

# **STATUTORY CHARTS AND SUMMARIES**

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# CHAPTER 827 CHILD ABUSE/NEGLECT

By ASA Dennis Nicewander, 17<sup>th</sup> Judicial Circuit - Web Site- <http://www.locatethelaw.org>

Offense	Statute	Age of Victim.	Age of Def.	Degree	Level	ACT
Aggravated Child Abuse	827.03(2)(a)	Less than 18	Any Age	1st	9	Commits aggravated child abuse
Felony Child Abuse	827.03(2)(c)	Less than 18	Any Age	3rd	6	Knowingly or willfully abuses a child without causing great bodily harm, permanent disability, or permanent disfigurement to the child
Neglect of a Child	827.03(2)(b)	Less than 18	Any Age	2 <sup>nd</sup>	7	Willfully or by culpable negligence neglects a child and in so doing causes great bodily harm, permanent disability, or permanent disfigurement to the child
Neglect of a Child	827.03(2)(d)	Less than 18	Any Age	3rd	6	Willfully or by culpable negligence neglects a child without causing great bodily harm, permanent disability, or permanent disfigurement to the child
Contributing to the Delinquency or Dependency of a Child	827.04(1)(a)	Less than 18	Any Age	1M	N/A	Commits any act which causes, tends to cause, encourages, or contributes to a child becoming a delinquent or dependent child or a child in need of services
	827.04(1)(b)	Less than 18	Any Age	1M	N/A	Induces or endeavors to induce, by act, threat, command, or persuasion, a child to commit or perform any act, follow any course of conduct, or live in a manner that causes or tends to cause such child to become or to remain a dependent or delinquent child or a child in need of services
Impregnating a Minor	827.04(3)	21 or older	Less than 16	3 <sup>rd</sup>	7	Impregnate in child

“Aggravated child abuse” occurs when a person:

1. Commits aggravated battery on a child;
2. Willfully tortures, maliciously punishes, or willfully and unlawfully cages a child; or
3. Knowingly or willfully abuses a child and in so doing causes great bodily harm, permanent disability, or permanent disfigurement to the child.

“Child abuse” means:

1. Intentional infliction of physical or mental injury upon a child;
2. An intentional act that could reasonably be expected to result in physical or mental injury to a child; or
3. Active encouragement of any person to commit an act that results or could reasonably be expected to result in physical or mental injury to a child.

“Neglect of a child” means:

1. A caregiver’s failure or omission to provide a child with the care, supervision, and services necessary to maintain the child’s physical and mental health, including, but not limited to, food, nutrition, clothing, shelter, supervision, medicine, and medical services that a prudent person would consider essential for the well-being of the child; or
2. A caregiver’s failure to make a reasonable effort to protect a child from abuse, neglect, or exploitation by another person.

# CHAPTERS 827.071 AND 847-CHILD PORN AND HARMFUL IMAGES

By ASA Dennis Nicewander, 17<sup>th</sup> Judicial Circuit - Web Site- <http://www.locatethelaw.org>

Offense	Statute	Age of Vict.	Age of Def.	Deg.	Lev.	ACT
Use of a Child in a Sexual Performance	827.071(2)	Less than 18	Any Age	2	6	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
Promoting a Sexual Performance by a Child	827.071(3)	Less than 18	Any Age	2	6	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.
Possession with Intent to Promote	827.071(4)	Less than 18	Any Age	2	5	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.
Sexual Performance by a Child-Possession	827.071(5)	Less than 18	Any Age	3	5	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.
Computer Pornography	847.0135(2)	Less than 18	Any Age	3	6	Knowingly compiles, enters into, or transmits by use of computer or knowingly causes or allows to be entered into or transmitted by use of computer child porn.
Transmission of Child Porn by Electronic Device	847.0137	Less than 18	Any Age	3	5	Knew or reasonably should have known that he or she was transmitting child pornography,
Transmission of Material Harmful to Minors by ED	847.0138	Less than 18	Any Age	3	5	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.
Providing Obscene Material to a Minor	847.0133	Less than 18	Any Age	3	1	Knowingly sell, rent, loan, give away, distribute, transmit, or show any obscene material to a minor.
Distribute Obscene Material Depicting a Minor	847.011(1)(c)	Less than 18	Any Age	3	6	Violation of standard obscenity law when image depicts a minor.

F.S. 775.0847 reclassifies violations of 827.071, 847.0135, 847.0137 and 847.0138 by one degree and one offense level when the offender has 10 or more images and at least one of them contains one or more of the following:

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

827.071(5) allows a separate charge for each image possessed.

827.071(2)(3) and (4) allow one count per transmission

If offender possesses one image or video that depicts multiple children, a separate Count can be filed for each child depicted.

# COMPUTER-RELATED OFFENSES PROTECTING CHILDREN

By Dennis Nicewander, Assistant State Attorney  
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Offense	Statute	Degree	ACT
<a href="#">Sexual Performance-Use of child in</a>	827.071(2)	2 <sup>nd</sup> L6	Employs, authorizes, or induces a child to engage in a sexual performance, or being a parent, legal guardian, or custodian of such child, consents to the participation by such child in a sexual performance.
<a href="#">Sexual Performance-Promoting a</a>	827.071(3)	2 <sup>nd</sup> L6	Produces, directs, or promotes any performance which includes sexual conduct by a child.
<a href="#">Sexual Performance-Possess with intent to promote</a>	827.071(4)	2 <sup>nd</sup> L5	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 image is prima facie evidence of an intent to promote.
<a href="#">Sexual Performance-Possession</a>	827.071(5)	3 <sup>rd</sup> L5	Possess a photograph, motion picture, exhibition, show, representation, or other presentation which in whole or in part, he or she knows to include any sexual conduct by a child. The possession of each picture is a separate offense.
<a href="#">Computer Pornography-</a>	847.0135(2)	3 <sup>rd</sup> L6	Compiles, enters into, or transmits by use of computer; makes, prints publishes, or reproduces by other computerized means; knowingly causes or allows to be entered into or transmitted by use of computer; or 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. Not a defense that undercover officer involved in detection. <b>See 2007 changes below</b>
<a href="#">Computer Pornography-Solicitation of a child</a>	847.0135(3)	3 <sup>rd</sup> L7	Knowingly utilize a computer on-line service, Internet service, or local bulleting board service or other electronic device 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,  Enhanced to 2nd degree if def. misrepresents age.
<a href="#">Traveling to Meet a Minor</a>	847.0135(4)(a) or (b)(parent)	2 <sup>nd</sup> L7	Any person who travels any distance to accomplish acts listed in 847.0135(3).
<a href="#">Lewd Exhibition</a>	847.0135(5)	2 <sup>nd</sup> L5	Masturbates or exhibits genitals in lewd manner live on the Internet. Ex. Webcam. Victim (or undercover agent) must be under 16 and located in Florida. Statute moved from 800.04(7) effective October 1, 2008.
<a href="#">Transmission of Pornography by Electronic Device (from</a>	847.0137(2)	3 <sup>rd</sup> L5	Any person in this state who knew or reasonably should have known that he or she was transmitting child pornography to another person in this state or in another jurisdiction.

