

568-172AX-22

Bill No. CS for SB 444, 2nd Eng.

Amendment No. \_\_\_\_ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Representative(s) Crow offered the following:

**Amendment (with title amendment)**

Remove from the bill: Everything after the enacting clause  
and insert in lieu thereof:

Section 1. Subsections (2) and (3) of section 787.025, Florida Statutes, are amended to read:

787.025 Luring or enticing a child.--

(2)~~(a)~~ A person over the age of 18 who, having been previously convicted of a violation of chapter 794 or s. 800.04, or a violation of a similar law of another jurisdiction, intentionally lures or entices, or attempts to lure or entice, a child under the age of 15 ~~12~~ into a structure, dwelling, or conveyance without the consent of the child's parent or legal guardian, or who intentionally lures or entices, or attempts to lure or entice, a child under the age of 15 away from the child's parent or legal guardian without the consent of the child's parent or legal guardian, ~~for other than a lawful purpose~~ commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or

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1 s. 775.084.

2 ~~(b) For purposes of this section, the luring or~~  
3 ~~enticing, or attempted luring or enticing, of a child under~~  
4 ~~the age of 12 into a structure, dwelling, or conveyance~~  
5 ~~without the consent of the child's parent or legal guardian~~  
6 ~~shall be prima facie evidence of other than a lawful purpose.~~

7 (3) It is an affirmative defense to a prosecution  
8 under this section that:

9 (a) The person reasonably believed that his or her  
10 action was necessary to prevent the child from being seriously  
11 injured.

12 ~~(b) The person lured or enticed, or attempted to lure~~  
13 ~~or entice, the child under the age of 12 into a structure,~~  
14 ~~dwelling, or conveyance for a lawful purpose.~~

15 ~~(b)(c)~~ The person's actions were reasonable under the  
16 circumstances and the defendant did not have any intent to  
17 harm the health, safety, or welfare of the child.

18 Section 2. Present paragraph (d) of subsection (1) of  
19 section 800.04, Florida Statutes, is redesignated as paragraph  
20 (e), and a new paragraph (d) is added to said section to read:

21 800.04 Lewd or lascivious offenses committed upon or  
22 in the presence of persons less than 16 years of age.--

23 (1) DEFINITIONS.--As used in this section:

24 (d) "Presence" means that the victim of an act in  
25 violation of this section is physically present where and when  
26 the act occurs. The term does not mean that the victim must  
27 actually see or have sensory awareness of the act.

28 Section 3. Paragraph (a) of subsection (7) of section  
29 947.1405, Florida Statutes, is amended to read:

30 947.1405 Conditional release program.--

31 (7)(a) Any inmate who is convicted of a crime

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1 committed on or after October 1, 1995, or who has been  
2 previously convicted of a crime committed on or after October  
3 1, 1995, in violation of chapter 794, s. 800.04, s. 827.071,  
4 or s. 847.0145, and is subject to conditional release  
5 supervision, shall have, in addition to any other conditions  
6 imposed, the following special conditions imposed by the  
7 commission:

8 1. A mandatory curfew from 10 p.m. to 6 a.m. The court  
9 may designate another 8-hour period if the offender's  
10 employment precludes the above specified time, and such  
11 alternative is recommended by the Department of Corrections.  
12 If the court determines that imposing a curfew would endanger  
13 the victim, the court may consider alternative sanctions.

14 2. If the victim was under the age of 18, a  
15 prohibition on living within 1,000 feet of a school, day care  
16 center, park, playground, school bus stop, or other place  
17 where children regularly congregate.

18 3. Active participation in and successful completion  
19 of a sex offender treatment program with therapists  
20 specifically trained to treat sex offenders, at the releasee's  
21 own expense. If a specially trained therapist is not available  
22 within a 50-mile radius of the releasee's residence, the  
23 offender shall participate in other appropriate therapy.

24 4. A prohibition on any contact with the victim,  
25 directly or indirectly, including through a third person,  
26 unless approved by the victim, the offender's therapist, and  
27 the sentencing court.

28 5. If the victim was under the age of 18, a  
29 prohibition, until successful completion of a sex offender  
30 treatment program, on unsupervised contact with a child under  
31 the age of 18, unless authorized by the commission without

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1 another adult present who is responsible for the child's  
2 welfare, has been advised of the crime, and is approved by the  
3 commission.

4 6. If the victim was under age 18, a prohibition on  
5 working for pay or as a volunteer at any school, day care  
6 center, park, playground, or other place where children  
7 regularly congregate, as prescribed by the commission.

