs or videos were transmitted or distributed within the same 24-hour period.
 - (b) The possession of multiple photographs or videos that were transmitted or distributed by a minor prohibited by paragraph (1)(b) is a single offense if the photographs or videos were transmitted or distributed by a minor in the same 24-hour period.
- (3) A minor who violates subsection (1):
 - (a) Commits a noncriminal violation for a first violation, punishable by 8 hours of community service or, if ordered by the court in lieu of community service, a \$ 60 fine. The court may also order the minor to participate in suitable training or instruction in lieu of, or in addition to, community service or a fine.
 - (b) Commits a misdemeanor of the first degree for a violation that occurs after being found to have committed a noncriminal violation for sexting, punishable as provided in s. 775.082 or s. 775.083.

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- (c) Commits a felony of the third degree for a violation that occurs after being found to have committed a misdemeanor of the first degree for sexting, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
- (4) This section does not prohibit the prosecution of a minor for a violation of any law of this state if the photograph or video that depicts nudity also includes the depiction of sexual conduct or sexual excitement, and does not prohibit the prosecution of a minor for stalking under s. 784.048.
- (5) As used in this section, the term "found to have committed" means a determination of guilt that is the result of a plea or trial, or a finding of delinquency that is the result of a plea or an adjudicatory hearing, regardless of whether adjudication is withheld.

§ 847.0145. Selling or buying of minors; penalties

- (1) Any parent, legal guardian, or other person having custody or control of a minor who sells or otherwise transfers custody or control of such minor, or offers to sell or otherwise transfer custody of such minor, either:
 - (a) With knowledge that, as a consequence of the sale or transfer, the minor will be portrayed in a visual depiction engaging in, or assisting another person to engage in, sexually explicit conduct; or
 - (b) With intent to promote either:
 - 1. The engaging in of sexually explicit conduct by such minor for the purpose of producing any visual depiction of such conduct; or
 - 2. The rendering of assistance by the minor to any other person to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct;
 - shall be guilty of a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
- (2) Whoever purchases or otherwise obtains custody or control of a minor, or offers to purchase or otherwise obtain custody or control of a minor, either:
 - (a) With knowledge that, as a consequence of the purchase or obtaining of custody, the minor will be portrayed in a visual depiction engaging in, or assisting another person to engage in, sexually explicit conduct;
 - (b) With intent to promote either:
 - 1. The engaging in of sexually explicit conduct by such minor for the purpose of producing any visual depiction of such conduct; or
 - 2. The rendering of assistance by the minor to any other person to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct;
 - shall be guilty of a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

§ 847.0147. Obscene telephone service prohibited; penalty

- (1) It is unlawful for any telephone subscriber to sell, offer for sale, or transmit, over telephone lines, any obscene material or message described and promoted as "adult"

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and of a nature which is commonly understood to be for the purposes of sexually oriented entertainment.

- (2) Any person who violates the provisions of this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

§ 847.02. Confiscation of obscene material

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

§ 847.03. Officer to seize obscene material

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

§ 847.06. Obscene matter; transportation into state prohibited; penalty

- (1) Whoever knowingly transports into the state or within the state for the purpose of sale or distribution any obscene book; magazine; periodical; pamphlet; newspaper; comic book; story; paper; written or printed story or article; writing; paper; card; picture; drawing; photograph; motion picture film; figure; image; phonograph record, or wire or tape or other recording, or other article capable of producing sound; or any other matter of obscene character shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.
- (2) When any person is convicted of a violation of this section, the court in its judgment of conviction may, in addition to the penalty prescribed, order the confiscation and disposal of such items described herein which were found in the possession or under the immediate control of such person at the time of his or her arrest.

§ 847.07. Wholesale promotion of obscene materials; penalties

- (1) As used in this section, "wholesale promote" means to manufacture, issue, sell, provide, deliver, transfer, transmit, publish, distribute, circulate, or disseminate, or offer or agree to do the same, with or without consideration, for purposes of resale or redistribution.
- (2) Any person who knowingly wholesale promotes any obscene matter or performance, or in any manner knowingly hires, employs, uses, or permits any

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person to wholesale promote or assist in wholesale promoting any obscene matter or performance, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

- (3) No person shall, as a condition to sale, allocation, consignment, or delivery for resale of any matter or performance, require that the purchaser or consignee receive for resale any other matter or performance reasonably believed by the purchaser or consignee to be obscene; and no person shall deny or revoke any franchise, or threaten to do so, or impose or threaten to impose any penalty, financial or otherwise, by reason of the refusal or failure of any person to accept any such matter or by reason of the return thereof. Whoever violates this subsection is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

