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1 A bill to be entitled

2 An act relating to luring or enticing a child; amending s.
3 787.025, F.S.; defining the term "convicted"; providing
4 that a person over the age of 18 who intentionally lures
5 or entices, or attempts to lure or entice, a child under
6 the age of 12 into a structure, dwelling, or conveyance
7 for other than a lawful purpose commits a misdemeanor of
8 the first degree; providing criminal penalties; providing
9 that a person who has previously been convicted of this
10 offense and who intentionally lures or entices, or
11 attempts to lure or entice, a child under the age of 12
12 into a structure, dwelling, or conveyance for other than a
13 lawful purpose commits a felony of the third degree;
14 providing criminal penalties; amending ss. 794.0115,
15 943.0435, 944.606, 944.607, and 948.32, F.S.; conforming
16 cross-references; amending s. 901.15, F.S.; authorizing a
17 law enforcement officer to arrest a person without a
18 warrant if there is probable cause to believe that the
19 person is intentionally luring or enticing, or attempting
20 to lure or entice, a child under the age of 12 into a
21 structure, dwelling, or conveyance for other than a lawful
22 purpose; providing an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. Section 787.025, Florida Statutes, is amended
27 to read:

28 787.025 Luring or enticing a child.--

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

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

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

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

39 (d) "Convicted" means a determination of guilt which is
 40 the result of a trial or the entry of a plea of guilty or nolo
 41 contendere, regardless of whether adjudication is withheld.

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

47 (b) A person over the age of 18 who, having been
 48 previously convicted of a violation of this section, chapter
 49 794, or s. 800.04, or a violation of a similar law of another
 50 jurisdiction, intentionally lures or entices, or attempts to
 51 lure or entice, a child under the age of 12 into a structure,
 52 dwelling, or conveyance for other than a lawful purpose commits
 53 a felony of the third degree, punishable as provided in s.
 54 775.082, s. 775.083, or s. 775.084.

55 (3) ~~(b)~~ For purposes of this section, the luring or
 56 enticing, or attempted luring or enticing, of a child under the

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57 | age of 12 into a structure, dwelling, or conveyance without the
 58 | consent of the child's parent or legal guardian is ~~shall be~~
 59 | prima facie evidence of other than a lawful purpose.

60 | (4)~~(3)~~ It is an affirmative defense to a prosecution under
 61 | this section that:

62 | (a) The person reasonably believed that his or her action
 63 | was necessary to prevent the child from being seriously injured.

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

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

70 | Section 2. Subsection (2) of section 794.0115, Florida
 71 | Statutes, is amended to read:

72 | 794.0115 Dangerous sexual felony offender; mandatory
 73 | sentencing.--

74 | (2) Any person who is convicted of a violation of s.
 75 | 787.025(2)(b) ~~s. 787.025~~; s. 794.011(2), (3), (4), (5), or (8);
 76 | s. 800.04(4) or (5); s. 825.1025(2) or (3); s. 827.071(2), (3),
 77 | or (4); or s. 847.0145; or of any similar offense under a former
 78 | designation, which offense the person committed when he or she
 79 | was 18 years of age or older, and the person:

80 | (a) Caused serious personal injury to the victim as a
 81 | result of the commission of the offense;

82 | (b) Used or threatened to use a deadly weapon during the
 83 | commission of the offense;

84 | (c) Victimized more than one person during the course of

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85 the criminal episode applicable to the offense;

86 (d) Committed the offense while under the jurisdiction of
 87 a court for a felony offense under the laws of this state, for
 88 an offense that is a felony in another jurisdiction, or for an
 89 offense that would be a felony if that offense were committed in
 90 this state; or

91 (e) Has previously been convicted of a violation of s.
 92 787.025(2)(b) ~~s. 787.025~~; s. 794.011(2), (3), (4), (5), or (8);
 93 s. 800.04(4) or (5); s. 825.1025(2) or (3); s. 827.071(2), (3),
 94 or (4); s. 847.0145; of any offense under a former statutory
 95 designation which is similar in elements to an offense described
 96 in this paragraph; or of any offense that is a felony in another
 97 jurisdiction, or would be a felony if that offense were
 98 committed in this state, and which is similar in elements to an
 99 offense described in this paragraph,

100
 101 is a dangerous sexual felony offender, who must be sentenced to
 102 a mandatory minimum term of 25 years imprisonment up to, and
 103 including, life imprisonment.

104 Section 3. Paragraph (a) of subsection (1) of section
 105 943.0435, Florida Statutes, is amended to read:

106 943.0435 Sexual offenders required to register with the
 107 department; penalty.--

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

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

110 1. Has been convicted of committing, or attempting,
 111 soliciting, or conspiring to commit, any of the criminal
 112 offenses proscribed in the following statutes in this state or

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113 similar offenses in another jurisdiction: s. 787.01, s. 787.02,
114 or s. 787.025(2)(b) ~~s. 787.025~~, where the victim is a minor and
115 the defendant is not the victim's parent; chapter 794, excluding
116 ss. 794.011(10) and 794.0235; s. 796.03; s. 800.04; s. 825.1025;
117 s. 827.071; s. 847.0133; s. 847.0135; s. 847.0137; s. 847.0138;
118 s. 847.0145; or any similar offense committed in this state
119 which has been redesignated from a former statute number to one
120 of those listed in this subparagraph; and

121 2. Has been released on or after October 1, 1997, from the
122 sanction imposed for any conviction of an offense described in
123 subparagraph 1. For purposes of subparagraph 1., a sanction
124 imposed in this state or in any other jurisdiction includes, but
125 is not limited to, a fine, probation, community control, parole,
126 conditional release, control release, or incarceration in a
127 state prison, federal prison, private correctional facility, or
128 local detention facility; or

