

CREATING AND MAINTAINING A SAFE ENVIRONMENT  
FOR CHILDREN AND VULNERABLE ADULTS

**Appendix A**

**List of Disqualifying Offenses**

Prohibited Misdemeanor or Felony Offenses	Statute	Origin
Sexual misconduct with certain developmentally disabled clients and reporting of such conduct	Sec. 393.135	435.04 1012.315
Sexual misconduct with certain mental health patients and reporting of such misconduct	Sec. 394.4593	435.04 1012.315
Medicaid provider fraud	Sec. 409.920	408.809
Medicaid fraud	Sec. 409.9201	408.809
Adult abuse, neglect or exploitation of aged persons or disabled adults	Sec. 415.111	435.04 1012.315
Domestic violence	Sec. 741.28	435.04
Murder	Sec. 782.04	435.04 1012.315
Manslaughter, aggravated manslaughter of an elderly person or disabled adult, or aggravated manslaughter of a child	Sec. 782.07	435.04 1012.315
Vehicular Homicide	Sec. 782.071	435.04
Killing of an unborn quick child by injury to the mother	Sec. 782.09	435.04
Assault, if the victim of the offense was a minor	Sec. 784.011	435.04
Battery, if the victim was a minor	Sec. 784.03	435.04 1012.315
Kidnapping	Sec. 787.01	435.04 1012.315
False imprisonment	Sec. 787.02	435.04 1012.315
Luring or enticing a child	Sec. 787.025	435.04 1012.315
Taking, enticing, or removing a child beyond the state limits with criminal intent pending custody proceedings	Sec. 787.04(2)	435.04 1012.315
Carrying a child beyond the state lines with criminal intent to avoid producing a child at a custody hearing or delivering the child to the designated person	Sec. 787.04(3)	435.04 1012.315

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Exhibiting firearms or weapons within 1,000 feet of a school	Sec. 790.115(1)	435.04 1012.315
Possessing an electric weapon or device, destructive device, or other weapon on school property	Sec. 790.115(2)(b)	435.04 1012.315
Sexual battery	Sec. 794.011	435.04 1012.315
Prohibited acts of persons in familial or custodial authority	Sec. 794.041	435.04 1012.315
Unlawful sexual activity with certain minors	Sec. 794.05	435.04 1012.315
Prostitution	Ch. 796	435.04 1012.315
Lewd and lascivious behavior	Sec. 798.02	435.04
Lewdness and indecent exposure	Ch. 800	435.04 1012.315
Arson	Sec. 806.01	435.04 1012.315
Burglary	Sec. 810.02	435.04
Fraudulent acts through mail, wire, radio, electromagnetic, photoelectronic, or photooptical systems	Sec. 817.034	408.809
False and fraudulent insurance claims	Sec. 817.234	408.809
Patient brokering	Sec. 817.505	408.809
Criminal use of personal identification information	Sec. 817.568	408.809
Obtaining a credit card through fraudulent means	Sec. 817.60	408.809
Abuse, aggravated abuse, or neglect of an elderly person or disabled adult	Sec. 825.102	435.04 1012.315
Lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled adult	Sec. 825.1025	435.04 1012.315
Incest	Sec. 826.04	435.04 1012.315
Child abuse, aggravated child abuse, or neglect of a child	Sec. 827.03	435.04 1012.315
Contributing to the delinquency or dependency of a child	Sec. 827.04	435.04 1012.315

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Negligent treatment of children	Sec. 827.05	435.04
Sexual performance by a child	Sec. 827.071	435.04 1012.315
Forgery	Sec. 831.01	408.809
Uttering forged instruments	Sec. 831.02	408.809
Forging bank bills, checks, drafts or promissory notes	Sec. 831.07	408.809
Uttering forged bank bills, checks, drafts or promissory notes	Sec. 831.09	408.809
Fraud in obtaining medicinal drugs	Sec. 831.30	408.809
Resisting arrest with violence	Sec. 843.01	435.04 1012.315
Depriving a law enforcement, correctional, or probation office means of protection or communication	Sec. 843.025	435.04
Aiding in an escape	Sec. 843.12	435.04
Aiding in the escape of juvenile inmates in correctional institutions	Sec. 843.13	435.04
Obscene literature	Ch. 847	435.04 1012.315
Encouraging or recruiting another to join in a criminal gang	Sec. 874.05	435.04 1012.315
Drug abuse prevention and control if another person involved was a minor (Sale, Possession, Distribution)	Ch. 893	435.04
Sexual misconduct with certain forensic clients and reporting of such sexual misconduct	Sec. 916.1075	435.04 1012.315
Inflicting cruel or inhuman treatment on an inmate resulting in great bodily harm	Sec. 944.35(3)	435.04
Escape	Sec. 944.40	435.04
Harboring, concealing, or aiding an escaped prisoner	Sec. 944.46	435.04
Introduction of contraband into a correctional facility	Sec. 944.47	435.04 1012.315
Sexual misconduct in juvenile justice programs	Sec. 985.701	435.04 1012.315