§ 847.09. Legislative intent

- (1) In order to make the application and enforcement of ss. 847.07-847.09 uniform throughout the state, it is the intent of the Legislature to preempt the field, to the exclusion of counties and municipalities, insofar as it concerns exposing persons over 17 years of age to harmful motion pictures, exhibitions, shows, representations, and presentations. To that end, it is hereby declared that every county ordinance and every municipal ordinance adopted prior to July 1, 1973, and relating to said subject shall stand abrogated and unenforceable on and after such date and that no county, municipality, or consolidated county-municipal government shall have the power to adopt any ordinance relating to the subject on or after such effective date. If ss. 847.07-847.09 are declared to be illegal, unconstitutional, or otherwise unenforceable, any county or municipal ordinance abrogated before ss. 847.07-847.09 were declared unconstitutional shall be in full force and effect, and each county, municipality, and consolidated county-municipal government shall have the power to adopt ordinances relating to this subject.
- (2) Nothing in ss. 847.07-847.09 shall be construed to repeal or in any way supersede the provisions of s. 847.011, s. 847.012, or s. 847.013.
- (3) Nothing herein shall be construed to limit the free exercise of free speech or picketing by any organization, group, or individual for the purpose of upholding community standards.

§ 847.201. Obscene programming on cable television during promotional period unlawful; penalty; applicability

- (1) It is unlawful for any owner or operator of any cable television service to provide on any basic cable channel during a promotional "free weekend" or other advertising period obscene programming or programming otherwise unprotected by the Constitution of the United States.
- (2) Any person who violates the provisions of subsection (1) is guilty of a misdemeanor of the first degree, punishable by a fine of up to \$ 2,000.
- (3) This section shall not apply to any owner or operator of any cable television service who:

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- (a) Provides to its subscribers of basic cable channels at least once annually, and to its new subscribers of basic cable channels at the time of subscription, at least 30 days' advance written notice that such aforesaid programming may be shown, which notice shall include the dates and times such programming may be shown; and
- (b) Upon request of the subscribers of basic cable channels and during such promotional period, electronically "locks out" the aforesaid programming from the basic cable channels so that it is not received in the television receivers of such subscribers requesting not to receive such programming, or makes available at no cost to the subscribers of basic cable channels parental control devices, sometimes known as "lock boxes," which devices shall have the capability of "locking out" or denying reception to the television receivers of such aforesaid subscribers requesting same.

§ 847.202. Video movie; official rating of motion picture

- (1) As used in this section, the term:
 - (a) "Official rating" means an official rating of the Motion Picture Association of America, and the Film Advisory Board, Inc., or any other official rating organization.
 - (b) "Person" means an individual, corporation, partnership, or any other legal or commercial entity.
 - (c) "Video movie" means a videotape or video disc copy of a motion picture film.
- (2) It is unlawful for a person to sell at retail, rent to another, attempt to sell at retail, or attempt to rent to another, a video movie in this state unless the official rating of the motion picture from which it is copied is clearly displayed on the outside of its cassette, case, jacket, or other covering. If the motion picture from which the video movie is copied has no official rating or if the video movie has been altered so that its content materially differs from the motion picture, such video movie shall be clearly and prominently marked as "N.R." or "Not Rated." Any person who violates the provisions of this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

§ 823.13. Places where obscene materials are illegally kept, sold, or used declared a public nuisance; drive-in theaters, films visible from public streets or public places

- (1) Any store, shop, warehouse, building, vehicle, ship, boat, vessel, aircraft, or any place whatever, which is visited by persons for the purpose of unlawfully purchasing or viewing any obscene material or performance as described in chapter 847, or which is used for the illegal keeping, selling, or delivering of the same, shall be deemed a public nuisance. No person shall keep or maintain such public nuisance or aid and abet another in keeping or maintaining such public nuisance.
- (2) It shall be unlawful and is hereby declared a public nuisance for any ticket seller, ticket taker, usher, motion picture projection machine operator, manager, owner, or

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any other person connected with or employed by any drive-in theater in the state to knowingly exhibit, or aid or assist in exhibiting, any motion picture, slide, or other exhibit which depicts nudity which is harmful to minors as described in s. 847.013, if such motion picture, slide, or other exhibit is visible from any public street or public place, other than that place intended for the showing of such motion pictures, slides, or other exhibits.

§ 827.071. Sexual performance by a child; penalties

- (1) As used in this section, the following definitions shall apply:
 - (a) "Deviate sexual intercourse" means sexual conduct between persons not married to each other consisting of contact between the penis and the anus, the mouth and the penis, or the mouth and the vulva.
 - (b) "Intentionally view" means to deliberately, purposefully, and voluntarily view. Proof of intentional viewing requires establishing more than a single image, motion picture, exhibition, show, image, data, computer depiction, representation, or other presentation over any period of time.
 - (c) "Performance" means any play, motion picture, photograph, or dance or any other visual representation exhibited before an audience.
 - (d) "Promote" means to procure, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmute, publish, distribute, circulate, disseminate, present, exhibit, or advertise or to offer or agree to do the same.
 - (e) "Sodomasochistic abuse" means flagellation or torture by or upon a person, or the condition of being fettered, bound, or otherwise physically restrained, for the purpose of deriving sexual satisfaction from inflicting harm on another or receiving such harm oneself.
 - (f) "Sexual battery" means oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, "sexual battery" does not include an act done for a bona fide medical purpose.
 - (g) "Sexual bestiality" means any sexual act between a person and an animal involving the sex organ of the one and the mouth, anus, or vagina of the other.
 - (h) "Sexual conduct" means actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, or sodomasochistic abuse; actual 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."
 - (i) "Sexual performance" means any performance or part thereof which includes sexual conduct by a child of less than 18 years of age.
 - (j) "Simulated" means the explicit depiction of conduct set forth in paragraph (h) which creates the appearance of such conduct and which exhibits any uncovered portion of the breasts, genitals, or buttocks.

