

By Senator Sobel

33-01255-15

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1                   A bill to be entitled  
2           An act relating to lewd and lascivious behavior;  
3           repealing s. 798.02, F.S., relating to a prohibition  
4           on lewd and lascivious behavior, including a  
5           prohibition on lewd and lascivious association and  
6           cohabitation together by a man and woman who are not  
7           married to each other; amending ss. 39.0139, 39.509,  
8           and 435.04, F.S.; conforming provisions to changes  
9           made by the act; providing an effective date.

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

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13           Section 1. Section 798.02, Florida Statutes, is repealed.

14           Section 2. Paragraph (a) of subsection (3) of section  
15 39.0139, Florida Statutes, is amended to read:

16           39.0139 Visitation or other contact; restrictions.—

17           (3) PRESUMPTION OF DETRIMENT.—

18           (a) A rebuttable presumption of detriment to a child is  
19 created when:

20           1. A court of competent jurisdiction has found probable  
21 cause exists that a parent or caregiver has sexually abused a  
22 child as defined in s. 39.01;

23           2. A parent or caregiver has been found guilty of,  
24 regardless of adjudication, or has entered a plea of guilty or  
25 nolo contendere to, charges under the following statutes or  
26 substantially similar statutes of other jurisdictions:

27           a. Section 787.04, relating to removing minors from the  
28 state or concealing minors contrary to court order;

29           b. Section 794.011, relating to sexual battery;

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30 ~~e. Section 798.02, relating to lewd and lascivious~~  
31 ~~behavior;~~

32 ~~c.d.~~ Chapter 800, relating to lewdness and indecent  
33 exposure;

34 ~~d.e.~~ Section 826.04, relating to incest; or

35 ~~e.f.~~ Chapter 827, relating to the abuse of children; or

36 3. A court of competent jurisdiction has determined a  
37 parent or caregiver to be a sexual predator as defined in s.  
38 775.21 or a parent or caregiver has received a substantially  
39 similar designation under laws of another jurisdiction.

40 Section 3. Paragraph (a) of subsection (6) of section  
41 39.509, Florida Statutes, is amended to read:

42 39.509 Grandparents rights.—Notwithstanding any other  
43 provision of law, a maternal or paternal grandparent as well as  
44 a stepgrandparent is entitled to reasonable visitation with his  
45 or her grandchild who has been adjudicated a dependent child and  
46 taken from the physical custody of the parent unless the court  
47 finds that such visitation is not in the best interest of the  
48 child or that such visitation would interfere with the goals of  
49 the case plan. Reasonable visitation may be unsupervised and,  
50 where appropriate and feasible, may be frequent and continuing.  
51 Any order for visitation or other contact must conform to the  
52 provisions of s. 39.0139.

53 (6) In determining whether grandparental visitation is not  
54 in the child's best interest, consideration may be given to the  
55 following:

56 (a) The finding of guilt, regardless of adjudication, or  
57 entry or plea of guilty or nolo contendere to charges under the  
58 following statutes, or similar statutes of other jurisdictions:

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59 s. 787.04, relating to removing minors from the state or  
60 concealing minors contrary to court order; s. 794.011, relating  
61 to sexual battery; ~~s. 798.02, relating to lewd and lascivious~~  
62 ~~behavior~~; chapter 800, relating to lewdness and indecent  
63 exposure; s. 826.04, relating to incest; or chapter 827,  
64 relating to the abuse of children.

65 Section 4. Present paragraphs (x) through (zz) of  
66 subsection (2) of section 435.04, Florida Statutes, are  
67 redesignated as paragraphs (w) through (yy), respectively, and  
68 paragraph (w) of subsection (2) of that section, is amended to  
69 read:

70 435.04 Level 2 screening standards.—

71 (2) The security background investigations under this  
72 section must ensure that no persons subject to the provisions of  
73 this section have been arrested for and are awaiting final  
74 disposition of, have been found guilty of, regardless of  
75 adjudication, or entered a plea of nolo contendere or guilty to,  
76 or have been adjudicated delinquent and the record has not been  
77 sealed or expunged for, any offense prohibited under any of the  
78 following provisions of state law or similar law of another  
79 jurisdiction:

80 ~~(w) Section 798.02, relating to lewd and lascivious~~  
81 ~~behavior.~~

82 Section 5. This act shall take effect July 1, 2015.