

**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.)

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Prepared By: The Professional Staff of the Committee on Fiscal Policy

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**BILL:** CS/CS/SB 1742

**INTRODUCER:** Appropriations Committee on Criminal and Civil Justice; Criminal Justice Committee; and Senator Martin

**SUBJECT:** Indecent Exposure of Sexual Organs While Observing a Child

**DATE:** February 27, 2026      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Parker</u>	<u>Stokes</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	<u>Atchley</u>	<u>Harkness</u>	<u>ACJ</u>	<u>Fav/CS</u>
3.	<u>Parker</u>	<u>Siples</u>	<u>FP</u>	<u>Pre-meeting</u>

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 1742 creates s. 800.035, F.S., establishing a new offense for indecent exposure of sexual organs while observing a child. Specifically, the bill provides that a person commits the offense of indecent exposure while observing a child if that person, while observing a child under 16 years of age, for the purpose of his or her own sexual arousal or gratification:

- Intentionally expose his or her sexual organ in a lewd or lascivious manner; 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.

A person who commits the offense of indecent exposure of sexual organs while observing a child commits a third degree felony.<sup>1</sup>

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

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<sup>1</sup> 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 may have a positive indeterminate fiscal impact (unquantifiable increase in prison bed needs) 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;<sup>2</sup> or
- Solicits a person under 16 years to commit a lewd or lascivious act.<sup>3</sup>

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

#### *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 exhibition<sup>6</sup> commits a second degree felony.<sup>7</sup>

An offender less than 18 years of age who commits a lewd or lascivious exhibition<sup>8</sup> commits a third degree felony.<sup>9</sup>

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<sup>2</sup> Section (6)(a)1., F.S.

<sup>3</sup> Section (6)(a)2., F.S.

<sup>4</sup> Section (6)(b), F.S.

<sup>5</sup> Section (6)(c), F.S.

<sup>6</sup> Section 800.04(7)(b), F.S.

<sup>7</sup> 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.

<sup>8</sup> Section 800.03, F.S.

<sup>9</sup> 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.

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

### ***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.<sup>11</sup>

Exposure of sexual organs is a first degree misdemeanor.<sup>12</sup> 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.<sup>13</sup>

### ***Unnatural and lascivious act***

A person who commits any unnatural and lascivious act with another person commits a misdemeanor of the second degree.<sup>14,15</sup>

## **III. Effect of Proposed Changes:**

CS/SB 1742 creates s. 800.035, F.S., establishing a new third degree felony offense for indecent exposure of sexual organs while observing a child. Specifically, the bill provides that a person commits the offense of indecent exposure while observing a child if that 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 organ in a lewd or lascivious manner; or
- Intentionally performs 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.

The bill provides exceptions to the crime of indecent exposure of sexual organs 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.

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<sup>10</sup> Section 800.04(8), F.S.

<sup>11</sup> Section 800.03, F.S.

<sup>12</sup> 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.

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

<sup>14</sup> Section 800.02, F.S.

<sup>15</sup> 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.

The bill provides 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 defines "observing" as intentionally viewing another person under circumstances in which the offender is reasonably capable of being seen by the person viewed.

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 Art. 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.

#### **V. Fiscal Impact Statement:**

##### **A. Tax/Fee Issues:**

None.

##### **B. Private Sector Impact:**

None.

##### **C. Government Sector Impact:**

The Legislature's Office of Economic and Demographic Research (EDR) and the Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has determined that the bill may have a positive

indeterminate impact on Department of Corrections' prison bed needs. The EDR provides the following additional information regarding its estimate:

- Per FDLE, in FY 2024-2025, there were 28 arrests, with 8 guilty/convicted charges and two adjudication withheld charges for the current second degree misdemeanor under s. 800.02, F.S. Current language under s. 800.04(7), F.S. has a Level 5, second degree felony for someone older than 18 years of age committing lewd or lascivious exhibition in front of a victim less than 16 years of age, and a Level 4, third degree felony for when that person is less than 18 years of age. Per FDLE, there were 215 arrests under s. 800.04(7), F.S., with 64 guilty/convicted charges and three adjudication withheld charges. Per DOC, in FY 2024-2025, there were 34 new commitments to prison for such acts. The new language expands on similar acts, creating a situation where it “does not require such person to be aware of any specific conduct or to see the offender’s sexual organs.” It is not known how many additional offenders there would be under this new language.
- Per DOC, in FY 2024-2025, the incarceration rate for a Level 1, third degree felony was 9.7 percent.<sup>16</sup>

#### **VI. Technical Deficiencies:**

None.

#### **VII. Related Issues:**

None.

#### **VIII. Statutes Affected:**

This bill creates section 800.035 of the Florida Statutes.

This bill repeals section 800.02 of the Florida Statutes.

#### **IX. Additional Information:**

##### **A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

##### **CS/CS by Appropriations Committee on Criminal and Civil Justice on February 25, 2026:**

The committee substitute:

- Renames the new offense to “indecent exposure of sexual organs while observing a child”.
- Removes the definition of “viewing” and defines “observing”.
- Provides 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.

<sup>16</sup> Office of Economic and Demographic Research, *SB 1742 – Indecent Exposure of Sexual Organs to Minors*, (on file with the Senate Appropriations Committee on Criminal and Civil Justice)

**CS by Criminal Justice on January 26, 2026:**

The committee substitute:

- Creates a third degree felony for indecent exposure to a minor which 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.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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