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- (2) A person is guilty of the use of a child in a sexual performance if, knowing the character and content thereof, he or she employs, authorizes, or induces a child less than 18 years of age to engage in a sexual performance or, being a parent, legal guardian, or custodian of such child, consents to the participation by such child in a sexual performance. Whoever violates this subsection is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
- (3) A person is guilty of promoting a sexual performance by a child when, knowing the character and content thereof, he or she produces, directs, or promotes any performance which includes sexual conduct by a child less than 18 years of age. Whoever violates this subsection is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
- (4) It is unlawful for any person to possess with the intent to promote any photograph, motion picture, exhibition, show, representation, or other presentation which, in whole or in part, includes any sexual conduct by a child. The possession of three or more copies of such photograph, motion picture, representation, or presentation is prima facie evidence of an intent to promote. Whoever violates this subsection is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
- (5)
 - (a) It is unlawful for any person to knowingly possess, control, or intentionally view a photograph, motion picture, exhibition, show, representation, image, data, computer depiction, or other presentation which, in whole or in part, he or she knows to include any sexual conduct by a child. The possession, control, or intentional viewing of each such photograph, motion picture, exhibition, show, image, data, computer depiction, representation, or presentation is a separate offense. A person who violates this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
 - (b) This subsection does not apply to material possessed, controlled, or intentionally viewed as part of a law enforcement investigation.
- (6) Prosecution of any person for an offense under this section shall not prohibit prosecution of that person in this state for a violation of any 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.

§ 933.03. Destruction of obscene prints and literature

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

§ 1013.22. Obscenity on educational buildings or vehicles

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(Last Updated Summer 2012)

Whoever willfully cuts, paints, pastes, marks, or defaces by writing or in any other manner any educational building, furniture, apparatus, appliance, outbuilding, ground, fence, tree, post, vehicle, or other educational property with an **obscene** word, image, or device commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. This section shall not apply to any student in grades K-12 subject to the discipline of a district school board.

§ 320.0805. Personalized prestige license plates

- (1) The department shall issue a personalized prestige license plate to the owner or lessee of any motor vehicle, except a vehicle registered under the International Registration Plan or a commercial truck required to display two license plates pursuant to s. 320.0706, upon application and payment of the appropriate license tax and fees.
- (2) Each request for specific numbers or letters or combinations thereof shall be submitted annually to the department on an application form supplied by the department, accompanied by the following tax and fees:
 - (a) The license tax required for the vehicle, as set forth in s. 320.08.
 - (b) A prestige plate annual use fee of \$ 10.
 - (c) A processing fee of \$ 5, to be deposited into the Highway Safety Operating Trust Fund.
- (3) The department shall review each application requesting a personalized prestige license plate and, if requested numerals or letters or combinations thereof have not been previously assigned or issued to any other applicant, and if the required tax and fees have been submitted, the department shall issue and deliver the requested personalized prestige license plate to the applicant.
- (4) The department is authorized to reject requests deemed by it to be objectionable, and the department is further authorized to recall, during a registration period, any issued personalized license plate determined by it to be **obscene** or otherwise objectionable.

§ 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;

FILTERING LAWS:

Compiled by Morality In Media. A project of the War on Illegal Pornography
For more information on Obscenity laws, visit www.WarOnIllegalPornography.com

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§ 257.12. Division of Library and Information Services authorized to accept and expend federal funds

(3) All public libraries are encouraged to adopt an Internet safety education program, including the implementation of a computer-based educational program, which has been endorsed by a government-sanctioned law enforcement agency or other reputable public safety advocacy organization and is designed for children and adults. The purpose of the Internet safety education program is to promote the use of prudent online deportment and broaden awareness of online predators. The program must be interactive and age-appropriate. Each library shall annually report to the division the annual number of program participants who complete the Internet safety education program. By April 1, 2010, the division shall adopt rules for rewarding those libraries in the program grant application process which have had 1 percent or more of their annual number of program participants, based on the total number of registered borrowers from the preceding year, complete the Internet safety education program adopted by the library. Program participants completing the program as a result of strategic partnerships or collaboration between the library and other entities shall be integrated into the library's annual report. The division shall adopt rules to allocate 10 percent of the total points available in the library services and technology grant application evaluation process to public libraries that are in compliance with this section, beginning with the grant application cycle for the 2011-2012 fiscal year.