

# FLORIDA HOUSE OF REPRESENTATIVES

## BILL ANALYSIS

*This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.*

**BILL #:** [CS/CS/HB 1525](#)

**TITLE:** Lewd or Lascivious Acts

**SPONSOR(S):** Bankson and Yarkosky

**COMPANION BILL:** [CS/SB 1742](#) (Martin)

**LINKED BILLS:** None

**RELATED BILLS:** None

### Committee References

[Judiciary](#)

17 Y, 0 N, As CS

## SUMMARY

### Effect of the Bill:

The bill creates a third degree felony offense, indecent exposure of sexual organs while observing a child, if a person, while observing a child under 16 years of age for the purpose of his or her own sexual arousal or gratification:

- Intentionally exposes his or her sexual organs in a lewd or lascivious manner; or
- Intentionally performs any sexual act that does not involve actual physical or sexual contact with the child, including, but not limited to, sadomasochistic abuse, sexual bestiality, masturbation, or the simulation of any act involving sexual activity.

Under the bill, the term "observing" means intentionally viewing another person under circumstances in which the offender is reasonably capable of being seen by the person being viewed. The bill specifies that it is not a defense that the person being observed was not aware of any specific conduct on the part of the offender or did not see the offender's sexual organs.

The bill repeals the second degree misdemeanor offense of committing any unnatural and lascivious act with another person.

### Fiscal or Economic Impact:

The bill may have a positive indeterminate impact on prison beds by creating a new felony offense related to indecent exposure of sexual organs while observing a child. The bill may have a negative indeterminate impact on jail beds by repealing the second degree misdemeanor offense of committing any unnatural and lascivious act with another person.

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## ANALYSIS

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**STORAGE NAME:** h1525b.JDC

**DATE:** 2/3/2026

The bill specifies that it is not a defense that the person being observed was not aware of any specific conduct on the part of the offender or did not see the offender's sexual organs. (Section [2](#))

A person does not commit the offense of indecent exposure of sexual organs while observing a child if the person is either of the following:

- A mother who is breastfeeding her baby.
- An individual who is merely nude in a place provided or set apart for that purpose. (Section [2](#))

A conviction for a violation of indecent exposure of sexual organs while observing a child does not require a person to register as a sexual offender. (Section [2](#))

The bill repeals [s. 800.02, F.S.](#), related to [unnatural and lascivious acts](#), and makes conforming changes to reflect the repeal. (Sections [1](#), [3](#), and [4](#))

The effective date of the bill is October 1, 2026. (Section [5](#))

#### **FISCAL OR ECONOMIC IMPACT:**

##### **STATE GOVERNMENT:**

The bill may have a positive indeterminate impact on prison beds by creating a new felony offense related to indecent exposure of sexual organs while observing a child. To the extent that the new offense covers conduct not prohibited under current law, the bill may result in increased prison admissions. Additionally, by repealing the second degree misdemeanor offense of committing any unnatural and lascivious act with another person, the bill may result in more offenders being convicted of more serious offenses related to lewd or lascivious conduct, which may result in increased prison admissions.

##### **LOCAL GOVERNMENT:**

The bill may have a negative indeterminate impact on jail beds by repealing the second degree misdemeanor offense of committing any unnatural and lascivious act with another person.

## **RELEVANT INFORMATION**

#### **SUBJECT OVERVIEW:**

##### **Unnatural and Lascivious Acts**

Under [s. 800.02, F.S.](#), a person who commits any unnatural and lascivious act with another person commits a second degree misdemeanor.<sup>1</sup> Florida courts have held that such offense is a lesser included offense of other lewd and lascivious violations under [s. 800.04, F.S.](#)<sup>2</sup>

##### **Lewd or Lascivious Exhibition – Victim Younger than 16**

A person commits lewd or lascivious<sup>3</sup> exhibition by performing any of the following acts in the presence of a person under 16:

- Intentionally masturbating;
- Intentionally exposing the genitals in a lewd or lascivious manner;

<sup>1</sup> A second degree misdemeanor is punishable by up to 60 days in county jail and a \$500 fine. [Ss. 775.082](#) and [775.083, F.S.](#)

<sup>2</sup> See, e.g., *Sherrer v. State*, 898 So. 2d 260 (Fla. 1st DCA 2005); *Lowman v. Moore*, 744 So. 2d 1210 (Fla. 2d DCA 1999).

<sup>3</sup> The Florida Supreme Court has held that the terms "lewd" and "lascivious" mean a wicked, lustful, unchaste, licentious, or sensual intent on the part of the person doing an act. *Chesebrough v. State*, 255 So.2d 675, 677 (Fla. 1971).