<a href="#">within state)</a>			
<a href="#">Transmission of Pornography by Electronic Device (from outside state)</a>	847.0137(3)	3 <sup>rd</sup> L5	Any person in any jurisdiction other than this state who knew or reasonably should have known that he or she was transmitting child pornography to any person in this state.
<a href="#">Transmission of Material Harmful to Minors (sender and recipient in state)</a>	847.0138(2)	3 <sup>rd</sup> L5	Any person in this state who knew or believed that he or she was transmitting an image, information, or data that is harmful to minors, to a specific individual known by the defendant to be a minor in this state. Only applies to email and applies to cops posing as minors.
<a href="#">Transmission of Material Harmful to Minors (sender out of state and recipient in state)</a>	847.0138(3)	3 <sup>rd</sup> L5	Any person in any jurisdiction other than this state who knew or believed that he was transmitting an image, information, or data that is harmful to minors to a specific individual known by the defendant to be a minor in this state. Only applies to email and applies to cops posing as minors.
Felony Obscenity	847.011(1)(c)	3 <sup>rd</sup> L1	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

Note: Sentencing Levels increased for most of these offenses effective July 1, 2005. Sexual Performance from 1 to 5. Computer solicitation from 6 to 7.

Note: Effective October 1, 2007, the following changes take effect: (775.0847)

A violation of s. 827.071, s. 847.0135, s. 847.0137, or s. 847.0138 shall be reclassified to the next higher degree if: offender possesses 10 or more images of child pornography, regardless of content; and the content of at least one image contains one or more of the following:

- A child who is younger than 5 or Sadomasochistic abuse involving a child or Sexual battery involving a child or Sexual bestiality involving a child, or Any movie involving a child, regardless of length and regardless of whether the movie contains sound.

In addition to raising 3<sup>rd</sup> degree felonies to 2<sup>nd</sup> degree felonies and 2<sup>nd</sup> degree felonies to 1<sup>st</sup> degree felonies, each offense will be reclassified one level above the rankings in 921.0022 or 921.0023.

Adds F.S. 827.071(6) which authorizes dual punishments for offenses under this section and any other section.

#### **Changes to Computer Pornography – 847.0135 effective October 1, 2007**

Amends F.S. 847.0135(3) concerning the solicitation of children via the Internet to include the phrase, “or any other device capable of electronic data storage or transmission.” This will now make the statute applicable to things such as cell phone text messages.

Amends F.S. 847.0135(3)(a) to include phrase, “or to otherwise engage in any unlawful sexual conduct with a child or with another person believed by the person to be a child.”

Adds F.S. 847.0135(3)(b) to make it a third degree felony to solicit, lure or entice a parent, legal guardian or custodian of a child (or a person believed to be a parent etc...) to consent to participation of child in the various listed acts.

Reclassifies offenses where the offender misrepresents his age from 3<sup>rd</sup> degree felony to 2<sup>nd</sup> degree.

Also provides that each separate use of computer online service, etc... constitute a separate offense.

Adds F.S. 847.0135(4) to make it a 2<sup>nd</sup> degree felony for a person to travel to meet a child as described in previous sections. Reclassified to a level 7.

Adds F.S. 847.0135 (7) which authorizes dual punishments for offenses under this section and any other section.

# CHAPTER 847.0135

By ASA Dennis Nicewander, 17<sup>th</sup> Judicial Circuit - Web Site- <http://www.locatethelaw.org>

Offense	Statute	Age of Victim.	Age of Def.	Deg.	Lev.	ACT
Computer Pornography	847.0135(2)	Less than 18	Any age	3rd	6	(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, child porn.
Online Solicitation	847.0135(3)(a)	Depends on statute victim is solicited to commit	Any age	3rd*	7	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.
Online Solicitation-Parent	847.0135(3)(b)	Depends on statute victim is solicited to commit	Any age	3rd*	7	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
Traveling to Meet a Minor	847.0135(4)(a)	Depends	Any age	2nd	7	Travels any distance to commit solicited act above
Traveling to Meet a Minor-Parent	847.0135(4)(b)	Depends	Any age	2nd	7	Travels any distance after soliciting parent (see above)
Online Exhibition	847.0135(5)(a) and (b)	Less than 16	18 or older	2nd	5	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 on the Internet to a child under 16 or a cop pretending to be a child under 16.
	847.0135(5)(a) and (c)	Less than 16	Less than 18	3rd	4	

\*Rises to a 2nd if defendant misrepresents his age  
Each separate use of computer can constitute separate offense

## ***HUMAN TRAFFICKING***

### **Offenses before October 1, 2014**

<b>Statute</b>	<b>Degree</b>	<b>Level</b>	<b>Title</b>
787.06(3)(a)	1	7	Human trafficking using coercion for labor and services
787.06(3)(b)	1	8	Human trafficking using coercion for commercial sexual activity
787.06(3)(c)	1	8	Human trafficking using coercion for labor and services of an unauthorized alien.
787.06(3)(d)	1	9	Human trafficking using coercion for commercial sexual activity of an unauthorized alien.
787.06(3)(e)	1	7	Human trafficking using coercion for labor and services by the transfer or transport of any individual from outside Florida to within the state.
787.06(3)(f)	1	8	Human trafficking using coercion for commercial sexual activity by the transfer or transport of any individual from outside Florida to within the state.
787.06(3)(g)	1 PBL	9	Human trafficking for commercial sexual activity of a child under the age of 18.
787.06(3)(h)	Life	10	Human trafficking for commercial sexual activity of a child under the age of 15.
787.06(4)	1	9	Selling or buying of minors into human trafficking.

