

By Senator Miller

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A bill to be entitled
An act relating to luring or enticing a child;
amending s. 787.025, F.S.; defining the term
"convicted"; providing that a person over the
age of 18 who intentionally lures or entices,
or attempts to lure or entice, a child under
the age of 12 into a structure, dwelling, or
conveyance for other than a lawful purpose
commits a misdemeanor of the first degree;
providing criminal penalties; providing that a
person who has previously been convicted of
this offense and who intentionally lures or
entices, or attempts to lure or entice, a child
under the age of 12 into a structure, dwelling,
or conveyance for other than a lawful purpose
commits a felony of the third degree; providing
criminal penalties; amending ss. 794.0115,
943.0435, 944.606, 944.607, and 948.32, F.S.;
conforming cross-references; amending s.
901.15, F.S.; authorizing a law enforcement
officer to arrest a person without a warrant if
there is probable cause to believe that the
person is intentionally luring or enticing, or
attempting to lure or entice, a child under the
age of 12 into a structure, dwelling, or
conveyance for other than a lawful purpose;
providing an effective date.

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

1 Section 1. Section 787.025, Florida Statutes, is
2 amended to read:

3 787.025 Luring or enticing a child.--

4 (1) As used in this section, the term:

5 (a) "Structure" means a building of any kind, either
6 temporary or permanent, which has a roof over it, together
7 with the curtilage thereof.

8 (b) "Dwelling" means a building or conveyance of any
9 kind, either temporary or permanent, mobile or immobile, which
10 has a roof over it and is designed to be occupied by people
11 lodging together therein at night, together with the curtilage
12 thereof.

13 (c) "Conveyance" means any motor vehicle, ship,
14 vessel, railroad car, trailer, aircraft, or sleeping car.

15 (d) "Convicted" means a determination of guilt which
16 is the result of a trial or the entry of a plea of guilty or
17 nolo contendere, regardless of whether adjudication is
18 withheld.

19 (2)(a) A person over the age of 18 who intentionally
20 lures or entices, or attempts to lure or entice, a child under
21 the age of 12 into a structure, dwelling, or conveyance for
22 other than a lawful purpose commits a misdemeanor of the first
23 degree, punishable as provided in s. 775.082 or s. 775.083.

24 (b) A person over the age of 18 who, having been
25 previously convicted of a violation of this section, chapter
26 794, or s. 800.04, or a violation of a similar law of another
27 jurisdiction, intentionally lures or entices, or attempts to
28 lure or entice, a child under the age of 12 into a structure,
29 dwelling, or conveyance for other than a lawful purpose
30 commits a felony of the third degree, punishable as provided
31 in s. 775.082, s. 775.083, or s. 775.084.

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

6 ~~(4)(3)~~ It is an affirmative defense to a prosecution
7 under this section that:

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

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

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

17 Section 2. Subsection (2) of section 794.0115, Florida
18 Statutes, is amended to read:

19 794.0115 Dangerous sexual felony offender; mandatory
20 sentencing.--

21 (2) Any person who is convicted of a violation of s.
22 787.025(2)(b) ~~s. 787.025~~; s. 794.011(2), (3), (4), (5), or
23 (8); s. 800.04(4) or (5); s. 825.1025(2) or (3); s.
24 827.071(2), (3), or (4); or s. 847.0145; or of any similar
25 offense under a former designation, which offense the person
26 committed when he or she was 18 years of age or older, and the
27 person:

28 (a) Caused serious personal injury to the victim as a
29 result of the commission of the offense;

30 (b) Used or threatened to use a deadly weapon during
31 the commission of the offense;

1 (c) Victimized more than one person during the course
2 of the criminal episode applicable to the offense;

3 (d) Committed the offense while under the jurisdiction
4 of a court for a felony offense under the laws of this state,
5 for an offense that is a felony in another jurisdiction, or
6 for an offense that would be a felony if that offense were
7 committed in this state; or

8 (e) Has previously been convicted of a violation of s.
9 787.025(2)(b) ~~s. 787.025~~; s. 794.011(2), (3), (4), (5), or
10 (8); s. 800.04(4) or (5); s. 825.1025(2) or (3); s.
11 827.071(2), (3), or (4); s. 847.0145; of any offense under a
12 former statutory designation which is similar in elements to
13 an offense described in this paragraph; or of any offense that
14 is a felony in another jurisdiction, or would be a felony if
15 that offense were committed in this state, and which is
16 similar in elements to an offense described in this paragraph,
17
18 is a dangerous sexual felony offender, who must be sentenced
19 to a mandatory minimum term of 25 years imprisonment up to,
20 and including, life imprisonment.