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Introduction, removal, possession of contraband at juvenile detention facility or commitment program	Sec. 985.711	435.04 1012.315
<b>Additional Prohibited Felony Offenses</b>	<b>Statute</b>	<b>Origin</b>
Assault, battery and culpable negligence	Ch. 784	435.04 1012.315*
Female genital mutilation	Sec. 794.08	1012.315
Voyeurism	Sec. 810.14	435.04 1012.315
Video Voyeurism	Sec. 810.145	435.04 1012.315
Theft, robbery and related crimes	Ch. 812	435.04 1012.315
Fraudulent sale of controlled substances	Sec. 817.563	435.04 1012.315
Fraudulent use of credit cards	Sec. 817.61	408.809
Exploitation of an elderly person or disabled adult	Sec. 825.103	435.04 1012.315
Sale, manufacture, delivery, or possession with the intent to sell, manufacture, or deliver any counterfeit controlled substance	Sec. 831.31	408.809
Drug abuse, prevention and control (Sale, Possession, or Distribution) if no minor was involved	Ch. 893	435.04 1012.315

\* Limited to Sections 784.021, 784.045 and 784.075

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**Appendix B**

**CITATIONS FROM FLORIDA STATUTES**

**From Section 415.102:**

(24) "Sexual abuse" means acts of a sexual nature committed in the presence of a vulnerable adult without that person's informed consent. "Sexual abuse" includes, but is not limited to, the acts defined in s.794.011(1)(h), fondling, exposure of a vulnerable adult's sexual organs, or the use of a vulnerable adult to solicit for or engage in prostitution or sexual performance. "Sexual abuse" does not include any act intended for a valid medical purpose or any act that may reasonably be construed to be normal caregiving action or appropriate display of affection.

(26) "Vulnerable adult" means a person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, sensory, long-term physical, or developmental disability or dysfunction, or brain damage, or the infirmities of aging.

**From Section 39.01 Definitions:**

**Section 39.01 (63):**

(63) "Sexual abuse of a child" means one or more of the following acts:

- (a) Any penetration, however slight, of the vagina or anal opening of one person by the penis of another person, whether or not there is the emission of semen.
- (b) Any sexual contact between the genitals or anal opening of one person and the mouth or tongue of another person.
- (c) Any intrusion by one person into the genitals or anal opening of another person, including the use of any object for this purpose, except that this does not include any act intended for a valid medical purpose.
- (d) The intentional touching of the genitals or intimate parts, including the breasts, genital area, groin, inner thighs, and buttocks, or the clothing covering them, of either the child or the perpetrator, except that this does not include:
  1. Any act which may reasonably be construed to be a normal caregiver responsibility, any interaction with, or affection for a child; or
  2. Any act intended for a valid medical purpose.
- (e) The intentional masturbation of the perpetrator's genitals in the presence of a child.
- (f) The intentional exposure of the perpetrator's genitals in the presence of a child, or any other sexual act intentionally perpetrated in the presence of a child, if such exposure or sexual act is for the purpose of sexual arousal or gratification, aggression, degradation, or other similar purpose.
- (g) The sexual exploitation of a child, which includes allowing, encouraging, or forcing a child to:
  1. Solicit for or engage in prostitution; or
  2. Engage in a sexual performance, as defined by chapter 827.

**39.201 Mandatory reports of child abuse, abandonment, or neglect; mandatory reports of death; central abuse hotline.**

(1) (a) Any person who knows, or has reasonable cause to suspect, that a child is abused, abandoned or neglected by any persons, or that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care shall report such knowledge or suspicion to the department in the manner prescribed in subsection (2).

(b) Reporters in the following occupation categories are required to provide their names to the hotline staff:

1. Physician, osteopathic physician, medical examiner, chiropractic physician, nurse, or hospital personnel engaged in the admission, examination, care, or treatment of persons;
2. Health or mental health professional other than one listed in subparagraph 1;
3. Practitioner who relies solely on spiritual means for healing;
4. School teacher or other school official or personnel;
5. Social worker, day care center worker, or other professional child care, foster care, residential, or institutional worker;
6. Law enforcement officer; or
7. Judge.

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**Section 39.204:**

**39.204 Abrogation of privileged communications in cases involving child abuse, abandonment, or neglect.--**

The privileged quality of communication between husband and wife and between any professional person and his or her patient or client, and any other privileged communication except that between attorney and client or the privilege provided in s. 90.505, as such communication relates both to the competency of the witness and to the exclusion of confidential communications, shall not apply to any communication involving the perpetrator or alleged perpetrator in any situation involving known or suspected child abuse, abandonment, or neglect and shall not constitute grounds for failure to report as required by s. 39.201 regardless of the source of the information requiring the report, failure to cooperate with the department in its activities pursuant to this chapter, or failure to give evidence in any judicial proceeding relating to child abuse, abandonment, or neglect.

**90.505 Privilege with respect to communications to clergy.**

(1) For the purposes of this section:

- (a) A "member of the clergy" is a priest, rabbi, practitioner of Christian Science, or minister of any religious organization or denomination usually referred to as a church, or an individual reasonably believed so to be by the person consulting him or her.
- (b) A communication between a member of the clergy and a person is "confidential" if made privately for the purpose of seeking spiritual counsel and advice from the member of the clergy in the usual course of his or her practice or discipline and not intended for further disclosure except to other persons present in furtherance of the communication.

(2) A person has a privilege to refuse to disclose, and to prevent another from disclosing, a confidential communication by the person to a member of the clergy in his or her capacity as spiritual adviser.

(3) The privilege may be claimed by:

- (a) The person.
- (b) The guardian or conservator of a person.
- (c) The personal representative of a deceased person.
- (d) The member of the clergy, on behalf of the person. The member of the clergy's authority to do so is presumed in the absence of evidence to the contrary.