### **Offenses after October 1, 2014**

<b>Statute</b>	<b>Degree</b>	<b>Level</b>	<b>Title</b>
787.06(3)(a)1	1	8	Using labor or services of a child
787.06(3)(a)2	1	7	Using coercion for labor or services of adult
787.06(3)(b)	1	8	Using coercion for commercial sexual activity of adult
787.06(3)(c)1	1	9	Using labor or services of unauthorized alien child
787.06(3)(c)2	1	8	Using labor or services of unauthorized alien adult
787.06(3)(d)	1	9	Using coercion for commercial activity of unauthorized alien adult
787.06(3)(e)1	1	8	Using labor or services by transfer or transport of child
787.06(3)(e)2	1	7	Using coercion for labor or services by transfer or transport of adult
787.06(3)(f)1	1PBL	9	Transfer or transport of a child for commercial sexual activity
787.06(3)(f)2	1	8	Transfer or transport of adult for commercial sexual activity using coercion
787.06(3)(g)	Life	10	Commercial sexual activity in which child or any mentally defective/incapacitated person is involved
787.06(4)(a)	Life	10	Parent or guardian sells or transfer or offers minor for human trafficking
787.06(4)(b)	2	N/A	Branding a victim

### **Important Statutory Language:**

(d) “Human trafficking” means transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining another person for the purpose of exploitation of that person.

(b) “Commercial sexual activity” means any violation of chapter 796 or an attempt to commit any such offense, and includes sexually explicit performances and the production of pornography.

(3) Any person who knowingly, or in reckless disregard of the facts, engages in, or attempts to engage in, or benefits financially by receiving anything of value from participation in a venture that has subjected a person to human trafficking. *(Pre-October 1, 2014)*

(3) Any person who knowingly, or in reckless disregard of the facts, engages in human trafficking, or attempts to engage in human trafficking, or benefits financially by receiving anything of value from participation in a venture that has subjected a person to human trafficking. *(Post-October 1, 2014)*

# CHAPTER 800.04 –LEWD AND LASCIVIOUS 2014

By ASA Dennis Nicewander, 17<sup>th</sup> Judicial Circuit - Web Site- <http://www.locatethelaw.org>

(Shaded rows reflect statutory changes effective October 1, 2014)

Offense	Statute	Age of Victim.	Age of Def.	Degree	Level	ACT
Lewd or Lascivious Battery	800.04(4)(a)(1)	12 or older but less than 16	Any age	2nd	8	Sexual Activity
	800.04(4)(a)(2)	Less than 16	Any Age	2nd	8	Encourage, force or entice to engage in sadomasochistic abuse, bestiality, prostitution or any other act involving sexual activity.
	800.04(c)	12 or older but less than 16 or Less than 16	18 or older	1 <sup>st</sup>	8	Either of two above acts <u>and</u> has previous conviction for certain sex-related offenses.*
Lewd or Lascivious Molestation	800.04(5)(b)	Less than 12	18 or older	Life	9	Intentionally touches breasts, genitals, genital area or buttocks, or clothing covering them, in a lewd or lascivious manner or forces or entices child to so touch perpetrator.
	800.04(5)(c)(1)	Less than 12	Less than 18	2nd	7	
	800.04(5)(c)(2)	12 or older but less than 16	18 or older	2nd	7	
	800.04(5)(d)	12 or older but less than 16	Less than 18	3rd	6	
	800.04(5)(e)	12 or older but less than 16	18 or older	1st	7	Same as above <u>and</u> has previous conviction for certain sex-related offenses.*
Lewd or Lascivious Conduct	800.04(6)(b)	Less than 16	18 or older	2nd	6	Intentionally touches child in a lewd or lascivious manner or solicits child to commit a lewd or lascivious act.
	800.04(6)(c)	Less than 16	Less than 18	3rd	5	
Lewd or Lascivious Exhibition	800.04(7)(b)	Less than 16	18 or older	2 <sup>nd</sup>	5	Intentionally masturbates, exposes the genitals in a lewd manner or 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 an act involving sexual activity in the presence of the victim. Includes acts done live over the Internet.
	800.04(7)(c)	Less than 16	Less than 18	3 <sup>rd</sup>	4	

\*1-787.01(2) or s. 787.02(2); 2-787.01(3)(a)2. or 3; 3-787.02(3)(a)2. or 3; 4-794; 5-825.1025; 6-847.0135(5); 7-794



## OBSCURE SEX CRIMES-RELATED STATUTES

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Offense	Statute	Degree	Elements
Offenses Against Students by Authority Figures	800.101	2	School employee over 18 has sex with a student of any age.
<a href="#">Battery on a Child</a>	784.085	3	Illegal to toss bodily fluids at children.
<a href="#">Battery of a Facility Employee</a>	784.078	3	Illegal harass employees by exposing them to chewed food, vomit, saliva, feces, urine and semen.
<a href="#">Voyeurism</a>	810.14	M	With lewd intent, secretly records another person in a dwelling, structure or conveyance when that person has reasonable expectation of privacy.
<a href="#">Video Voyeurism</a>	810.0145	1M 3F	Secretly view, record, or broadcast images of another in state of undress for purpose of entertainment, arousal, profit when person has an expectation of privacy. Illegal to disseminate.
<a href="#">Sexual Misconduct (DOC)</a>	944.35(3)(b)(2)	3	DOC employee cannot have consensual sex with inmate.
<a href="#">Sexual Misconduct (DOJJ)</a>	985.701	2	Fondling or having sex with detainee.
Sexual Misconduct (DCF)	<a href="#">393.135</a> , <a href="#">394.4593</a> , <a href="#">916.1075</a>	2F 2F 2F	DCF employees cannot fondle, masturbate in front of or have sex with clients. This includes employees and others providing services at state mental hospitals.
<a href="#">Sexual Misconduct (detention facility)</a>	951.221	3F	Any employee of a county or municipal detention facility or of a private detention facility under contract with a county commission who engages in <b>sexual misconduct</b> , as defined in <a href="#">s. 944.35(3)(b)1.</a> , with an inmate or an offender supervised by the facility without committing the crime of sexual battery.
<a href="#">Sexual Battery LEO</a>	794.011(4)(g)	1	Law enforcement, probation officer etc... who has sex with

			someone under their authority.
<a href="#">Sexual Misconduct Psychotherapist</a>	491.011(2)	3 or 2	Therapist who has sex with patient.
<a href="#">Controlled Phone Calls</a>	934.03(2)(c)		Authorization to monitor phone calls from victim to defendant.
<a href="#">Admissibility of confession without a corpus.</a>	92.565		Procedure to admitting confession when victim was either drugged or too young to remember sexual assault.
<a href="#">Criminal Transmission of HIV</a>	775.0877	3	Defendant convicted of enumerated offense must submit to HIV testing. Results given to defendant, victim and DOH. If he gets convicted again, it is a third degree felony.
<a href="#">HIV Testing</a>	960.003		If defendant is charged with offense involving transmission of bodily fluids, victim or guardian can require testing. Results given only to victim, defendant, and DOH. Results not admissible in criminal matter.
<a href="#">Criminal Transmission of HIV</a>	796.08	3	If defendant commits prostitution or procures one for prostitution when she knows that she has HIV, she commits a felony.
Criminal Transmission of HIV	384.24(2)	3	Defendant had sexual intercourse with victim without telling him or her that he had HIV virus.
<a href="#">Sex Trafficking</a>	796.035	1	Parent or guardian sells or transfers custody of that minor into prostitution.
<a href="#">Sex Trafficking</a>	796.045	2	Buying a minor from a parent or guardian for prostitution. 1F if child is under 14 or dies.
Lewd or lascivious exhibition in the presence of an employee	800.04(9)	3	Masturbate or exposed genitals in lewd manner in presence of public or private correctional employee