129 3. Establishes or maintains a residence in this state and
130 who has not been designated as a sexual predator by a court of
131 this state but who has been designated as a sexual predator, as
132 a sexually violent predator, or by another sexual offender
133 designation in another state or jurisdiction and was, as a
134 result of such designation, subjected to registration or
135 community or public notification, or both, or would be if the
136 person were a resident of that state or jurisdiction; or

137 4. Establishes or maintains a residence in this state who
138 is in the custody or control of, or under the supervision of,
139 any other state or jurisdiction as a result of a conviction for
140 committing, or attempting, soliciting, or conspiring to commit,

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141 any of the criminal offenses proscribed in the following
 142 statutes or similar offense in another jurisdiction: s. 787.01,
 143 s. 787.02, or s. 787.025(2)(b) ~~s. 787.025~~, where the victim is a
 144 minor and the defendant is not the victim's parent; chapter 794,
 145 excluding ss. 794.011(10) and 794.0235; s. 796.03; s. 800.04; s.
 146 825.1025; s. 827.071; s. 847.0133; s. 847.0135; s. 847.0137; s.
 147 847.0138; s. 847.0145; or any similar offense committed in this
 148 state which has been redesignated from a former statute number
 149 to one of those listed in this subparagraph.

150 Section 4. Paragraph (b) of subsection (1) of section
 151 944.606, Florida Statutes, is amended to read:

152 944.606 Sexual offenders; notification upon release.--

153 (1) As used in this section:

154 (b) "Sexual offender" means a person who has been
 155 convicted of committing, or attempting, soliciting, or
 156 conspiring to commit, any of the criminal offenses proscribed in
 157 the following statutes in this state or similar offenses in
 158 another jurisdiction: s. 787.01, s. 787.02, or s. 787.025(2)(b)
 159 ~~s. 787.025~~, where the victim is a minor and the defendant is not
 160 the victim's parent; chapter 794, excluding ss. 794.011(10) and
 161 794.0235; s. 796.03; s. 800.04; s. 825.1025; s. 827.071; s.
 162 847.0133; s. 847.0135; s. 847.0137; s. 847.0138; s. 847.0145; or
 163 any similar offense committed in this state which has been
 164 redesignated from a former statute number to one of those listed
 165 in this subsection, when the department has received verified
 166 information regarding such conviction; an offender's
 167 computerized criminal history record is not, in and of itself,
 168 verified information.

169 Section 5. Paragraph (a) of subsection (1) of section
 170 944.607, Florida Statutes, is amended to read:

171 944.607 Notification to Department of Law Enforcement of
 172 information on sexual offenders.--

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

174 (a) "Sexual offender" means a person who is in the custody
 175 or control of, or under the supervision of, the department or is
 176 in the custody of a private correctional facility:

177 1. On or after October 1, 1997, as a result of a
 178 conviction for committing, or attempting, soliciting, or
 179 conspiring to commit, any of the criminal offenses proscribed in
 180 the following statutes in this state or similar offenses in
 181 another jurisdiction: s. 787.01, s. 787.02, or s. 787.025(2)(b)
 182 ~~s. 787.025~~, where the victim is a minor and the defendant is not
 183 the victim's parent; chapter 794, excluding ss. 794.011(10) and
 184 794.0235; s. 796.03; s. 800.04; s. 825.1025; s. 827.071; s.
 185 847.0133; s. 847.0135; s. 847.0137; s. 847.0138; s. 847.0145; or
 186 any similar offense committed in this state which has been
 187 redesignated from a former statute number to one of those listed
 188 in this paragraph; or

189 2. Who establishes or maintains a residence in this state
 190 and who has not been designated as a sexual predator by a court
 191 of this state but who has been designated as a sexual predator,
 192 as a sexually violent predator, or by another sexual offender
 193 designation in another state or jurisdiction and was, as a
 194 result of such designation, subjected to registration or
 195 community or public notification, or both, or would be if the
 196 person were a resident of that state or jurisdiction.

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

199 948.32 Requirements of law enforcement agency upon arrest
 200 of persons for certain sex offenses.--

201 (1) When any state or local law enforcement agency
 202 investigates or arrests a person for committing, or attempting,
 203 soliciting, or conspiring to commit, a violation of s.
 204 787.025(2)(b) ~~s. 787.025~~, chapter 794, s. 796.03, s. 800.04, s.
 205 827.071, s. 847.0133, s. 847.0135, or s. 847.0145, the law
 206 enforcement agency shall contact the Department of Corrections
 207 to verify whether the person under investigation or under arrest
 208 is on probation, community control, parole, conditional release,
 209 or control release.

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

212 901.15 When arrest by officer without warrant is
 213 lawful.--A law enforcement officer may arrest a person without a
 214 warrant when:

215 (8) There is probable cause to believe that the person has
 216 committed child abuse, as defined in s. 827.03, or has violated
 217 s. 787.025, relating to luring or enticing a child for unlawful
 218 purposes. The decision to arrest does ~~shall~~ not require consent
 219 of the victim or consideration of the relationship of the
 220 parties. It is the public policy of this state to protect abused
 221 children by strongly encouraging the arrest and prosecution of
 222 persons who commit child abuse. A law enforcement officer who
 223 acts in good faith and exercises due care in making an arrest
 224 under this subsection is immune from civil liability that

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225 otherwise might result by reason of his or her action.

226 Section 8. This act shall take effect July 1, 2006.