

## CHAMBER ACTION

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1 The Justice Council recommends the following:

2  
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to luring or enticing a child; amending s.  
7 787.025, F.S.; defining the term "convicted"; providing  
8 that a person 18 years of age or older who intentionally  
9 lures or entices, or attempts to lure or entice, a child  
10 under the age of 12 into a structure, dwelling, or  
11 conveyance for other than a lawful purpose commits a  
12 misdemeanor of the first degree; providing criminal  
13 penalties; providing that a person who has previously been  
14 convicted of this offense and who intentionally lures or  
15 entices, or attempts to lure or entice, a child under the  
16 age of 12 into a structure, dwelling, or conveyance for  
17 other than a lawful purpose commits a felony of the third  
18 degree; providing criminal penalties; deleting a  
19 presumption regarding what constitutes other than a lawful  
20 purpose; amending ss. 775.21, 794.0115, 943.0435, 944.606,  
21 944.607, and 948.32, F.S.; conforming cross-references;  
22 amending s. 901.15, F.S.; authorizing a law enforcement  
23 officer to arrest a person without a warrant if there is

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24 |       probable cause to believe that the person is intentionally  
25 |       luring or enticing, or attempting to lure or entice, a  
26 |       child under the age of 12 into a structure, dwelling, or  
27 |       conveyance for other than a lawful purpose; providing an  
28 |       effective date.

29 |

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

31 |

32 |       Section 1. Subsections (1) and (2) of section 787.025,  
33 | Florida Statutes, are amended to read:

34 |       787.025 Luring or enticing a child.--

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

36 |       (a) "Structure" means a building of any kind, either  
37 | temporary or permanent, which has a roof over it, together with  
38 | the curtilage thereof.

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

43 |       (c) "Conveyance" means any motor vehicle, ship, vessel,  
44 | railroad car, trailer, aircraft, or sleeping car.

45 |       (d) "Convicted" means a determination of guilt which is  
46 | the result of a trial or the entry of a plea of guilty or nolo  
47 | contendere, regardless of whether adjudication is withheld.

48 |       (2) (a) A person 18 years of age or older who intentionally  
49 | lures or entices, or attempts to lure or entice, a child under  
50 | the age of 12 into a structure, dwelling, or conveyance for

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51 other than a lawful purpose commits a misdemeanor of the first  
52 degree, punishable as provided in s. 775.082 or s. 775.083.

53 (b) A person 18 years of age or older who, having been  
54 previously convicted of a violation of paragraph (a),  
55 intentionally lures or entices, or attempts to lure or entice, a  
56 child under the age of 12 into a structure, dwelling, or  
57 conveyance for other than a lawful purpose commits a felony of  
58 the third degree, punishable as provided in s. 775.082, s.  
59 775.083, or s. 775.084.

60 (c) A person ~~over the age of~~ 18 years of age or older who,  
61 having been previously convicted of a violation of chapter 794  
62 or s. 800.04, or a violation of a similar law of another  
63 jurisdiction, intentionally lures or entices, or attempts to  
64 lure or entice, a child under the age of 12 into a structure,  
65 dwelling, or conveyance for other than a lawful purpose commits  
66 a felony of the third degree, punishable as provided in s.  
67 775.082, s. 775.083, or s. 775.084.

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

73 Section 2. Paragraph (a) of subsection (4) and paragraph  
74 (b) of subsection (10) of section 775.21, Florida Statutes, are  
75 amended to read:

76 775.21 The Florida Sexual Predators Act.--

77 (4) SEXUAL PREDATOR CRITERIA.--

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78 (a) For a current offense committed on or after October 1,  
79 1993, upon conviction, an offender shall be designated as a  
80 "sexual predator" under subsection (5), and subject to  
81 registration under subsection (6) and community and public  
82 notification under subsection (7) if:

83 1. The felony is:

84 a. A capital, life, or first-degree felony violation, or  
85 any attempt thereof, of s. 787.01 or s. 787.02, where the victim  
86 is a minor and the defendant is not the victim's parent, or of  
87 chapter 794, s. 800.04, or s. 847.0145, or a violation of a  
88 similar law of another jurisdiction; or

89 b. Any felony violation, or any attempt thereof, of s.  
90 787.01, s. 787.02, or s. 787.025(2)(c) ~~787.025~~, where the victim  
91 is a minor and the defendant is not the victim's parent; chapter  
92 794, excluding ss. 794.011(10) and 794.0235; s. 796.03; s.  
93 800.04; s. 825.1025(2)(b); s. 827.071; or s. 847.0145; or a  
94 violation of a similar law of another jurisdiction, and the  
95 offender has previously been convicted of or found to have  
96 committed, or has pled nolo contendere or guilty to, regardless  
97 of adjudication, any violation of s. 787.01, s. 787.02, or s.  
98 787.025(2)(c) ~~s. 787.025~~, where the victim is a minor and the  
99 defendant is not the victim's parent; s. 794.011(2), (3), (4),  
100 (5), or (8); s. 794.05; s. 796.03; s. 800.04; s. 825.1025; s.  
101 827.071; s. 847.0133; s. 847.0135; or s. 847.0145, or a  
102 violation of a similar law of another jurisdiction;

103 2. The offender has not received a pardon for any felony  
104 or similar law of another jurisdiction that is necessary for the  
105 operation of this paragraph; and

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106 3. A conviction of a felony or similar law of another  
107 jurisdiction necessary to the operation of this paragraph has  
108 not been set aside in any postconviction proceeding.