# CHAPTER 794 SEXUAL BATTERY 2014

By ASA Dennis Nicewander, 17<sup>th</sup> Judicial Circuit - Web Site- <http://www.locatethelaw.org>  
*(Shaded rows reflect statutory changes effective October 1, 2014)*

Offense	Statute	Age of Victim.	Age of Def.	Degree	Level	ACT
Sexual Battery on Child	794.011(2)(a)	Less than 12	18 or older	Capital	None	Sexual Battery
	794.011(2)(b)	Less than 12	Less than 18	Life	9	Sexual Battery
Sexual Battery Great Force	794.011(3)	12 or older	Any age	Life	10	Sexual Battery and used or threatened to use a d/w or used great force
Sexual Battery/Special Circumstances	794.011(4)(a)	12-17	18 or older	1PBL	9	Special circumstances in 794.011(4)(e) (1-7)*
	794.011(4)(b)	18 or older	18 or older	1st	9	Special circumstances in 794.011(4)(e) (1-7)*
	794.011(4)(c)	12 or older	Less than 18	1st	9	Special circumstances in 794.011(4)(e) (1-7)*
	794.011(4)(d)	12 or older	Any age	1PBL	9	Special circumstances in 794.011(4)(e) (1-7)* <u>and</u> has previous conviction for certain sex-related offenses.**
Sexual Battery	794.011(5)(a)	12-17	18 or older	1 <sup>st</sup>	8	Sexual Battery
	794.011(5)(b)	18 or older	18 or older	2 <sup>nd</sup>	8	Sexual Battery
	794.011(5)(c)	12 or older	Less than 18	2 <sup>nd</sup>	8	Sexual Battery
	794.011(5)(d)	12 or older	Any age	1 <sup>st</sup>	8	Sexual Battery <u>and</u> has previous conviction for certain sex-related offenses.**
Sexual Battery Familial or Custodial	794.011(8)(a)	Less than 18	Any age	3rd	6	Solicits to engage in sexual battery
	794.011(8)(b)	12-17	Any age	1PBL	9	Sexual Battery
	794.011(8)(c)	Less than 12	18 or older Less than 18	Capital Life	None	Sexual Battery
Unlawful Sexual Activity with Certain Minors	794.05	16 or 17	24 or older	2nd	6	Sexual Battery (now includes digital penetration)

\*794.011(4)(e)1-Physically helpless to resist; 2 -Coerced by threat of force; 3- Coerced by threatened retaliation; 4-Mentally or physically incapacitated by intoxicating substance; 5-Mentally defective; 6-Physically incapacitated; 7- Offender is cop or in position of authority.

For female genital mutilation see 794.08

\*\*1-787.01(2) or s. 787.02(2); 2-787.01(3)(a)2. or 3; 3-787.02(3)(a)2. or 3; 4-800.04; 5-825.1025; 6-847.0135(5); 7-794

\*\*\*“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.

# Statute of Limitations 1970 to the Present

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*By Dennis Nicewander, Assistant State Attorney, 17<sup>th</sup> Judicial Circuit*

The statute of limitations is very complex. In 1970 there were only three subsections. Today we have seventeen subsections and many of them have changed during that time period. To further complicate matters, we must rely on the statute of limitations that was in existence at the time of the offense. This document will provide a general summary of the applicable provisions and then follow with the actual text of each version of the statute going back to 1970. **Click on the Bookmarks tab in Adobe Reader to navigate to a particular statute.**

The statute has a very basic framework, followed by numerous exceptions to the general rules. In the current version of the statute, the following rules apply:

The following offenses may be prosecuted at any time:

1. Capital felonies
2. Life felonies
3. Felonies that result in death.

The following rules apply to all other offenses:

1. First degree felonies                      4 years
2. Second and third degree felonies      3 years
3. First degree misdemeanors              2 years
4. Second degree misdemeanors          1 year (includes non-criminal offenses)

In 1970, the statute of limitations was contained in F.S. 915.03. That version of the statute indicated that offenses punishable by death could be prosecuted at any time, and all others had a two year statute of limitations. The only exception pertained to public officials committing crimes related to their duties. Such officials could be prosecuted within two years after retirement from public office.

In 1971, the statute was renumbered to 932.465, but kept the same basic provisions.

Under these early versions of the statute, the only crimes that could still be prosecuted today were those punishable by death and public officials who have been in office for over 40 years. It is important to note that between 1947 and 1972, carnal knowledge with a child under 10 years of age “shall be punishable by death.” Forcible rapes of persons over 10 years of age also required death. If questions arise concerning sex offenses, an assistant state attorney specializing in sex crimes should be consulted. Efforts should be made to preserve reports and evidence on all old sex offenses because offenders usually engage in such conduct for their entire lives and such evidence may be used against them even if the limitations period has expired.

The statute of limitations was assigned its current statute number, F.S. 775.15, on July 1, 1975. The basic framework was the same as today's version with the exception that only capital felonies could be prosecuted at any time. Life felonies were grouped with first degree felonies carrying a four year period. One year later, in 1976, life felonies were coupled with capital felonies and no longer had time constraints. The final change occurred, effective October 1, 1996, when felonies resulting in death were added. "A prosecution for a capital felony, a life felony, or a felony that resulted in a death may be commenced at any time."

Most of the complexity of this statute involves the numerous exceptions that have been added throughout the years. The statutes provided below should be consulted in most cases, but some of the major changes will be highlighted at this point.

Effective July, 1, 1975, the following exceptions were available:

1. Fraud or breach of fiduciary duty extends period to one year after discovery, but in no case more than three years.
2. Misconduct in office by public official or employee extends period to two years after he/she leaves office.
3. Time begins to run when every element has occurred or continuing course of conduct applies.
4. Period does not run when defendant is continuously absent from the state or has no reasonably ascertainable place of abode, but will not extend period for more than three years.

