

By Representatives Cusack and Bilirakis

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";  
14          amending s. 947.1405, F.S.; prohibiting sexual  
15          offenders subject to conditional release  
16          supervision from living within a specified  
17          distance of certain places where children  
18          congregate; creating ss. 794.07 and 794.0701,  
19          F.S.; prohibiting persons convicted of certain  
20          sex crimes from residing within 1,000 feet of a  
21          school, day care center, park, or playground;  
22          providing penalties; providing for application;  
23          providing an effective date.

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

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

29           787.025 Luring or enticing a child.--

30           (2)~~(a)~~ A person over the age of 18 who, having been  
31   previously convicted of a violation of chapter 794 or s.

1 800.04, or a violation of a similar law of another  
2 jurisdiction, intentionally lures or entices, or attempts to  
3 lure or entice, a child under the age of 15 ~~12~~ into a  
4 structure, dwelling, or conveyance without the consent of the  
5 child's parent or legal guardian, or who intentionally lures  
6 or entices, or attempts to lure or entice, a child under the  
7 age of 15 away from the child's parent or legal guardian  
8 without the consent of the child's parent or legal guardian,  
9 ~~for other than a lawful purpose~~ commits a felony of the third  
10 degree, punishable as provided in s. 775.082, s. 775.083, or  
11 s. 775.084.

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

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

19 (a) The person reasonably believed that his or her  
20 action was necessary to prevent the child from being seriously  
21 injured.

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

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

28 Section 2. Paragraph (d) of subsection (1) of section  
29 800.04, Florida Statutes, is redesignated as paragraph (e),  
30 and a new paragraph (d) is added to said section to read:

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1           800.04 Lewd or lascivious offenses committed upon or  
2 in the presence of persons less than 16 years of age.--

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

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

8           Section 3. Paragraph (a) of subsection (7) of section  
9 947.1405, Florida Statutes, is amended to read:

10          947.1405 Conditional release program.--

11          (7)(a) Any inmate who is convicted of a crime  
12 committed on or after October 1, 1995, or who has been  
13 previously convicted of a crime committed on or after October  
14 1, 1995, in violation of chapter 794, s. 800.04, s. 827.071,  
15 or s. 847.0145, and is subject to conditional release  
16 supervision, shall have, in addition to any other conditions  
17 imposed, the following special conditions imposed by the  
18 commission:

19           1. A mandatory curfew from 10 p.m. to 6 a.m. The  
20 commission may designate another 8-hour period if the  
21 offender's employment precludes the above specified time, and  
22 such alternative is recommended by the Department of  
23 Corrections. If the commission determines that imposing a  
24 curfew would endanger the victim, the commission may consider  
25 alternative sanctions.

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

30           3. Active participation in and successful completion  
31 of a sex offender treatment program with therapists

1 specifically trained to treat sex offenders, at the releasee's  
2 own expense. If a specially trained therapist is not available  
3 within a 50-mile radius of the releasee's residence, the  
4 offender shall participate in other appropriate therapy.

5 4. A prohibition on any contact with the victim,  
6 directly or indirectly, including through a third person,  
7 unless approved by the victim, the offender's therapist, and  
8 the sentencing court.

9 5. If the victim was under the age of 18, a  
10 prohibition against direct contact or association with  
11 children under the age of 18 until all of the following  
12 conditions are met:

13 a. Successful completion of a sex offender treatment  
14 program.

15 b. The adult person who is legally responsible for the  
16 welfare of the child has been advised of the nature of the  
17 crime.

18 c. Such adult person is present during all contact or  
19 association with the child.

20 d. Such adult person has been approved by the  
21 commission.

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

26 7. Unless otherwise indicated in the treatment plan  
27 provided by the sexual offender treatment program, a  
28 prohibition on viewing, owning, or possessing any obscene,  
29 pornographic, or sexually stimulating visual or auditory  
30 material, including telephone, electronic media, computer  
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1 programs, or computer services that are relevant to the  
2 offender's deviant behavior pattern.

3 8. A requirement that the releasee must submit two  
4 specimens of blood to the Florida Department of Law  
5 Enforcement to be registered with the DNA database.

6 9. A requirement that the releasee make restitution to  
7 the victim, as determined by the sentencing court or the  
8 commission, for all necessary medical and related professional  
9 services relating to physical, psychiatric, and psychological  
10 care.

11 10. Submission to a warrantless search by the  
12 community control or probation officer of the probationer's or  
13 community controllee's person, residence, or vehicle.

14 Section 4. Section 794.07, Florida Statutes, is  
15 created to read:

16 794.07 Unlawful place of residence for persons  
17 convicted of certain sex offenses.--

18 (1) It is unlawful for any person who has been  
19 convicted of a violation of s. 794.011, s. 794.05, s. 800.04,  
20 s. 827.071, or s. 847.0145, regardless of whether adjudication  
21 has been withheld, in which the victim of the offense was less  
22 than 16 years of age, to reside within 1,000 feet of any  
23 school, day care center, park, or playground. Any person  
24 violating this section whose conviction for s. 794.011, s.  
25 794.05, s. 800.04, s. 827.071, or s. 847.0145 was classified  
26 as a felony of the first degree or higher commits a felony of  
27 the third degree, punishable as provided in ss. 775.082 and  
28 775.083. Any person violating this section whose conviction  
29 for s. 794.011, s. 794.05, s. 800.04, s. 827.071, or s.  
30 847.0145 was classified as a felony of the second or third  
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1 degree commits a misdemeanor of the first degree, punishable  
2 as provided in ss. 775.082 and 775.083.

3 (2) This section shall apply to any person convicted  
4 of a violation of s. 794.011, s. 794.05, s. 800.04, s.  
5 827.071, or s. 847.0145 for offenses which occur on or after  
6 October 1, 2002.

7 Section 5. Section 794.0701, Florida Statutes, is  
8 created to read:

9 794.0701 Unlawful place of residence for persons  
10 convicted of certain sex offenses.--

11 (1) It is unlawful for any person who has been  
12 convicted of a violation of s. 794.011, s. 794.05, s. 800.04,  
13 s. 827.071, or s. 847.0145, regardless of whether adjudication  
14 has been withheld, in which the victim of the offense was less  
15 than 16 years of age, to reside within 1,000 feet of any  
16 school, day care center, park, or playground. Any person  
17 violating this section whose conviction for s. 794.011, s.  
18 794.05, s. 800.04, s. 827.071, or s. 847.0145 was classified  
19 as a felony of the first degree or higher commits a felony of  
20 the third degree, punishable as provided in ss. 775.082 and  
21 775.083. Any person violating this section whose conviction  
22 for s. 794.011, s. 794.05, s. 800.04, s. 827.071, or s.  
23 847.0145 was classified as a felony of the second or third  
24 degree commits a misdemeanor of the first degree, punishable  
25 as provided in ss. 775.082 and 775.083.

26 (2) This section shall apply retroactively to any  
27 person convicted of a violation of s. 794.011, s. 794.05, s.  
28 800.04, s. 827.071, or s. 847.0145, regardless of when the  
29 offense occurred.

30 Section 6. This act shall take effect July 1, 2002.

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HOUSE SUMMARY

Revises provisions relating to offenses against children 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, or from intentionally luring or enticing, or attempting to lure or entice, the child away from the child's parent or legal guardian. Prohibits sexual offenders subject to conditional release supervision from living within a specified distance of certain places where children congregate. Prohibits persons convicted of certain sex crimes from residing within 1,000 feet of a school, day care center, park, or playground. Provides penalties. Provides for application.