

By the Committee on Criminal Justice and Senator Latvala

307-1500-01

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A bill to be entitled
An act relating to offenses against children;
amending s. 787.025, F.S.; revising provisions
to prohibit certain previously convicted
offenders from intentionally luring or
enticing, or attempting to lure or entice, a
child under age 15 into a structure, dwelling,
or conveyance without consent of parent or
legal guardian; providing penalties; amending
s. 800.04, F.S.; defining the term "presence"
for purposes of lewd or lascivious offenses
committed in the presence of certain minors;
providing an effective date.

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

Section 1. Subsection (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 ~~for other than a lawful~~
~~purpose~~ commits a felony of the third degree, punishable as
provided in s. 775.082, s. 775.083, or s. 775.084.

~~(b) For purposes of this section, the luring or~~
~~enticing, or attempted luring or enticing, of a child under~~
~~the age of 12 into a structure, dwelling, or conveyance~~

1 ~~without the consent of the child's parent or legal guardian~~
2 ~~shall be prima facie evidence of other than a lawful purpose.~~

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

5 (a) The person reasonably believed that his or her
6 action was necessary to prevent the child from being seriously
7 injured.

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

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

14 Section 2. Subsection (1) of section 800.04, Florida
15 Statutes, is amended to read:

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

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

19 (a) "Sexual activity" means the oral, anal, or vaginal
20 penetration by, or union with, the sexual organ of another or
21 the anal or vaginal penetration of another by any other
22 object; however, sexual activity does not include an act done
23 for a bona fide medical purpose.

24 (b) "Consent" means intelligent, knowing, and
25 voluntary consent, and does not include submission by
26 coercion.

27 (c) "Coercion" means the use of exploitation, bribes,
28 threats of force, or intimidation to gain cooperation or
29 compliance.

30 (d) "Presence" means that the victim of an act in
31 violation of this section is physically present where and when

1 the act occurs and in the immediate vicinity of the act. The
2 term does not mean that the victim must see or have sensory
3 awareness of the act.

4 (e)~~(d)~~ "Victim" means a person upon whom an offense
5 described in this section was committed or attempted or a
6 person who has reported a violation of this section to a law
7 enforcement officer.

8 Section 3. This act shall take effect July 1, 2001.

9
10 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
11 COMMITTEE SUBSTITUTE FOR
12 Senate Bill 444

13 Provides that a lewd or lascivious exhibition "in the presence
14 of a victim" means that the victim must be physically present
15 where and when this exhibition occurs and in the immediate
vicinity of this exhibition, but does not have to see or sense
this exhibition.