Effective January 1, 1985, the following exception was added:

1. If the victim of a sex offense was under 16, the time period does not begin to run until the victim turns 16 or the offense is reported to authorities, whichever occurs first. This exception does not apply if the time period had otherwise expired prior to December 31, 1984.

Effective October 1, 1996, the following exception was added:

1. A prosecution for a felony violation of s. 825.102 must be commenced within 4 years after it is committed. (Abuse of elderly person or disabled adult)

Effective October 1, 1997, the following exceptions were added:

1. "A prosecution for a felony that resulted in injury to any person, when such felony arises from the use of a "destructive device," as defined in s. 790.001, may be commenced within 10 years."
2. "A prosecution for a first or second degree felony violation of s. 794.011, if such crime is reported to a law enforcement agency within 72 hours after commission of the crime, may be commenced at any time."
3. A prosecution for perjury in an official proceeding that relates to the prosecution of a capital felony may be commenced at any time.

Effective October 1, 2001, the following exception (subsection 7) was added:

1. If the victim of a sex offense was under 18, the time period does not begin to run until the victim turns 18 or the offense is reported to authorities. This exception does not apply if the time period had otherwise expired prior to December 31, 1984. This amendment changed the age of the victim from 16 to 18.

Effective October 1, 2003, the following exception (subsection 7(b)) was added:

1. "If the offense is a first degree felony violation of s. 794.011 and the victim was under 18 years of age at the time the offense was committed, a prosecution of the offense may be commenced at any time. This paragraph applies to any such offense except an offense the prosecution of which would have been barred by subsection (2) on or before October 1, 2003."

Effective July 1, 2004, the following exception (subsection 8(a)) was added:

1. "In addition to the time periods prescribed in this section, a prosecution for any of the following offenses may be commenced within 1 year after the date on which the identity of the accused is established, or should have been established by the exercise of due diligence, through the analysis of deoxyribonucleic acid (DNA) evidence, if a sufficient portion of the evidence collected at the time of the original investigation and tested for DNA is preserved and available for testing by the accused":...794, 800.04 and 825.1025. Does not apply to offenses barred prior to July 1, 2004.

Effective July 1, 2005, the entire statute was reorganized and renumbered.

Effective July 1, 2006, the following exception (subsection 16(a)) was added:

1. The DNA exception was amended to include more offenses and eliminate the 1 year requirement.

Effective October 1, 2008, the following exceptions (subsections 13(a) and 16(a)(4)) were added:

1. F.S. 847.0135(5) was added to the sections delaying the time period until the victim reaches 18 years of age and the DNA extension.

Effective July 1, 2010, the following exception (subsection 13(c)) was added:

1. If the victim of a violation of 794.011 is less than 16 years of age, there is no statute of limitations as long as the period had not expired prior to July, 2010.

Effective July 1, 2011, the following exception (subsection 17) was added:

1. A prosecution for video voyeurism may be commenced within one year of the time when the victim became aware of the presence of the video, or from when law enforcement confiscated it, whichever comes first.

Effective October 1, 2014, the following exceptions (subsection 18) was added:

Subsection 18- If the offense is a violation of s. 800.04(4) or (5) and the victim was under 16 years of age at the time the offense was committed, a prosecution of the offense may be commenced

at any time, unless, at the time of the offense, the offender is less than 18 years of age and is no more than 4 years older than the victim. This subsection applies to an offense that is not otherwise barred from prosecution on or before October 1, 2014.

Subsection 18- A prosecution for a violation of s. 787.06 may be commenced at any time. This subsection applies to any such offense except an offense the prosecution of which would have been barred by subsection (2) on or before October 1, 2014.

Effective July 1, 2017, the following exception was added:

Subsection 14(b) – “Except as provided in paragraph (a) or paragraph (13)(b), a prosecution for a first or second degree felony violation of s. [794.011](#), if the victim is 16 years of age or older at the time of the offense, must be commenced within 8 years after the violation is committed. This paragraph applies to any such offense except an offense the prosecution of which would have been barred by subsection (2) on or before July 1, 2015.”

Subsection 14(a) made the following change:

“A prosecution for a first or second degree felony violation of s. [794.011](#), if the victim is 16 ~~18~~ years of age or older at the time of the offense and the offense is reported to a law enforcement agency within 72 hours after commission of the offense, may be commenced at any time.”

Effective July 1, 2020, the following exception was added:

Subsection 20 – “If a victim is younger than 18 years of age at the time the offense was committed, a prosecution for a violation of s. 794.011 may be commenced at any time. This subsection applies to an offense that is committed on or after July 1, 2020.”

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## Victim Rights under Florida Law

(By Dennis Nicewander, Assistant State Attorney, 17<sup>th</sup> Judicial Circuit)

Florida victims have been afforded special rights. These rights are contained in the Florida Constitution, as well as various individual statutes. These rights and protections are found in the Florida Constitution, Florida Statutes and Rules of Evidence. This outline will provide a summary of each of these rights organized by the statute, evidentiary rule or constitutional provision that confers them. Some of the content is summarized, so please see the full text to ensure a complete understanding.

Statutes can be found at <http://www.leg.state.fl.us/Statutes/> . A link to the Florida Constitution can be found on the same web page.

### Florida Constitution- Article I, Section 16(b)

On November 6, 2018, Florida voters passed this constitutional amendment referred to as “Marsy’s Law.” The amendment gives a long list of rights to victims. The full text is included as follows:

(b) To preserve and protect the right of crime victims to achieve justice, ensure a meaningful role throughout the criminal and juvenile justice systems for crime victims, and ensure that crime victims’ rights and interests are respected and protected by law in a manner no less vigorous than protections afforded to criminal defendants and juvenile delinquents, every victim is entitled to the following rights, beginning at the time of his or her victimization:

(1) The right to due process and to be treated with fairness and respect for the victim’s dignity.

(2) The right to be free from intimidation, harassment, and abuse.

(3) The right, within the judicial process, to be reasonably protected from the accused and any person acting on behalf of the accused. However, nothing contained herein is intended to create a special relationship between the crime victim and any law enforcement agency or office absent a special relationship or duty as defined by Florida law.

(4) The right to have the safety and welfare of the victim and the victim’s family considered when setting bail, including setting pretrial release conditions that protect the safety and welfare of the victim and the victim’s family.

(5) The right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim’s family, or which could disclose confidential or privileged information of the victim.

