House

Florida Senate - 2019 Bill No. CS for CS for SB 642



LEGISLATIVE ACTION

Senate

Floor: WD/2R 04/30/2019 04:38 PM

Senator Book moved the following:

Senate Amendment (with title amendment)

Between lines 2253 and 2254

(4) LEWD OR LASCIVIOUS BATTERY.-

insert:

Section 36. Subsections (4), (5), (6), and (7) of section 800.04, Florida Statutes, are amended to read

800.04 Lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age.-

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(a) A person commits lewd or lascivious battery by:

1. Engaging in sexual activity with a person 12 years of

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	12	age or older but less than 16 years of age; or
<ul> <li>bestiality, prostitution, or any other act involving sexual</li> <li>activity.</li> <li>(b) Except as provided in paragraph (c), An offender who</li> <li>commits lewd or lascivious battery commits a felony of the <u>first</u></li> <li>second degree, punishable as provided in s. 775.082, s. 775.083,</li> <li>or s. 775.084.</li> <li>(c) A person commits a felony of the first degree,</li> <li>punishable as provided in s. 775.082, s. 775.084,</li> <li>if the person is an offender 18 years of age or older who</li> <li>commits lewd or lascivious battery and was previously convicted</li> <li>of a violation of:</li> <li>1. Section 787.01(2) or s. 787.02(2) when the violation</li> <li>involved a victim who was a minor and, in the course of</li> <li>committing that violation, the defendant committed against the</li> <li>minor a sexual battery under chapter 794 or a lewd act under</li> <li>this section 787.01(3) (a) 2. or 3.;</li> <li>3. Section 787.02(3) (a) 2. or 3.;</li> <li>4. Chapter 794, excluding s. 794.011(10);</li> <li>5. Section 847.0135(5); or</li> <li>6. Section 847.0135(5); or</li> <li>7. This section.</li> <li>(5) LEWD OR LASCIVIOUS MOLESTATION</li> </ul>	13	2. Encouraging, forcing, or enticing any person less than
activity.1617(b) Except as provided in paragraph (c), An offender who1819commits lewd or lascivious battery commits a felony of the first19cecend degree, punishable as provided in s. 775.082, s. 775.083,20or s. 775.084.21(c) A person commits a felony of the first degree,22punishable as provided in s. 775.082, s. 775.083, or s. 775.08423if the person is an offender 18 years of age or older who24commits lewd or lascivious battery and was previously convicted25of a violation of:12612728committing that violation, the defendant committed against the29minor a sexual battery under chapter 794 or a lewd act under2021222324committing that violation, the defendant committed against the252627282929202021222334242535363737383839303031323334353536363738383939	14	16 years of age to engage in sadomasochistic abuse, sexual
<ul> <li>(b) Except as provided in paragraph (c), An offender who</li> <li>commits lewd or lascivious battery commits a felony of the <u>first</u></li> <li>second degree, punishable as provided in s. 775.082, s. 775.083,</li> <li>or s. 775.084.</li> <li>(c) A person commits a felony of the first degree,</li> <li>punishable as provided in s. 775.082, s. 775.083, or s. 775.084</li> <li>if the person is an offender 18 years of age or older who</li> <li>commits lewd or lascivious battery and was previously convicted</li> <li>of a violation of: <ol> <li>Section 787.01(2) or s. 787.02(2) when the violation</li> <li>involved a victim who was a minor and, in the course of</li> <li>committing that violation, the defendant committed against the</li> <li>minor a sexual battery under chapter 794 or a lewd act under</li> <li>this section 787.01(3) (a)2. or 3.;</li> <li>Section 787.02(3) (a)2. or 3.;</li> <li>Chapter 794, excluding s. 794.011(10);</li> <li>S. Section 847.0135(5); or</li> <li>T. This section.</li> </ol> </li> <li>(5) LEWD OR LASCIVIOUS MOLESTATION</li> </ul>	15	bestiality, prostitution, or any other act involving sexual
