

The Florida Senate
PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Prepared By: Criminal Justice Committee

BILL: CS/SB 2544

INTRODUCER: Criminal Justice Committee and Senator Storms

SUBJECT: Sexual Offenses

DATE: April 23, 2007 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Cannon	CJ	Fav/CS
2.			JU	
3.			JA	
4.				
5.				
6.				

I. Summary:

The bill requires the imposition of a life sentence for a third or subsequent conviction for the offense of lewd or lascivious molestation where the victim is under the age of 12 and the offender is 18 or older.

This bill substantially amends s. 775.082, F.S.

II. Present Situation:

A person who intentionally touches in a lewd or lascivious manner the breasts, genitals, genital area, or buttocks, or the clothing covering them, of a person less than 16 years of age, or forces or entices a person under 16 years of age to so touch the perpetrator, commits lewd or lascivious molestation, a second degree felony.¹ If an offender is 18 years of age or older and the victim is under the age of 12, the offense of lewd or lascivious molestation is a life felony.² Section 775.082(3)(a)4., F.S., provides that the life felony is punishable by a term of imprisonment for life *or* a sentence of not less than 25 years imprisonment and not exceeding life imprisonment followed by probation or community control for the remainder of the person’s natural life. The offender must be electronically monitored during this term of probation or community control.³

¹ Section 800.04(5)(a), F.S.

² Section 800.04(5)(b), F.S. The Jessica Lunsford Act increased the severity of this offense from a first degree felony to a life felony. See, Ch. 2005-28(5), L.O.F.

³ Section 948.012(4), F.S. In electronically monitoring this type of offender, the Department of Corrections is required to “use a system that actively monitors and identifies the offender’s location and timely reports or records the offender’s presence near or within a crime scene or in a prohibited area or the offender’s departure from specified geographic limitations.” Section 948.11(6), F.S.

III. Effect of Proposed Changes:

The bill requires the imposition of a life sentence for a second or subsequent conviction for the offense of lewd or lascivious molestation where the victim is under the age of 12 and the offender is 18 or older. The punishment for a first conviction for this offense would remain the same as provided in current law – life imprisonment *or* a minimum sentence of 25 years imprisonment and not exceeding life imprisonment followed by lifetime supervision with electronic monitoring.

The bill takes effect July 1, 2007.

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:

The Criminal Justice Impact Conference considered the impact of the original HB 41, which contained a provision similar, but not identical to SB 2544 and determined the original HB 41 would have an insignificant prison bed impact on the Department of Corrections. Since the life imprisonment provision of the original HB 41 required at least two lewd molestation convictions to trigger the punishment of life imprisonment, and the Senate Bill requires at least three such convictions, it logically follows that the Senate Bill would also have an insignificant prison bed impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

VIII. Summary of Amendments:

None.

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