

By the Committee on Criminal Justice; and Senator Cowin

307-2008-04

1 A bill to be entitled
2 An act relating to the protection of victims of
3 sexual battery and lewd or lascivious offenses;
4 creating s. 921.244, F.S.; requiring the court
5 to prohibit certain offenders from having
6 direct or indirect contact with the victim of
7 the offense; authorizing the court to
8 reconsider orders prohibiting the contact in
9 certain circumstances; providing that it is a
10 felony of the third degree to violate the
11 order; amending s. 784.048, F.S.; providing
12 that it is a felony of the third degree to
13 willfully, maliciously, and repeatedly follow,
14 harass, or cyberstalk the victim in violation
15 of an order prohibiting contact; providing
16 applicability; providing an effective date.

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

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20 Section 1. Section 921.244, Florida Statutes, is
21 created to read:

22 921.244 Order of no contact; penalties.--

23 (1) At the time of sentencing an offender convicted of
24 a violation of s. 794.011 or s. 800.04, the court shall order
25 that the offender be prohibited from having any contact with
26 the victim, directly or indirectly, including through a third
27 person, for the duration of the sentence imposed. The court
28 may reconsider the order upon the request of the victim if the
29 request is made at any time after the victim has attained 18
30 years of age. In considering the request, the court shall
31 conduct an evidentiary hearing to determine whether a change

1 of circumstances has occurred which warrants a change in the
2 court order prohibiting contact and whether it is in the best
3 interest of the victim that the court order be modified or
4 rescinded.

5 (2) Any offender who violates a court order issued
6 under this section commits a felony of the third degree,
7 punishable as provided in s. 775.082, s. 775.083, or s.
8 775.084.

9 Section 2. Subsection (7) is added to section 784.048,
10 Florida Statutes, to read:

11 784.048 Stalking; definitions; penalties.--

12 (7) Any person who, after having been sentenced for a
13 violation of s. 794.011 or s. 800.04, and prohibited from
14 contacting the victim of the offense under s. 921.244,
15 willfully, maliciously, and repeatedly follows, harasses, or
16 cyberstalks the victim commits the offense of aggravated
17 stalking, a felony of the third degree, punishable as provided
18 in s. 775.082, s. 775.083, or s. 775.084.

19 Section 3. This act shall take effect on July 1, 2004,
20 and shall apply to offenses committed on or after that date.

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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 1118

- 4 1. The CS requires that a sentencing court prohibit an
5 offender who has been convicted of violating s. 794.011,
6 F.S., or s. 800.04, F.S., from having contact with the
7 victim of the sexual battery or the lewd or lascivious
8 offense upon or in the presence of a child under the age
9 of 16. The bill did not make such a no-contact order
10 mandatory.
- 11 2. The CS applies to offenders convicted of violating s.
12 794.011, F.S., (sexual battery) or s. 800.04, F.S., (lewd
13 or lascivious offenses upon or in the presence of a child
14 under the age of 16). The bill applied to offenders
15 placed on probation for any offense in which the
16 sentencing court enters a condition of probation
17 prohibiting contact with the victim.
- 18 3. The CS creates a new criminal offense for violation of a
19 court's no contact order issued in accordance with s.
20 921.244, F.S., making it an unranked third degree felony
21 which does not require a minimum permissible sentence of
22 imprisonment. The bill created a new variety of
23 aggravated stalking for knowingly and willfully violating
24 a court order of probation prohibiting contact with the
25 victim. The offense in the bill was a third degree felony
26 ranked as a Level 7 offense on the Offense Severity
27 Ranking Chart, which would result in a minimum
28 permissible sentence of imprisonment for 21 months.
- 29 4. The CS also creates a new variety of aggravated stalking
30 for an offender who commits the elements of misdemeanor
31 stalking against a prior victim after being convicted of
violating s. 794.011, F.S., or s. 800.04, F.S., and made
subject to an order prohibiting contact with the victim
of the crime. The new offense is an unranked third degree
felony.
5. The new offenses created by the CS are not limited to
violation of court orders issued pursuant to an order of
probation.