<pre>commits lewd or lascivious battery commits a felony of the <u>first</u> second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. (c) A person commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084 if the person is an offender 18 years of age or older who commits lewd or lascivious battery and was previously convicted of a violation of: 1. Section 787.01(2) or s. 787.02(2) when the violation involved a victim who was a minor and, in the course of committing that violation, the defendant committed against the minor a sexual battery under chapter 794 or a lewd act under this section 787.01(3)(a)2. or 3.; 3. Section 787.02(3)(a)2. or 3.; 3. Section 787.02(3)(a)2. or 3.; 4. Chapter 794, excluding s. 794.011(10); 5. Section 847.0135(5); or 6. Section 847.0135(5); or 7. This section. (5) LEWD OR LASCIVIOUS MOLESTATION</pre>	16	activity.
<pre>second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. (c) A person commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084 if the person is an offender 18 years of age or older who commits lewd or lascivious battery and was previously convicted of a violation of: 1. Section 787.01(2) or s. 787.02(2) when the violation involved a victim who was a minor and, in the course of committing that violation, the defendant committed against the minor a sexual battery under chapter 794 or a lewd act under this section 787.01(3) (a) 2. or 3., 3. Section 787.01(3) (a) 2. or 3., 3. Section 787.02(3) (a) 2. or 3., 3. Section 825.1025; 5. Section 847.0135(5); or 7. This section. 3. (5) LEWD OR LASCIVIOUS MOLESTATION</pre>	17	(b) <del>Except as provided in paragraph (c),</del> An offender who
or s. 775.084. (c) A person commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084 if the person is an offender 18 years of age or older who commits lewd or lascivious battery and was previously convicted of a violation of: 1. Section 787.01(2) or s. 787.02(2) when the violation involved a victim who was a minor and, in the course of committing that violation, the defendant committed against the minor a sexual battery under chapter 794 or a lewd act under this section or s. 847.0135(5); 2. Section 787.02(3) (a) 2. or 3.; 3. Section 787.02(3) (a) 2. or 3.; 4. Chapter 794, excluding s. 794.011(10); 5. Section 847.0135(5); or 6. Section 847.0135(5); or 7. This section. (5) LEWD OR LASCIVIOUS MOLESTATION	18	commits lewd or lascivious battery commits a felony of the first
<ul> <li>(c) A person commits a felony of the first degree,</li> <li>punishable as provided in s. 775.082, s. 775.083, or s. 775.084</li> <li>if the person is an offender 18 years of age or older who</li> <li>commits lewd or lascivious battery and was previously convicted</li> <li>of a violation of: <ol> <li>Section 787.01(2) or s. 787.02(2) when the violation</li> <li>involved a victim who was a minor and, in the course of</li> <li>committing that violation, the defendant committed against the</li> <li>minor a sexual battery under chapter 794 or a lewd act under</li> <li>this section or s. 847.0135(5);</li> <li>2. Section 787.02(3)(a)2. or 3.;</li> <li>3. Section 787.02(3)(a)2. or 3.;</li> <li>4. Chapter 794, excluding s. 794.011(10);</li> <li>5. Section 847.0135(5); or</li> <li>6. Section 847.0135(5); or</li> <li>7. This section.</li> </ol> </li> <li>(5) LEWD OR LASCIVIOUS MOLESTATION</li> </ul>	19	second degree, punishable as provided in s. 775.082, s. 775.083,
punishable as provided in s. 775.082, s. 775.083, or s. 775.084 if the person is an offender 18 years of age or older who commits lewd or lascivious battery and was previously convicted of a violation of: <ol> <li>Section 787.01(2) or s. 787.02(2) when the violation</li> <li>involved a victim who was a minor and, in the course of</li> <li>committing that violation, the defendant committed against the</li> <li>minor a sexual battery under chapter 794 or a lewd act under</li> <li>this section or s. 847.0135(5);</li> <li>Section 787.02(3) (a) 2. or 3.;</li> <li>Section 787.02(3) (a) 2. or 3.;</li> <li>Chapter 794, excluding s. 794.011(10);</li> <li>Section 847.0135(5); or</li> <li>Section 847.0135(5); or</li> <li>Section 847.0135(5); or</li> <li>Lewd OR LASCIVIOUS MOLESTATION</li> </ol>	20	or s. 775.084.
