

1 A bill to be entitled
2 An act relating to offenses against children;
3 amending s. 787.025, F.S.; revising provisions
4 to prohibit certain previously convicted
5 offenders from intentionally luring or
6 enticing, or attempting to lure or entice, a
7 child under age 15 into a structure, dwelling,
8 or conveyance without consent of parent or
9 legal guardian, or from intentionally luring or
10 enticing, or attempting to lure or entice the
11 child away from the child's parent or legal
12 guardian; providing penalties; amending s.
13 800.04, F.S.; defining the term "presence" for
14 purposes of lewd or lascivious offenses
15 committed in the presence of certain minors;
16 providing an effective date.

17
18 Be It Enacted by the Legislature of the State of Florida:

19
20 Section 1. Subsection (2) and (3) of section 787.025,
21 Florida Statutes, are amended to read:

22 787.025 Luring or enticing a child.--

23 (2)~~(a)~~ A person over the age of 18 who, having been
24 previously convicted of a violation of chapter 794 or s.
25 800.04, or a violation of a similar law of another
26 jurisdiction, intentionally lures or entices, or attempts to
27 lure or entice, a child under the age of 15 ~~12~~ into a
28 structure, dwelling, or conveyance without the consent of the
29 child's parent or legal guardian, or who intentionally lures
30 or entices, or attempts to lure or entice, a child under the
31 age of 15 away from the child's parent or legal guardian

1 without the consent of the child's parent or legal guardian,
2 ~~for other than a lawful purpose~~ commits a felony of the third
3 degree, punishable as provided in s. 775.082, s. 775.083, or
4 s. 775.084.

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

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

12 (a) The person reasonably believed that his or her
13 action was necessary to prevent the child from being seriously
14 injured.

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

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

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

23 800.04 Lewd or lascivious offenses committed upon or
24 in the presence of persons less than 16 years of age.--

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

26 (a) "Sexual activity" means the oral, anal, or vaginal
27 penetration by, or union with, the sexual organ of another or
28 the anal or vaginal penetration of another by any other
29 object; however, sexual activity does not include an act done
30 for a bona fide medical purpose.

31

1 (b) "Consent" means intelligent, knowing, and
2 voluntary consent, and does not include submission by
3 coercion.

4 (c) "Coercion" means the use of exploitation, bribes,
5 threats of force, or intimidation to gain cooperation or
6 compliance.

7 (d) "Presence" means that the victim of an act in
8 violation of this section is physically present where and when
9 the act occurs and in the immediate vicinity of the act. The
10 term does not mean that the victim must see or have sensory
11 awareness of the act.

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

16 Section 3. This act shall take effect July 1, 2001.
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31