(6) A victim shall have the following specific rights upon request:

a. The right to reasonable, accurate, and timely notice of, and to be present at, all public proceedings involving the criminal conduct, including, but not limited to, trial, plea, sentencing, or adjudication, even if the victim will be a witness at the proceeding, notwithstanding any rule to the contrary. A victim shall also be provided reasonable,

accurate, and timely notice of any release or escape of the defendant or delinquent, and any proceeding during which a right of the victim is implicated.

b. The right to be heard in any public proceeding involving pretrial or other release from any form of legal constraint, plea, sentencing, adjudication, or parole, and any proceeding during which a right of the victim is implicated.

c. The right to confer with the prosecuting attorney concerning any plea agreements, participation in pretrial diversion programs, release, restitution, sentencing, or any other disposition of the case.

d. The right to provide information regarding the impact of the offender's conduct on the victim and the victim's family to the individual responsible for conducting any presentence investigation or compiling any presentence investigation report, and to have any such information considered in any sentencing recommendations submitted to the court.

e. The right to receive a copy of any presentence report, and any other report or record relevant to the exercise of a victim's right, except for such portions made confidential or exempt by law.

f. The right to be informed of the conviction, sentence, adjudication, place and time of incarceration, or other disposition of the convicted offender, any scheduled release date of the offender, and the release of or the escape of the offender from custody.

g. The right to be informed of all postconviction processes and procedures, to participate in such processes and procedures, to provide information to the release authority to be considered before any release decision is made, and to be notified of any release decision regarding the offender. The parole or early release authority shall extend the right to be heard to any person harmed by the offender.

h. The right to be informed of clemency and expungement procedures, to provide information to the governor, the court, any clemency board, and other authority in these procedures, and to have that information considered before a clemency or expungement decision is made; and to be notified of such decision in advance of any release of the offender.

(7) The rights of the victim, as provided in subparagraph (6)a., subparagraph (6)b., or subparagraph (6)c., that apply to any first appearance proceeding are satisfied by a reasonable attempt by the appropriate agency to notify the victim and convey the victim's views to the court.

(8) The right to the prompt return of the victim's property when no longer needed as evidence in the case.

(9) The right to full and timely restitution in every case and from each convicted offender for all losses suffered, both directly and indirectly, by the victim as a result of the criminal conduct.

(10) The right to proceedings free from unreasonable delay, and to a prompt and final conclusion of the case and any related postjudgment proceedings.

a. The state attorney may file a good faith demand for a speedy trial and the trial court shall hold a calendar call, with notice, within fifteen days of the filing demand, to schedule a trial to commence on a date at least five days but no more than sixty days after the date of the calendar call unless the trial judge enters an order with specific findings of fact justifying a trial date more than sixty days after the calendar call.

b. All state-level appeals and collateral attacks on any judgment must be complete within two years from the date of appeal in non-capital cases and within five years from the date of appeal in capital cases, unless a court enters an order with specific findings as to why the court was unable to comply with this subparagraph and the circumstances causing the delay. Each year, the chief judge of any district court of appeal or the chief justice of the supreme court shall report on a case-by-case basis to the speaker of the house of representatives and the president of the senate all cases where the court entered an order regarding inability to comply with this subparagraph. The legislature may enact legislation to implement this subparagraph.

(11) The right to be informed of these rights, and to be informed that victims can seek the advice of an attorney with respect to their rights. This information shall be made available to the general public and provided to all crime victims in the form of a card or by other means intended to effectively advise the victim of their rights under this section.

(c) The victim, the retained attorney of the victim, a lawful representative of the victim, or the office of the state attorney upon request of the victim, may assert and seek enforcement of the rights enumerated in this section and any other right afforded to a victim by law in any trial or appellate court, or before any other authority with jurisdiction over the case, as a matter of right. The court or other authority with jurisdiction shall act promptly on such a request, affording a remedy by due course of law for the violation of any right. The reasons for any decision regarding the disposition of a victim's right shall be clearly stated on the record.

(d) The granting of the rights enumerated in this section to victims may not be construed to deny or impair any other rights possessed by victims. The provisions of this section apply throughout criminal and juvenile justice processes, are self-executing, and do not require implementing legislation. This section may not be construed to create any cause of action for damages against the state or a political subdivision of the state, or any officer, employee, or agent of the state or its political subdivisions.

(e) As used in this section, a "victim" is a person who suffers direct or threatened physical, psychological, or financial harm as a result of the commission or attempted commission of a crime or delinquent act or against whom the crime or delinquent act is committed. The term "victim" includes the victim's lawful representative, the parent or guardian of a minor, or the next of kin of a homicide victim, except upon a showing that the interest of such individual would be in actual or potential conflict with the interests of the victim. The term "victim" does not include the accused. The terms "crime" and "criminal" include delinquent acts and conduct.

## Statutes

### Florida Statute 960 – Victim Assistance

This is the primary statute for providing rights to victims. This outline will summarize some of the most significant sections, but please see the entire statute for various other provisions.

Florida Statute 960.001 - Guidelines for fair treatment of victims\* and witnesses in the criminal justice and juvenile justice systems.

The statutory provisions in 960.001 overlap with many of the provision of the Article I, Section amendment listed above. The following is a summary of those provisions.

a. *Information concerning services available to victims of adult and juvenile crime*

Law enforcement personnel shall ensure, through distribution of a victim's rights information card or brochure at the crime scene, during the criminal investigation, and in any other appropriate manner, that victims are given, as a matter of course at the earliest possible time, information about services available to victims and information about the court system and what is expected of victims. Seven specific types of information are listed.

b. *Information for purposes of notifying victim or appropriate next of kin of victim or other designated contact of victim*

Detailed procedures are provided to give victims the opportunity to fill out a victim notification card. Statute then establishes procedures to notify victim promptly when defendant is released from custody.

c. *Information concerning protection available to victim or witness*

“A victim or witness shall be furnished, as a matter of course, with information on steps that are available to law enforcement officers and state attorneys to protect victims and witnesses from intimidation. Victims of domestic violence shall also be given information about the address confidentiality program provided under s. 741.403.”

d. *Notification of scheduling changes*

“Each victim or witness who has been scheduled to attend a criminal or juvenile justice proceeding shall be notified as soon as possible by the agency scheduling his or her appearance of any change in scheduling which will affect his or her appearance.”

e. *Advance notification to victim or relative of victim concerning judicial proceedings; right to be present*

Specifies that victim must receive advance notification of enumerated proceedings related to their case.