21 Section 3. Paragraph (a) of subsection (1) of section
22 943.0435, Florida Statutes, is amended to read:

23 943.0435 Sexual offenders required to register with
24 the department; penalty.--

25 (1) As used in this section, the term:

26 (a) "Sexual offender" means a person who:

27 1. Has been convicted of committing, or attempting,
28 soliciting, or conspiring to commit, any of the criminal
29 offenses proscribed in the following statutes in this state or
30 similar offenses in another jurisdiction: s. 787.01, s.
31 787.02, or s. 787.025(2)(b) ~~s. 787.025~~, where the victim is a

1 minor and the defendant is not the victim's parent; chapter
2 794, excluding ss. 794.011(10) and 794.0235; s. 796.03; s.
3 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135; s.
4 847.0137; s. 847.0138; s. 847.0145; or any similar offense
5 committed in this state which has been redesignated from a
6 former statute number to one of those listed in this
7 subparagraph; and

8 2. Has been released on or after October 1, 1997, from
9 the sanction imposed for any conviction of an offense
10 described in subparagraph 1. For purposes of subparagraph 1.,
11 a sanction imposed in this state or in any other jurisdiction
12 includes, but is not limited to, a fine, probation, community
13 control, parole, conditional release, control release, or
14 incarceration in a state prison, federal prison, private
15 correctional facility, or local detention facility; or

16 3. Establishes or maintains a residence in this state
17 and who has not been designated as a sexual predator by a
18 court of this state but who has been designated as a sexual
19 predator, as a sexually violent predator, or by another sexual
20 offender designation in another state or jurisdiction and was,
21 as a result of such designation, subjected to registration or
22 community or public notification, or both, or would be if the
23 person were a resident of that state or jurisdiction; or

24 4. Establishes or maintains a residence in this state
25 who is in the custody or control of, or under the supervision
26 of, any other state or jurisdiction as a result of a
27 conviction for committing, or attempting, soliciting, or
28 conspiring to commit, any of the criminal offenses proscribed
29 in the following statutes or similar offense in another
30 jurisdiction: s. 787.01, s. 787.02, or s. 787.025(2)(b) ~~s.~~
31 ~~787.025~~, where the victim is a minor and the defendant is not

1 the victim's parent; chapter 794, excluding ss. 794.011(10)
2 and 794.0235; s. 796.03; s. 800.04; s. 825.1025; s. 827.071;
3 s. 847.0133; s. 847.0135; s. 847.0137; s. 847.0138; s.
4 847.0145; or any similar offense committed in this state which
5 has been redesignated from a former statute number to one of
6 those listed in this subparagraph.

7 Section 4. Paragraph (b) of subsection (1) of section
8 944.606, Florida Statutes, is amended to read:

9 944.606 Sexual offenders; notification upon release.--

10 (1) As used in this section:

11 (b) "Sexual offender" means a person who has been
12 convicted of committing, or attempting, soliciting, or
13 conspiring to commit, any of the criminal offenses proscribed
14 in the following statutes in this state or similar offenses in
15 another jurisdiction: s. 787.01, s. 787.02, or s.

16 787.025(2)(b) ~~s. 787.025~~, where the victim is a minor and the
17 defendant is not the victim's parent; chapter 794, excluding
18 ss. 794.011(10) and 794.0235; s. 796.03; s. 800.04; s.
19 825.1025; s. 827.071; s. 847.0133; s. 847.0135; s. 847.0137;
20 s. 847.0138; s. 847.0145; or any similar offense committed in
21 this state which has been redesignated from a former statute
22 number to one of those listed in this subsection, when the
23 department has received verified information regarding such
24 conviction; an offender's computerized criminal history record
25 is not, in and of itself, verified information.