8 7. Unless otherwise indicated in the treatment plan  
9 provided by the sexual offender treatment program, a  
10 prohibition on viewing, owning, or possessing any obscene,  
11 pornographic, or sexually stimulating visual or auditory  
12 material, including telephone, electronic media, computer  
13 programs, or computer services that are relevant to the  
14 offender's deviant behavior pattern.

15 8. A requirement that the releasee must submit two  
16 specimens of blood to the Florida Department of Law  
17 Enforcement to be registered with the DNA database.

18 9. A requirement that the releasee make restitution to  
19 the victim, as determined by the sentencing court or the  
20 commission, for all necessary medical and related professional  
21 services relating to physical, psychiatric, and psychological  
22 care.

23 10. Submission to a warrantless search by the  
24 community control or probation officer of the probationer's or  
25 community controllee's person, residence, or vehicle.

26 Section 4. Section 794.07, Florida Statutes, is  
27 created to read:

28 794.07 Unlawful place of residence for persons  
29 convicted of certain sex offenses.--

30 (1) It is unlawful for any person who has been  
31 convicted of a violation of s. 794.011, s. 794.05, s. 800.04,

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1 s. 827.071, or s. 847.0145, regardless of whether adjudication  
2 has been withheld, in which the victim of the offense was less  
3 than 16 years of age, to reside within 1,000 feet of any  
4 school, day care center, park, or playground. Any person  
5 violating this section whose conviction for s. 794.011, s.  
6 794.05, s.800.04, s. 827.071, or s. 847.0145 was classified as  
7 a felony of the first degree or higher commits a felony of the  
8 third degree, punishable as provided in ss. 775.082 and  
9 775.083. Any person violating this section whose conviction  
10 for s. 794.011, s. 794.05, s. 800.04, s. 827.071, or s.  
11 847.0145 was classified as a felony of the second or third  
12 degree commits a misdemeanor of the first degree punishable as  
13 provided in ss. 775.082 and 775.083.

14 (2) This section shall apply to any person convicted  
15 of a violation of s. 794.011, s. 794.05, s. 800.04, s.  
16 827.071, or s. 847.0145 for offenses which occur on or after  
17 October 1, 2001.

18 Section 5. Section 794.0701, Florida Statutes, is  
19 created to read:

20 794.0701 Unlawful place of residence for persons  
21 convicted of certain sex offenses.--

22 (1) It is unlawful for any person who has been  
23 convicted of a violation of s. 794.011, s. 794.05, s. 800.04,  
24 s. 827.071, or s. 847.0145, regardless of whether adjudication  
25 has been withheld, in which the victim of the offense was less  
26 than 16 years of age, to reside within 1,000 feet of any  
27 school, day care center, park, or playground. Any person  
28 violating this section whose conviction for s. 794.011, s.  
29 794.05, s.800.04, s. 827.071, or s. 847.0145 was classified as  
30 a felony of the first degree or higher commits a felony of the  
31 third degree, punishable as provided in ss. 775.082 and

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1 775.083. Any person violating this section whose conviction  
 2 for s. 794.011, s. 794.05, s. 800.04, s. 827.071, or s.  
 3 847.0145 was classified as a felony of the second or third  
 4 degree commits a misdemeanor of the first degree punishable as  
 5 provided in ss. 775.082 and 775.083.

6 (2) This section shall apply retroactively to any  
 7 person convicted of a violation of s. 794.011, s. 794.05, s.  
 8 800.04, s. 827.071, or s. 847.0145, regardless of when the  
 9 offense occurred.

10 Section 6. This act shall take effect July 1, 2001.

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13 ===== T I T L E A M E N D M E N T =====

14 And the title is amended as follows:

15 remove from the title of the bill: the entire title

16

17 and insert in lieu thereof:

18

A bill to be entitled

19

An act relating to offenses against children;  
 20 amending s. 787.025, F.S.; revising provisions  
 21 to prohibit certain previously convicted  
 22 offenders from intentionally luring or  
 23 enticing, or attempting to lure or entice, a  
 24 child under age 15 into a structure, dwelling,  
 25 or conveyance without consent of parent or  
 26 legal guardian, or from intentionally luring or  
 27 enticing, or attempting to lure or entice the  
 28 child away from the child's parent or legal  
 29 guardian; providing penalties; amending s.  
 30 800.04, F.S.; defining the term "presence";  
 31 amending s. 947.1405, F.S.; prohibiting sexual

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offenders subject to conditional release  
supervision from living within a specified  
distance of certain places where children  
congregate; creating ss. 794.07 and 794.0701,  
F.S.; prohibiting persons convicted of certain  
sex crimes from residing within 1,000 feet of a  
school, day care center, park, or playground;  
providing penalties; providing for application;  
providing an effective date.