

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 third and subsequent violations of specified
 5 provisions; providing enhanced penalties for offenses
 6 involving unnatural and lascivious acts or exposure or
 7 exhibition of sexual organs committed within a specified
 8 distance of certain locations; amending s. 933.18, F.S.;
 9 conforming a provision to the enhancement of penalties;
 10 amending s. 901.15, F.S.; authorizing warrantless arrest
 11 for violations of s. 800.03, F.S.; providing an effective
 12 date.

13
 14 Be It Enacted by the Legislature of the State of Florida:

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 16 Section 1. Section 800.02, Florida Statutes, is amended to
 17 read:

18 800.02 Unnatural and lascivious act.--

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

23 2. Any person who violates subparagraph 1. and who has
 24 twice previously been convicted of a violation of subparagraph
 25 1. or s. 800.03(1)(a)1. commits a felony of the third degree,
 26 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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

30 1. A child care facility, as defined in s. 402.302, that
 31 is in compliance with the signage requirements of s.
 32 893.13(1)(c);

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

35 3. A state, county, or municipal park, a public beach, a
 36 community center as defined in s. 893.13(1)(c), or a publicly
 37 owned recreational facility at any time

38
 39 commits a felony of the third degree, punishable as provided in
 40 s. 775.082, s. 775.083, or s. 775.084.

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

43 Section 2. Section 800.03, Florida Statutes, is amended to
 44 read:

45 800.03 Exposure of sexual organs.--

46 (1)(a)1. Except as provided in paragraph (b), a person who
 47 exposes or exhibits his or her ~~It is unlawful to expose or~~
 48 ~~exhibit one's~~ sexual organs in public or on the private premises
 49 of another, or so near thereto as to be seen from such private
 50 premises, in a vulgar or indecent manner, or is ~~to be~~ naked in
 51 public except in any place provided or set apart for that
 52 purpose commits. ~~Violation of this section is~~ a misdemeanor of
 53 the first degree, punishable as provided in s. 775.082 or s.
 54 775.083.

55 2. Any person who violates subparagraph 1. and who has
 56 twice previously been convicted of a violation of subparagraph
 57 1. or s. 800.02(1)(a)1. commits a felony of the third degree,
 58 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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

62 1. A child care facility, as defined in s. 402.302, that
 63 is in compliance with the signage requirements of s.
 64 893.13(1)(c);

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

67 3. A state, county, or municipal park, a public beach, a
 68 community center as defined in s. 893.13(1)(c), or a publicly
 69 owned recreational facility at any time

70
 71 commits a felony of the third degree, punishable as provided in
 72 s. 775.082, s. 775.083, or s. 775.084.

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

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

77 933.18 When warrant may be issued for search of private
 78 dwelling.--No search warrant shall issue under this chapter or
 79 under any other law of this state to search any private dwelling
 80 occupied as such unless:

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

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

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

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

88
89 If, during a search pursuant to a warrant issued under this
90 section, a child is discovered and appears to be in imminent
91 danger, the law enforcement officer conducting such search may
92 remove the child from the private dwelling and take the child
93 into protective custody pursuant to chapter 39. The term
94 "private dwelling" shall be construed to include the room or
95 rooms used and occupied, not transiently but solely as a
96 residence, in an apartment house, hotel, boardinghouse, or
97 lodginghouse. No warrant shall be issued for the search of any
98 private dwelling under any of the conditions hereinabove
99 mentioned except on sworn proof by affidavit of some creditable
100 witness that he or she has reason to believe that one of said
101 conditions exists, which affidavit shall set forth the facts on
102 which such reason for belief is based.

103 Section 4. Subsection (16) is added to section 901.15,
104 Florida Statutes, to read:

105 901.15 When arrest by officer without warrant is
106 lawful.--A law enforcement officer may arrest a person without a
107 warrant when:

108 (16) There is probable cause to believe that the person
109 has unlawfully exposed or exhibited his or her sexual organs in
110 public in violation of s. 800.03.

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Section 5. This act shall take effect October 1, 2008.