“A victim, a victim's parent or guardian if the victim is a minor, a lawful representative of the victim or of the victim's parent or guardian if the victim is a minor, or a victim's next of kin may not be excluded from any portion of any

hearing, trial, or proceeding pertaining to the offense based solely on the fact that such person is subpoenaed to testify, unless, upon motion, the court determines such person's presence to be prejudicial."

*f. Information concerning release from incarceration from a county jail, municipal jail, juvenile detention facility, or residential commitment facility*

Statute provides that reasonable attempts must be made to notify victim prior to release of defendant or within 4 hours after his/her release.

*g. Consultation with victim or guardian or family of victim*

1. "The victim of a felony involving physical or emotional injury or trauma or, in a case in which the victim is a minor child or in a homicide, the guardian or family of the victim shall be consulted by the state attorney in order to obtain the views of the victim or family about the disposition of any criminal or juvenile case brought as a result of such crime, including the views of the victim or family about:

- a. The release of the accused pending judicial proceedings;
- b. Plea agreements;
- c. Participation in pretrial diversion programs; and
- d. Sentencing of the accused."

2. Upon request, State Attorney must permit victim to view presentence investigation report with privileged information redacted.

3. Victim must be notified if inmate has been approved for community work release.

*h. Return of property to victim*

"Law enforcement agencies and the state attorney shall promptly return a victim's property held for evidentiary purposes unless there is a compelling law enforcement reason for retaining it."

*i. Notification to employer and explanation to creditors of victim or witness*

If requested, law enforcement agencies and prosecutors must assist victims in notifying their employers that they will need to miss work and must notify creditors of the financial strain caused by the crime or role in the prosecution.

*j. Notification of right to request restitution*

Law enforcement agencies and state attorney must notify victim of their right to restitution and state attorney must assist them with the process.

*k. Notification of right to submit impact statement*

“The state attorney shall inform the victim of the victim’s right to submit an oral or written impact statement pursuant to s. [921.143](#) and shall assist in the preparation of such statement if necessary.”

*l. Local witness coordination services*

“The requirements for notification provided for in paragraphs (c), (d), and (i) may be performed by the state attorney or public defender for their own witnesses.”

*m. Victim assistance education and training.*

“Victim assistance education and training shall be offered to persons taking courses at law enforcement training facilities and to state attorneys and assistant state attorneys so that victims may be promptly, properly, and completely assisted.”

*n. General victim assistance.*

“Victims and witnesses shall be provided with such other assistance, such as transportation, parking, separate pretrial waiting areas, and translator services in attending court, as is practicable.”

*o. Victim’s rights information card or brochure.*

A victim of a crime shall be provided with a victim’s rights information card or brochure containing essential information concerning the rights of a victim and services available to a victim as required by state law.

*p. Information concerning escape from a state correctional institution, county jail, juvenile detention facility, or residential commitment facility*

Whenever a prisoner escapes, the institution must notify the state attorney, who must then notify the victim.

*q. Presence of victim advocate during discovery deposition; testimony of victim of a sexual offense*

Victim has a right to have victim advocate present during discovery deposition.

“The victim of a sexual offense shall be informed of the right to have the courtroom cleared of certain persons as provided in s. [918.16](#) when the victim is testifying concerning that offense.”

*r. Implementing crime prevention in order to protect the safety of persons and property, as prescribed in the State Comprehensive Plan*

*s. Attendance of victim at same school as defendant*

Establishes procedures to determine whether juvenile offender of victim in the same school must be compelled to transfer to another school.

t. *Use of a polygraph examination or other truth-telling device with victim*

“A law enforcement officer, prosecuting attorney, or other government official may not ask or require an adult, youth, or child victim of an alleged sexual battery as defined in chapter 794 or other sexual offense to submit to a polygraph examination or other truth-telling device as a condition of proceeding with the investigation of such an offense. The refusal of a victim to submit to such an examination does not prevent the investigation, charging, or prosecution of the offense.”

u. *Presence of victim advocates during forensic medical examination*

At the request of a victim, a victim advocate from a certified rape crisis center shall be permitted to attend any forensic medical examination.

Florida Statute 960.003 – Hepatitis and HIV testing for offenders accused of specific offenses

This statute says that victims of certain crimes where bodily fluid has been transferred and all sex crimes can request the court to order the defendant to undergo Hepatitis and HIV testing within 48 hours of the information being filed. Results will be provided to the victim.

Florida Statute 794.052 - Sexual battery; notification of victim’s rights and services.

- (1) A law enforcement officer who investigates an alleged sexual battery shall:
  - (a) Assist the victim in obtaining medical treatment, if medical treatment is necessary as a result of the alleged incident, a forensic examination, and advocacy and crisis-intervention services from a certified rape crisis center and provide or arrange for transportation to the appropriate facility.
  - (b) Advise the victim that he or she may contact a certified rape crisis center from which the victim may receive services.
  - (c) Prior to submitting a final report, permit the victim to review the final report and provide a statement as to the accuracy of the final report.
- (2) The law enforcement officer shall give the victim immediate notice of the legal rights and remedies available to a victim on a standard form developed and distributed by the Florida Council Against Sexual Violence in conjunction with the Department of Law Enforcement. The notice must include the resource listing, including telephone number, for the area certified rape crisis center as designated by the Florida Council Against Sexual Violence.

#### Florida Statute 794.024 – Unlawful to disclose identifying information

It is unlawful for a public employee or officer to disclose the photograph, name, or address of the victim of a sex crime to anyone other than those working on the case. Defendant and his attorney have a right to the information to prepare their defense.

#### Florida Statute 794.026 -Civil right of action for communicating the identity of a sexual crime victim

(1) An entity or individual who communicates to others, prior to open judicial proceedings, the name, address, or other specific identifying information concerning the victim of any sexual offense under this chapter or chapter 800 shall be liable to that victim for all damages reasonably necessary to compensate the victim for any injuries suffered as a result of such communication.

#### Florida Statute 794.055 – Access to services for victims of sexual battery

This section describes funding for services provided to victims of sexual battery, such as crisis intervention services, advocacy and support services, therapy services, etc....

### Evidentiary Rules

The following rules protect victims in the courtroom.

#### Florida Statute 90.5035 - Sexual assault counselor-victim privilege

“A victim has a privilege to refuse to disclose, and to prevent any other person from disclosing, a confidential communication made by the victim to a sexual assault counselor or trained volunteer or any record made in the course of advising, counseling, or assisting the victim.”

#### Florida Statute 90.612 – Age appropriate questions of child witnesses

“The judge shall take special care to protect a witness under age 14 from questions that are in a form that cannot reasonably be understood by a person of the age and understanding of the witness, and shall take special care to restrict the unnecessary repetition of questions.”