26 Section 5. Paragraph (a) of subsection (1) of section
27 944.607, Florida Statutes, is amended to read:

28 944.607 Notification to Department of Law Enforcement
29 of information on sexual offenders.--

30 (1) As used in this section, the term:

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1 (a) "Sexual offender" means a person who is in the
2 custody or control of, or under the supervision of, the
3 department or is in the custody of a private correctional
4 facility:

5 1. On or after October 1, 1997, as a result of a
6 conviction for committing, or attempting, soliciting, or
7 conspiring to commit, any of the criminal offenses proscribed
8 in the following statutes in this state or similar offenses in
9 another jurisdiction: s. 787.01, s. 787.02, or s.

10 787.025(2)(b) ~~s. 787.025~~, where the victim is a minor and the
11 defendant is not the victim's parent; chapter 794, excluding
12 ss. 794.011(10) and 794.0235; s. 796.03; s. 800.04; s.
13 825.1025; s. 827.071; s. 847.0133; s. 847.0135; s. 847.0137;
14 s. 847.0138; s. 847.0145; or any similar offense committed in
15 this state which has been redesignated from a former statute
16 number to one of those listed in this paragraph; or

17 2. Who establishes or maintains a residence in this
18 state and who has not been designated as a sexual predator by
19 a court of this state but who has been designated as a sexual
20 predator, as a sexually violent predator, or by another sexual
21 offender designation in another state or jurisdiction and was,
22 as a result of such designation, subjected to registration or
23 community or public notification, or both, or would be if the
24 person were a resident of that state or jurisdiction.

25 Section 6. Subsection (1) of section 948.32, Florida
26 Statutes, is amended to read:

27 948.32 Requirements of law enforcement agency upon
28 arrest of persons for certain sex offenses.--

29 (1) When any state or local law enforcement agency
30 investigates or arrests a person for committing, or
31 attempting, soliciting, or conspiring to commit, a violation

1 of s. 787.025(2)(b) ~~s. 787.025~~, chapter 794, s. 796.03, s.
2 800.04, s. 827.071, s. 847.0133, s. 847.0135, or s. 847.0145,
3 the law enforcement agency shall contact the Department of
4 Corrections to verify whether the person under investigation
5 or under arrest is on probation, community control, parole,
6 conditional release, or control release.

7 Section 7. Subsection (8) of section 901.15, Florida
8 Statutes, is amended to read:

9 901.15 When arrest by officer without warrant is
10 lawful.--A law enforcement officer may arrest a person without
11 a warrant when:

12 (8) There is probable cause to believe that the person
13 has committed child abuse, as defined in s. 827.03, or has
14 violated s. 787.025, relating to luring or enticing a child
15 for unlawful purposes. The decision to arrest ~~does~~ shall not
16 require consent of the victim or consideration of the
17 relationship of the parties. It is the public policy of this
18 state to protect abused children by strongly encouraging the
19 arrest and prosecution of persons who commit child abuse. A
20 law enforcement officer who acts in good faith and exercises
21 due care in making an arrest under this subsection is immune
22 from civil liability that otherwise might result by reason of
23 his or her action.

24 Section 8. This act shall take effect July 1, 2006.
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SENATE SUMMARY

Provides that if a person over the age of 18 intentionally lures or entices, or attempts to lure or entice, a child under the age of 12 into a structure, dwelling, or conveyance for other than a lawful purpose, the person commits a misdemeanor of the first degree. Provides that if a person has previously been convicted of certain specified offenses and intentionally lures or entices, or attempts to lure or entice, a child under the age of 12 into a structure, dwelling, or conveyance for other than a lawful purpose, the person commits a felony of the third degree. Authorizes a law enforcement officer to arrest a person without a warrant if there is probable cause to believe that the person is intentionally luring or enticing, or attempting to lure or entice, a child under the age of 12 into a structure, dwelling, or conveyance for other than a lawful purpose.