

1                                   A bill to be entitled  
 2           An act relating to lewdness and indecent exposure;  
 3           amending ss. 800.02 and 800.03, F.S.; providing enhanced  
 4           penalties for offenses involving unnatural and lascivious  
 5           acts or exposure or exhibition of sexual organs committed  
 6           within a specified distance of certain locations; amending  
 7           s. 933.18, F.S.; conforming a provision to the enhancement  
 8           of penalties; providing an effective date.

9  
 10   Be It Enacted by the Legislature of the State of Florida:

11  
 12           Section 1.   Section 800.02, Florida Statutes, is amended to  
 13   read:

14           800.02   Unnatural and lascivious act.--

15           (1) (a)   Except as provided in paragraph (b), a person who  
 16   commits any unnatural and lascivious act with another person  
 17   commits a misdemeanor of the second degree, punishable as  
 18   provided in s. 775.082 or s. 775.083.

19           (b)   A person who commits any unnatural and lascivious act  
 20   with another person on or within 1,000 feet of the real property  
 21   comprising:

22           1.   A child care facility, as defined in s. 402.302, that  
 23   is in compliance with the signage requirements of s.

24   893.13(1)(c);

25           2.   A public or private elementary, middle, or secondary  
 26   school between the hours of 6 a.m. and 12 midnight; or

27           3. A state, county, or municipal park, a public beach, a  
 28 community center as defined in s. 893.13(1)(c), or a publicly  
 29 owned recreational facility at any time  
 30  
 31 commits a felony of the second degree, punishable as provided in  
 32 s. 775.082, s. 775.083, or s. 775.084.

33           (2) A mother's breastfeeding of her baby does not under  
 34 any circumstance violate this section.

35           Section 2. Section 800.03, Florida Statutes, is amended to  
 36 read:

37           800.03 Exposure of sexual organs.--

38           (1)(a) Except as provided in paragraph (b), a person who  
 39 exposes or exhibits his or her ~~It is unlawful to expose or~~  
 40 ~~exhibit one's~~ sexual organs in public or on the private premises  
 41 of another, or so near thereto as to be seen from such private  
 42 premises, in a vulgar or indecent manner, or is ~~to be~~ naked in  
 43 public except in any place provided or set apart for that  
 44 purpose commits ~~. Violation of this section is~~ a misdemeanor of  
 45 the first degree, punishable as provided in s. 775.082 or s.  
 46 775.083.

47           (b) A person who exposes or exhibits his or her sexual  
 48 organs in violation of paragraph (a) on or within 1,000 feet of  
 49 the real property comprising:

50           1. A child care facility, as defined in s. 402.302, that  
 51 is in compliance with the signage requirements of s.  
 52 893.13(1)(c);

53           2. A public or private elementary, middle, or secondary  
 54 school between the hours of 6 a.m. and 12 midnight; or

55           3. A state, county, or municipal park, a public beach, a  
 56 community center as defined in s. 893.13(1)(c), or a publicly  
 57 owned recreational facility at any time  
 58  
 59 commits a felony of the second degree, punishable as provided in  
 60 s. 775.082, s. 775.083, or s. 775.084.

61           (2) A mother's breastfeeding of her baby does not under  
 62 any circumstance violate this section.

63           Section 3. Subsection (7) of section 933.18, Florida  
 64 Statutes, is amended to read:

65           933.18 When warrant may be issued for search of private  
 66 dwelling.--No search warrant shall issue under this chapter or  
 67 under any other law of this state to search any private dwelling  
 68 occupied as such unless:

69           (7) One or more of the following ~~misdemeanor~~ child abuse  
 70 offenses is being committed there:

71           (a) Interference with custody, in violation of s. 787.03.

72           (b) Commission of an unnatural and lascivious act with a  
 73 child, in violation of s. 800.02.

74           (c) Exposure of sexual organs to a child, in violation of  
 75 s. 800.03.

76  
 77 If, during a search pursuant to a warrant issued under this  
 78 section, a child is discovered and appears to be in imminent  
 79 danger, the law enforcement officer conducting such search may  
 80 remove the child from the private dwelling and take the child  
 81 into protective custody pursuant to chapter 39. The term  
 82 "private dwelling" shall be construed to include the room or

HB 269

2007

83 | rooms used and occupied, not transiently but solely as a  
84 | residence, in an apartment house, hotel, boardinghouse, or  
85 | lodginghouse. No warrant shall be issued for the search of any  
86 | private dwelling under any of the conditions hereinabove  
87 | mentioned except on sworn proof by affidavit of some creditable  
88 | witness that he or she has reason to believe that one of said  
89 | conditions exists, which affidavit shall set forth the facts on  
90 | which such reason for belief is based.

91 |       Section 4. This act shall take effect October 1, 2007.