109 (10) PENALTIES.--

110 (b) A sexual predator who has been convicted of or found  
111 to have committed, or has pled nolo contendere or guilty to,  
112 regardless of adjudication, any violation, or attempted  
113 violation, of s. 787.01, s. 787.02, or s. 787.025(2)(c) ~~s.~~  
114 ~~787.025~~, where the victim is a minor and the defendant is not  
115 the victim's parent; s. 794.011(2), (3), (4), (5), or (8); s.  
116 794.05; s. 796.03; s. 800.04; s. 827.071; s. 847.0133; or s.  
117 847.0145, or a violation of a similar law of another  
118 jurisdiction, when the victim of the offense was a minor, and  
119 who works, whether for compensation or as a volunteer, at any  
120 business, school, day care center, park, playground, or other  
121 place where children regularly congregate, commits a felony of  
122 the third degree, punishable as provided in s. 775.082, s.  
123 775.083, or s. 775.084.

124 Section 3. Subsection (2) of section 794.0115, Florida  
125 Statutes, is amended to read:

126 794.0115 Dangerous sexual felony offender; mandatory  
127 sentencing.--

128 (2) Any person who is convicted of a violation of s.  
129 787.025(2)(c) ~~s. 787.025~~; s. 794.011(2), (3), (4), (5), or (8);  
130 s. 800.04(4) or (5); s. 825.1025(2) or (3); s. 827.071(2), (3),  
131 or (4); or s. 847.0145; or of any similar offense under a former  
132 designation, which offense the person committed when he or she  
133 was 18 years of age or older, and the person:

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

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

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

140 (d) Committed the offense while under the jurisdiction of  
141 a court for a felony offense under the laws of this state, for  
142 an offense that is a felony in another jurisdiction, or for an  
143 offense that would be a felony if that offense were committed in  
144 this state; or

145 (e) Has previously been convicted of a violation of s.  
146 787.025(2)(c) ~~s. 787.025~~; s. 794.011(2), (3), (4), (5), or (8);  
147 s. 800.04(4) or (5); s. 825.1025(2) or (3); s. 827.071(2), (3),  
148 or (4); s. 847.0145; of any offense under a former statutory  
149 designation which is similar in elements to an offense described  
150 in this paragraph; or of any offense that is a felony in another  
151 jurisdiction, or would be a felony if that offense were  
152 committed in this state, and which is similar in elements to an  
153 offense described in this paragraph,  
154

155 is a dangerous sexual felony offender, who must be sentenced to  
156 a mandatory minimum term of 25 years imprisonment up to, and  
157 including, life imprisonment.

158 Section 4. Paragraph (a) of subsection (1) of section  
159 943.0435, Florida Statutes, is amended to read:

160 943.0435 Sexual offenders required to register with the  
161 department; penalty.--

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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162 (1) As used in this section, the term:  
 163 (a) "Sexual offender" means a person who:  
 164 1. Has been convicted of committing, or attempting,  
 165 soliciting, or conspiring to commit, any of the criminal  
 166 offenses proscribed in the following statutes in this state or  
 167 similar offenses in another jurisdiction: s. 787.01, s. 787.02,  
 168 or s. 787.025(2)(c) ~~s. 787.025~~, where the victim is a minor and  
 169 the defendant is not the victim's parent; chapter 794, excluding  
 170 ss. 794.011(10) and 794.0235; s. 796.03; s. 800.04; s. 825.1025;  
 171 s. 827.071; s. 847.0133; s. 847.0135; s. 847.0137; s. 847.0138;  
 172 s. 847.0145; or any similar offense committed in this state  
 173 which has been redesignated from a former statute number to one  
 174 of those listed in this subparagraph; and  
 175 2. Has been released on or after October 1, 1997, from the  
 176 sanction imposed for any conviction of an offense described in  
 177 subparagraph 1. For purposes of subparagraph 1., a sanction  
 178 imposed in this state or in any other jurisdiction includes, but  
 179 is not limited to, a fine, probation, community control, parole,  
 180 conditional release, control release, or incarceration in a  
 181 state prison, federal prison, private correctional facility, or  
 182 local detention facility; or  
 183 3. Establishes or maintains a residence in this state and  
 184 who has not been designated as a sexual predator by a court of  
 185 this state but who has been designated as a sexual predator, as  
 186 a sexually violent predator, or by another sexual offender  
 187 designation in another state or jurisdiction and was, as a  
 188 result of such designation, subjected to registration or

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189 community or public notification, or both, or would be if the  
190 person were a resident of that state or jurisdiction; or

