

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 1026

SPONSOR: Criminal Justice Committee and Senator Crist

SUBJECT: Crimes Against Minors

DATE: February 12, 2002 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dugger	Cannon	CJ	Favorable/CS
2.	_____	_____	APJ	_____
3.	_____	_____	AP	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Committee Substitute for Senate Bill 1026 would amend the statutes that enhance penalties for kidnapping or falsely imprisoning a child and during such kidnapping or false imprisonment, committing other enumerated crimes upon that child. The CS would amend these two statutes by increasing the age of a potentially affected child to include any child under the age of 16, rather than under the age of 13. This change would result in expanded coverage for children who are 13, 14, and 15 years of age.

Similarly, the CS would increase the age of an affected child under the luring or enticing statute to include any child under the age of 16, rather than under the age of 12. This would result in 12, 13, 14, and 15 -year old children being covered under this statute.

Another change to the luring statute would be the deletion of the requirement that a person over the age of 18 be previously convicted of a sexual battery or a lewd or lascivious offense before such person could be found guilty of luring or enticing a child into a structure, dwelling, or conveyance for other than a lawful purpose.

Finally, the penalty for luring or enticing a child would increase from a third degree felony to a second degree felony under the CS.

This CS substantially amends ss. 787.01, 787.02, 787.025, and 921.0022 and reenacts ss. 435.03, 435.04, 775.21, 903.133, 910.14, 943.0435, 943.0585, 943.059, 944.606, 944.607, 948.01, and 948.06 of the Florida Statutes.

II. Present Situation:

Currently, s. 787.01, F.S., proscribes the offense of kidnapping by making it a first degree felony, punishable by imprisonment not exceeding life, to forcibly, secretly, or by threat confine, abduct, or imprison a person against his or her will and without lawful authority, intending to: hold for ransom, reward, shield, or hostage; commit or facilitate the commission of any felony; inflict bodily harm or terrorize the victim; or interfere with a governmental or political function performance. This section also specifies that a child under the age of 13 is confined against his or her will if it is without the parent's consent. s. 787.01(1)(b), F.S.

A person who kidnaps a child under the age of 13 and in the process, also commits one of the enumerated offenses (aggravated child abuse; sexual battery; lewd or lascivious battery, molestation, or exhibition; prostitution violation upon the child; or exploitation of the child) commits a life felony under s. 787.01(3)(a), F.S.

False imprisonment is proscribed in s. 787.02, F.S., as a third degree felony. It is unlawful to forcibly, by threat, or secretly, to confine, abduct, imprison, or restrain a person without lawful authority and against her or his will. This section also specifies that a child under the age of 13 is confined against her or his will if it is without the parent's consent. s. 787.02(1)(b), F.S.

A person who falsely imprisons a child under the age of 13 and in the process, also commits one of the enumerated offenses (aggravated child abuse; sexual battery; lewd or lascivious battery, molestation, or exhibition; prostitution violation upon the child; or exploitation of the child) commits a first degree felony, punishable by imprisonment not exceeding life under s. 787.02(3)(a), F.S.

Section 787.025, F.S., makes it a third degree felony for a person over 18 years of age to intentionally lure or entice or attempt to lure or entice a child under the age of 12 into a structure, dwelling, or conveyance for other than a lawful purpose. This section also specifies that luring or enticing a child under 12 into a structure or conveyance without the parent's consent is prima facie evidence of other than a lawful purpose. s. 787.025(2)(b), F.S. It also provides affirmative defenses to a prosecution under this statute. s. 787.025(3)(a)(b)(c), F.S.

Although the Florida Supreme Court found that s. 787.025(2)(b), F.S., created an unconstitutional statutory presumption, it upheld the constitutionality of the overall luring and enticing statute against a vagueness and overbreadth challenge. *State v. Brake*, 796 So.2d 522 (Fla. 2001).

III. Effect of Proposed Changes:

Committee Substitute for Senate Bill 1026 would amend the statutes that enhance penalties for kidnapping or falsely imprisoning a child and during such kidnapping or false imprisonment, committing other enumerated crimes upon that child. The CS would amend these two statutes by increasing the age of a potentially affected child to include any child under the age of 16, rather than under the age of 13, as is currently provided for under s. 787.01, F.S., and s. 787.02, F.S. This change would result in expanding the statutes' coverage to include 13, 14, and 15 year old

children who are kidnapped or falsely imprisoned and who during such kidnapping or false imprisonment, have any of the statutorily enumerated crimes committed against them.

This revision would also apply to the kidnapping and false imprisonment statutes as they relate to specifying that confinement of a child under a certain age (currently under 13) is against her or his will if such confinement is without the parent's consent.

Similarly, the CS would increase the age of an affected child under the luring statute, s. 787.025, F.S., to include any child under the age of 16, rather than under the age of 12. This would result in 12, 13, 14, and 15 -year old children being covered under this statute.

Another change to the luring statute would be the deletion of the requirement that a person over the age of 18 be previously convicted of a sexual battery or a lewd or lascivious offense before such person could be found guilty of luring or enticing a child into a structure, dwelling, or conveyance for other than a lawful purpose. Finally, the penalty for this crime would increase from a third degree felony to a second degree felony under the CS.

The CS would also make conforming changes to the Criminal Punishment Code, as well as reenact numerous sections of law for the purpose of incorporating the references in those sections to the amendments being made by the CS.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to the Criminal Justice Impact Conference, there will be insignificant prison bed impact as a result of this CS.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