- Intentionally committing any other sexual act that does not involve actual physical or sexual contact with the victim, including, but not limited to, sadomasochistic abuse, sexual bestiality, or the simulation of any act involving sexual activity.<sup>4</sup>

Lewd or lascivious exhibition is a:

- Third degree felony,<sup>5</sup> if the offender is less than 18 years of age.
- Second degree felony,<sup>6</sup> if the offender is 18 years of age or older.<sup>7</sup>

#### Lewd or Lascivious Battery Exhibition – Elderly or Disabled Victim

A person commits lewd or lascivious exhibition upon an elderly or disabled person in the same manner as an offense of lewd or exhibition involving a victim younger than 16, except that the offense is committed against an elderly or disabled person whom the perpetrator knew or reasonably should have known either lacked the capacity to consent or failed to give consent.<sup>8</sup> Lewd or lascivious exhibition against an elderly or disabled person is a third degree felony.<sup>9</sup>

#### Lewd or Lascivious Exhibition Using a Computer

A person commits lewd or lascivious exhibition using a computer if he or she commits specified acts live over a computer online service, Internet service, or local bulletin board service, and knows, should know, or has reason to believe that the transmission is viewed on a computer or television monitor by a victim who is less than 16 years of age. Such prohibited acts include intentional:

- Masturbation;
- Exposure of the genitals in a lewd or lascivious manner; or
- Commission of any other sexual act that does not involve actual physical or sexual contact with the victim, including, but not limited to, sadomasochistic abuse, sexual bestiality, or the simulation of any act involving sexual activity.<sup>10</sup>

Lewd or lascivious exhibition using a computer is a:

- Third degree felony, if the offender is less than 18 years of age.
- Second degree felony, if the offender is 18 years of age or older.<sup>11</sup>

#### Exposure of Sexual Organs

A person commits unlawful exposure of sexual organs by:

- Exposing or exhibiting his or her sexual organs in public or on the private premises of another, or so near thereto as to be seen from such private premises, in a vulgar or indecent manner; or
- Being naked in public in a vulgar or indecent manner.<sup>12</sup>

Exposure of sexual organs is a:

- First degree misdemeanor,<sup>13</sup> upon a first offense.
- Third degree felony, upon a second or subsequent offense.<sup>14</sup>

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<sup>4</sup> [S. 800.04\(7\), F.S.](#)

<sup>5</sup> A third degree felony is punishable by up to five years in prison and a \$5,000 fine. [Ss. 775.082, 775.083](#), or [775.084](#), F.S.

<sup>6</sup> A second degree felony is punishable by up to 15 years in prison and a \$10,000 fine. [Ss. 775.082, 775.083](#), or [775.084](#), F.S.

<sup>7</sup> [S. 800.04\(7\)\(b\)-\(c\), F.S.](#)

<sup>8</sup> [S. 825.1025](#), F.S.

<sup>9</sup> [S. 825.1025\(4\)\(b\)](#), F.S.

<sup>10</sup> [S. 847.0135\(5\)\(a\)](#), F.S. A mother's breastfeeding of her baby is not a violation of this section. [S. 847.0135\(5\)\(d\)](#), F.S.

<sup>11</sup> [S. 847.0135\(5\)\(b\)-\(c\)](#), F.S.

<sup>12</sup> [S. 800.03](#), F.S. The exposure of sexual organs by a mother breastfeeding her baby, or an individual who is merely naked at any place provided or set apart for that purpose, does not violate this section. [S. 800.03\(3\)](#), F.S.

<sup>13</sup> A first degree misdemeanor is punishable by up to one year in county jail and a \$1,000 fine. [Ss. 775.082](#) and [775.083](#), F.S.

<sup>14</sup> [S. 800.03\(2\)](#), F.S.

*State v. Werner*

In *State v. Werner*,<sup>15</sup> the Florida Supreme Court held that the state must prove that a victim saw or sensed the lewd or lascivious act of a defendant charged with committing such an offense in the presence of a minor. In that case, the defendant was accused of lewd and lascivious exhibition after taking his thirteen-month-old daughter into a bathroom and masturbating.<sup>16</sup> Applying statutory interpretation to determine the meaning of “presence” under [s. 800.04, F.S.](#), the court found “that the complete definition of ‘presence’ encompasses sensory awareness as well as physical proximity.”<sup>17</sup> Thus, the court concluded, “while the child need not be able to articulate or even comprehend what the offender is doing, the child must see or sense that a lewd or lascivious act is taking place for a violation to occur.”<sup>18</sup>

**BILL HISTORY**

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
<a href="#">Judiciary Committee</a>	17 Y, 0 N, As CS	2/3/2026	Kramer	Butcher
THE CHANGES ADOPTED BY THE COMMITTEE:	<ul style="list-style-type: none"> <li>Renamed the offense from “lewd or lascivious exhibition while observing a child” to “indecent exposure of sexual organs while observing a child.”</li> <li>Repealed <a href="#">s. 800.02, F.S.</a>, related to unnatural and lascivious acts.</li> <li>Made conforming changes.</li> </ul>			

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**THIS BILL ANALYSIS HAS BEEN UPDATED TO INCORPORATE ALL OF THE CHANGES DESCRIBED ABOVE.**  
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<sup>15</sup> 609 So.2d 585 (Fla. 1992).

<sup>16</sup> *Id.* at 586.

<sup>17</sup> *Id.* The Florida Supreme Court further noted how “Florida courts have interpreted ‘presence’ in other legal contexts as encompassing more than mere physical proximity. *See Malone v. Howell*, 140 Fla. 693, 192 So. 224 (1939) (presence of officer for purposes of a lawful misdemeanor arrest without a warrant requires that the misdemeanor must be actually detected by the officer by the use of one of his senses); *In re Estate of Charry*, 359 So.2d 544 (Fla. 4th DCA 1978) (statutory requirement that testator must sign will in presence of two attesting witnesses interpreted to mean that each witness must see the testator sign). Florida Rule of Criminal Procedure 3.830 also provides that direct criminal contempt ‘may be punished summarily if the court *saw or heard* the conduct constituting contempt committed in the actual *presence* of the court’” (emphasis supplied).

<sup>18</sup> *Id.*