191 4. Establishes or maintains a residence in this state who  
192 is in the custody or control of, or under the supervision of,  
193 any other state or jurisdiction as a result of a conviction for  
194 committing, or attempting, soliciting, or conspiring to commit,  
195 any of the criminal offenses proscribed in the following  
196 statutes or similar offense in another jurisdiction: s. 787.01,  
197 s. 787.02, or s. 787.025(2)(c) ~~s. 787.025~~, where the victim is a  
198 minor and the defendant is not the victim's parent; chapter 794,  
199 excluding ss. 794.011(10) and 794.0235; s. 796.03; s. 800.04; s.  
200 825.1025; s. 827.071; s. 847.0133; s. 847.0135; s. 847.0137; s.  
201 847.0138; s. 847.0145; or any similar offense committed in this  
202 state which has been redesignated from a former statute number  
203 to one of those listed in this subparagraph.

204 Section 5. Paragraph (b) of subsection (1) of section  
205 944.606, Florida Statutes, is amended to read:

206 944.606 Sexual offenders; notification upon release.--

207 (1) As used in this section:

208 (b) "Sexual offender" means a person who has been  
209 convicted of committing, or attempting, soliciting, or  
210 conspiring to commit, any of the criminal offenses proscribed in  
211 the following statutes in this state or similar offenses in  
212 another jurisdiction: s. 787.01, s. 787.02, or s. 787.025(2)(c)  
213 ~~s. 787.025~~, where the victim is a minor and the defendant is not  
214 the victim's parent; chapter 794, excluding ss. 794.011(10) and  
215 794.0235; s. 796.03; s. 800.04; s. 825.1025; s. 827.071; s.  
216 847.0133; s. 847.0135; s. 847.0137; s. 847.0138; s. 847.0145; or



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217 any similar offense committed in this state which has been  
218 redesignated from a former statute number to one of those listed  
219 in this subsection, when the department has received verified  
220 information regarding such conviction; an offender's  
221 computerized criminal history record is not, in and of itself,  
222 verified information.

223 Section 6. Paragraph (a) of subsection (1) of section  
224 944.607, Florida Statutes, is amended to read:

225 944.607 Notification to Department of Law Enforcement of  
226 information on sexual offenders.--

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

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

231 1. On or after October 1, 1997, as a result of a  
232 conviction for committing, or attempting, soliciting, or  
233 conspiring to commit, any of the criminal offenses proscribed in  
234 the following statutes in this state or similar offenses in  
235 another jurisdiction: s. 787.01, s. 787.02, or s. 787.025(2)(c)  
236 ~~s. 787.025~~, where the victim is a minor and the defendant is not  
237 the victim's parent; chapter 794, excluding ss. 794.011(10) and  
238 794.0235; s. 796.03; s. 800.04; s. 825.1025; s. 827.071; s.  
239 847.0133; s. 847.0135; s. 847.0137; s. 847.0138; s. 847.0145; or  
240 any similar offense committed in this state which has been  
241 redesignated from a former statute number to one of those listed  
242 in this paragraph; or

243 2. Who establishes or maintains a residence in this state  
244 and who has not been designated as a sexual predator by a court

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245 | of this state but who has been designated as a sexual predator,  
 246 | as a sexually violent predator, or by another sexual offender  
 247 | designation in another state or jurisdiction and was, as a  
 248 | result of such designation, subjected to registration or  
 249 | community or public notification, or both, or would be if the  
 250 | person were a resident of that state or jurisdiction.

251 |       Section 7. Subsection (1) of section 948.32, Florida  
 252 | Statutes, is amended to read:

253 |       948.32 Requirements of law enforcement agency upon arrest  
 254 | of persons for certain sex offenses.--

255 |       (1) When any state or local law enforcement agency  
 256 | investigates or arrests a person for committing, or attempting,  
 257 | soliciting, or conspiring to commit, a violation of s.  
 258 | 787.025(2)(c) ~~s. 787.025~~, chapter 794, s. 796.03, s. 800.04, s.  
 259 | 827.071, s. 847.0133, s. 847.0135, or s. 847.0145, the law  
 260 | enforcement agency shall contact the Department of Corrections  
 261 | to verify whether the person under investigation or under arrest  
 262 | is on probation, community control, parole, conditional release,  
 263 | or control release.

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

266 |       901.15 When arrest by officer without warrant is  
 267 | lawful.--A law enforcement officer may arrest a person without a  
 268 | warrant when:

269 |       (8) There is probable cause to believe that the person has  
 270 | committed child abuse, as defined in s. 827.03, or has violated  
 271 | s. 787.025, relating to luring or enticing a child for unlawful  
 272 | purposes. The decision to arrest does ~~shall~~ not require consent

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273 | of the victim or consideration of the relationship of the  
274 | parties. It is the public policy of this state to protect abused  
275 | children by strongly encouraging the arrest and prosecution of  
276 | persons who commit child abuse. A law enforcement officer who  
277 | acts in good faith and exercises due care in making an arrest  
278 | under this subsection is immune from civil liability that  
279 | otherwise might result by reason of his or her action.

280 |       Section 9. This act shall take effect July 1, 2006.