#### Florida Statute 794.022 – Rules of Evidence (Rape Shield Statute)

(2) Specific instances of prior consensual sexual activity between the victim and any person other than the offender may not be admitted into evidence in a prosecution for a sex offense.

(3) Reputation evidence relating to a victim’s prior sexual conduct or evidence presented for the purpose of showing that manner of dress of the victim at the time of the offense



incited the sexual battery may not be admitted into evidence in prosecution for a sex offense.

(4) When defendant argues the victim consented in a sex offense prosecution, evidence of the victim's mental incapacity or defect is admissible to prove the consent was not intelligent, knowingly and voluntary.

(5) An offender's use of a prophylactic device, or a victim's request that an offender use one is not relevant to the issue whether the offense was committed or whether the victim consented to it.

#### Florida Statute 918.16 – Clearing courtroom during testimony concerning sexual offense

(1) Except as provided in subsection (2), in the trial of any case, civil or criminal, if any person under the age of 16 or any person with an intellectual disability as defined in [s. 393.063](#) is testifying concerning any sex offense, the court shall clear the courtroom of all persons except parties to the cause and their immediate families or guardians, attorneys and their secretaries, officers of the court, jurors, newspaper reporters or broadcasters, court reporters, and, at the request of the victim, victim or witness advocates designated by the state attorney's office.

(2) If the victim of a sex offense is testifying concerning that offense in any civil or criminal trial, the court shall clear the courtroom of all persons upon the request of the victim, regardless of the victim's age or mental capacity, except that parties to the cause and their immediate families or guardians, attorneys and their secretaries, officers of the court, jurors, newspaper reporters or broadcasters, court reporters, and, at the request of the victim, victim or witness advocates designated by the state attorney may remain in the courtroom.

#### Florida Statute 918.0155 - Expedious disposition of particular criminal cases involving a child under age 16

Every criminal case prosecuted under chapter 782, chapter 784, chapter 787, chapter 794, chapter 796, chapter 800, chapter 827, or chapter 847 which involves the abuse of a child or unlawful sexual contact or acts performed in the presence of, with, or upon a child under the age of 16 shall be heard and disposed of as expeditiously as possible.

#### Florida Statute 92.53 -Videotaping the testimony of a victim or witness under age 18 or who has an intellectual disability.

On motion and hearing in camera and a finding that there is a substantial likelihood that a victim or witness who is under the age of 18 or who has an intellectual disability as defined in [s. 393.063](#) would suffer at least moderate emotional or mental harm due to the presence of the defendant if such victim or witness is required to testify in open court, or is unavailable as defined in [s. 90.804](#)(1), the trial court may order the videotaping of the

testimony of the victim or witness in a case, whether civil or criminal in nature, in which videotaped testimony is to be used at trial in lieu of trial testimony in open court.

See full text of statute for procedural details.

Florida Statute 92.54 - Use of closed-circuit television in proceedings involving a victim or witness under the age of 18 or who has an intellectual disability.

Upon motion and hearing in camera and upon a finding that there is a substantial likelihood that a victim or witness under the age of 18 or who has an intellectual disability will suffer at least moderate emotional or mental harm due to the presence of the defendant if such victim or witness is required to testify in open court, or is unavailable as defined in s. 90.804(1), the trial court may order that the testimony of the victim or witness be taken outside of the courtroom and shown by means of closed-circuit television.

See full text of statute for procedural details.

Florida Statute 92.55 - Judicial or other proceedings involving victim or witness under the age of 18, a person who has an intellectual disability, or a sexual offense victim or witness; special protections; use of therapy animals or facility dogs.

Upon motion of any party, upon motion of a parent, guardian, attorney, guardian ad litem, or other advocate appointed by the court under s. [914.17](#) for a victim or witness under the age of 18, a person who has an intellectual disability, or a sexual offense victim or witness, or upon its own motion, the court may enter any order necessary to protect the victim or witness in any judicial proceeding or other official proceeding from severe emotional or mental harm due to the presence of the defendant if the victim or witness is required to testify in open court. Such orders must relate to the taking of testimony and include, but are not limited to:

- (a) Interviewing or the taking of depositions as part of a civil or criminal proceeding.
- (b) Examination and cross-examination for the purpose of qualifying as a witness or testifying in any proceeding.
- (c) The use of testimony taken outside of the courtroom, including proceedings under ss. [92.53](#) and [92.54](#).

The statute also allows the use of therapy dogs in the courtroom in certain circumstances.

Florida Statute 119 - Public Records

Generally, all public records are available to the public. In certain cases, however, the public records statute makes exceptions for certain specific circumstances. The most common exception related to victims is as follows:

(h)1. The following criminal intelligence information or criminal investigative information is confidential and exempt from s. [119.07\(1\)](#) and s. 24(a), Art. I of the State Constitution:

- a. Any information that reveals the identity of the victim of the crime of child abuse as defined by chapter 827 or that reveals the identity of a person under the age of 18 who is the victim of the crime of human trafficking proscribed in s. [787.06\(3\)\(a\)](#).
- b. Any information that may reveal the identity of a person who is a victim of any sexual offense, including a sexual offense proscribed in s. [787.06\(3\)\(b\)](#), (d), (f), or (g), chapter 794, chapter 796, chapter 800, chapter 827, or chapter 847.
- c. A photograph, videotape, or image of any part of the body of the victim of a sexual offense prohibited under s. [787.06\(3\)\(b\)](#), (d), (f), or (g), chapter 794, chapter 796, chapter 800, s. [810.145](#), chapter 827, or chapter 847, regardless of whether the photograph, videotape, or image identifies the victim.

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## VIDEO VOYEURISM

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Statute	Elements	Degree	Level
810.145(6)(a)	Suspect less than 19	1 <sup>st</sup> Misd.	
810.145(6)(b)	Suspect 19 or older	3 <sup>rd</sup> Felony	1*
810.145(7)	Suspect any age with prior conviction	2 <sup>nd</sup> Felony	4*
810.145(8)(a)(1)	Suspect 18 or older and responsible for child under 16	2 <sup>nd</sup> Felony	4*
810.145(8)(a)(2)	Suspect 18 or older employed at school and victim is student	2 <sup>nd</sup> Felony	4*
810.145(8)(a)(3)	Suspect 24 or older and victim under 16	2 <sup>nd</sup> Felony	4*
810.145(8)(b)	Suspect has previous conviction	2 <sup>nd</sup> Felony	6

\*Unranked felony.