

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: CS/SB 1742

INTRODUCER: Criminal Justice Committee and Senator Martin

SUBJECT: Lewd or Lascivious Exhibition

DATE: January 28, 2026

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Parker	Stokes	CJ	Fav/CS
2.			ACJ	
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1742 creates s. 800.035, F.S., establishing the crime of indecent exposure of sexual organs to a minor. A person may not:

- Intentionally expose his or her sexual organ in a lewd or lascivious manner while viewing a person who is younger than 16 years of age for the purpose of attaining sexual arousal or gratification; or
- Intentionally perform any sexual act that does not involve actual physical or sexual contact with the minor, including, but not limited to, sadomasochistic abuse, sexual bestiality, masturbation, or the simulation of any act involving sexual activity, while viewing a person who is younger than 16 years of age for the purpose of attaining sexual arousal or gratification.

“Viewing” means that the offender knows that a person younger than 16 years of age is present, and the offender is reasonably capable of being seen by such person. The term does not require such person to be aware of any specific organs to a minor.

A person who commits the offense of indecent exposure of sexual organs to a minor commits a third degree felony.¹

¹ A third degree felony is punishable by a term of imprisonment not exceeding 5 years and a fine up to \$5,000, as provided in ss. 775.082, 775.083, or 775.084, F.S.

The bill repeals s. 800.02, F.S., relating to unnatural and lascivious acts.

The bill may have a positive indeterminate fiscal impact (unquantifiable increase in prison beds) on the Department of Corrections. *See Section V. Fiscal Impact Statement.*

The bill takes effect on October 1, 2026.

II. Present Situation:

Lewd or Lascivious Offenses

Florida law contains various sections of law relating to lewd or lascivious offenses. This includes, in part, prohibitions on lewd or lascivious exhibition in the presence of a minor.

Lewd or Lascivious Conduct

Section 800.04(6), F.S., provides that a person who commits lewd or lascivious conduct, if he or she:

- Intentionally touches a person under 16 years of age in a lewd or lascivious manner;² or
- Solicits a person under 16 years to commit a lewd or lascivious act.³

An offender 18 years of age or older who commits lewd or lascivious conduct commits a second degree felony.⁴ An offender less than 18 years of age or older who commits lewd or lascivious conduct commits a third degree felony.⁵

Lewd or Lascivious Exhibition

Section 800.04(7), F.S., provides that a person commits Lewd or Lascivious Exhibition if he or she, in the presence of a victim who is less than 16:

- Intentionally masturbates;
- Intentionally exposes the genitals in a lewd or lascivious manner; or
- Intentionally commits 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.

An offender 18 years of age or older who commits a lewd or lascivious exhibition⁶ commits a second degree felony.⁷

² Section (6)(a)1., F.S.

³ Section (6)(a)2., F.S.

⁴ Section (6)(b), F.S.

⁵ Section (6)(c), F.S.

⁶ Section 800.04(7)(b), F.S.

⁷ A second degree felony is punishable by a term of imprisonment not exceeding 15 years and a fine up to \$10,000, as provided in ss. 775.082, 775.083, and 775.084, F.S.

An offender less than 18 years of age who commits a lewd or lascivious exhibition⁸ commits a third degree felony.⁹

A mother breastfeeding her baby does not under any circumstance constitute a violation of this section.¹⁰

Exposure of Sexual Organs

Publicly exposing sexual organs may be criminal behavior. The criminal act of exposure of sexual organs occurs when a person:

- Exposes or exhibits his or her sexual organs in public, or on the private premises of another, or so near thereto as to be seen from the private premises, in a vulgar or indecent manner; or
- Is naked in public in a vulgar or indecent manner.¹¹

Exposure of sexual organs is a first degree misdemeanor.¹² However, a second or subsequent violation is a third degree felony.

Courts have consistently held that being naked alone is not sufficient to violate s. 800.03, F.S. To trigger a violation, there must also be a “lascivious” exhibition of the sexual organs.¹³

Unnatural and lascivious act

A person who commits any unnatural and lascivious act with another person commits a misdemeanor of the second degree.^{14,15}

III. Effect of Proposed Changes:

CS/SB 1742 creates s. 800.035, F.S., establishing the crime of indecent exposure of sexual of sexual organs. A person may not:

- Intentionally expose his or her sexual organ in a lewd or lascivious manner while viewing a person who is younger than 16 years of age for the purpose of attaining sexual arousal or gratification; or
- Intentionally perform any sexual act that does not involve actual physical or sexual contact with the minor, including, but not limited to, sadomasochistic abuse, sexual bestiality, masturbation, or the simulation of any act involving sexual activity, while viewing a person who is younger than 16 years of age for the purpose of attaining sexual arousal or gratification.

⁸ Section 800.03, F.S.

⁹ A third degree felony is punishable by a term of imprisonment not exceeding 5 years and a fine up to \$5,000, as provided in ss. 775.082, 775.083, and 775.084, F.S.

¹⁰ Section 800.04(8), F.S.

¹¹ Section 800.03, F.S.

¹² A first degree misdemeanor is punishable by a term of imprisonment not to exceed one year and a fine up to \$1,000, as provided in ss. 775.082 or 775.083, F.S.

¹³ *Hoffman v. Carson*, 250 So 2d 891(Fla. 1971).

¹⁴ Section 800.02, F.S.

¹⁵ A second degree misdemeanor is punishable by a term of imprisonment not exceeding 60 days and a \$500 fine, as provided in ss. 775.082 and 775.083, F.S.

“Viewing” means that the offender knows that a person younger than 16 years of age is present, and the offender is reasonably capable of being seen by such person. The term does not require such person to be aware of any specific organs to a minor.

The bill provides exceptions to the crime of indecent exposure of sexual organs to a if the person is either:

- A mother who is breastfeeding her baby.
- An individual who is merely nude in a place provided or set apart for the purpose.

The bill repeals s 800.02, F.S., relating to unnatural and lascivious acts.

This bill takes effect on October 1, 2026.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

F. Tax/Fee Issues:

None.

G. Private Sector Impact:

None.

H. Government Sector Impact:

The bill may have a positive indeterminate prison bed impact (unquantifiable increase prison bed impact) on the Department of Corrections due to creating a crime to include acts which not covered in current law.

V. Technical Deficiencies:

None.

VI. Related Issues:

None.

VII. Statutes Affected:

This bill creates section 800.035 of the Florida Statute.

This bill repeals section 800.04 of the Florida Statute.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Criminal Justice on January 26, 2026:**

The committee substitute:

- Creates the third degree felony crime of indecent exposure to a minor. The crime prohibits lewd or sexual acts while viewing a child, for the purpose of attaining sexual arousal or gratification.
- Repeals unnatural and lascivious acts statute.

B. Amendments:

None.