if the person is an offender 18 years of age or older who commits lewd or lascivious battery and was previously convicted of a violation of: 1. Section 787.01(2) or s. 787.02(2) when the violation involved a victim who was a minor and, in the course of committing that violation, the defendant committed against the minor a sexual battery under chapter 794 or a lewd act under this section or s. 847.0135(5); 2. Section 787.01(3) (a)2. or 3.; 3. Section 787.02(3) (a)2. or 3.; 3. Section 825.1025; 5. Section 847.0135(5); or 3. (5) LEWD OR LASCIVIOUS MOLESTATION	21	(c) A person commits a felony of the first degree,
<pre>commits lewd or lascivious battery and was previously convicted of a violation of: 1. Section 787.01(2) or s. 787.02(2) when the violation involved a victim who was a minor and, in the course of committing that violation, the defendant committed against the minor a sexual battery under chapter 794 or a lewd act under this section or s. 847.0135(5); 2. Section 787.02(3)(a)2. or 3.; 3. Section 787.02(3)(a)2. or 3.; 4. Chapter 794, excluding s. 794.011(10); 5. Section 825.1025; 6. Section 847.0135(5); or 7. This section. (5) LEWD OR LASCIVIOUS MOLESTATION</pre>	22	punishable as provided in s. 775.082, s. 775.083, or s. 775.084
<pre>25 of a violation of: 26 1. Section 787.01(2) or s. 787.02(2) when the violation 27 involved a victim who was a minor and, in the course of 28 committing that violation, the defendant committed against the 29 minor a sexual battery under chapter 794 or a lewd act under 30 this section or s. 847.0135(5); 31 2. Section 787.01(3) (a) 2. or 3.; 32 3. Section 787.02(3) (a) 2. or 3.; 33 4. Chapter 794, excluding s. 794.011(10); 34 5. Section 825.1025; 35 6. Section 847.0135(5); or 36 7. This section. 37 (5) LEWD OR LASCIVIOUS MOLESTATION</pre>	23	if the person is an offender 18 years of age or older who
1. Section 787.01(2) or s. 787.02(2) when the violation involved a victim who was a minor and, in the course of committing that violation, the defendant committed against the minor a sexual battery under chapter 794 or a lewd act under this section or s. 847.0135(5); 2. Section 787.01(3)(a)2. or 3.; 3. Section 787.02(3)(a)2. or 3.; 3. Section 787.02(3)(a)2. or 3.; 4. Chapter 794, excluding s. 794.011(10); 5. Section 825.1025; 5. Section 847.0135(5); or 3. Or this section. 5. Section 847.0135(5); or 5. Section 847.0135(5); or	24	commits lewd or lascivious battery and was previously convicted
<pre>involved a victim who was a minor and, in the course of committing that violation, the defendant committed against the minor a sexual battery under chapter 794 or a lewd act under this section or s. 847.0135(5); 2. Section 787.01(3)(a)2. or 3.; 3. Section 787.02(3)(a)2. or 3.; 3. Section 787.02(3)(a)2. or 3.; 4. Chapter 794, excluding s. 794.011(10); 5. Section 825.1025; 5. Section 847.0135(5); or 3. (5) LEWD OR LASCIVIOUS MOLESTATION</pre>	25	of a violation of:
<pre>committing that violation, the defendant committed against the minor a sexual battery under chapter 794 or a lewd act under this section or s. 847.0135(5); 2. Section 787.01(3)(a)2. or 3.; 3. Section 787.02(3)(a)2. or 3.; 4. Chapter 794, excluding s. 794.011(10); 5. Section 825.1025; 6. Section 847.0135(5); or 3. (5) LEWD OR LASCIVIOUS MOLESTATION</pre>	26	1. Section 787.01(2) or s. 787.02(2) when the violation
29 minor a sexual battery under chapter 794 or a lewd act under 30 this section or s. 847.0135(5); 31 2. Section 787.01(3)(a)2. or 3.; 32 3. Section 787.02(3)(a)2. or 3.; 33 4. Chapter 794, excluding s. 794.011(10); 34 5. Section 825.1025; 35 6. Section 847.0135(5); or 36 7. This section. 37 (5) LEWD OR LASCIVIOUS MOLESTATION	27	involved a victim who was a minor and, in the course of
30       this section or s. 847.0135(5);         31       2. Section 787.01(3)(a)2. or 3.;         32       3. Section 787.02(3)(a)2. or 3.;         33       4. Chapter 794, excluding s. 794.011(10);         34       5. Section 825.1025;         35       6. Section 847.0135(5); or         36       7. This section.         37       (5) LEWD OR LASCIVIOUS MOLESTATION	28	committing that violation, the defendant committed against the
<pre>31 2. Section 787.01(3)(a)2. or 3.; 32 3. Section 787.02(3)(a)2. or 3.; 33 4. Chapter 794, excluding s. 794.011(10); 34 5. Section 825.1025; 35 6. Section 847.0135(5); or 36 7. This section. 37 (5) LEWD OR LASCIVIOUS MOLESTATION</pre>	29	minor a sexual battery under chapter 794 or a lewd act under
32 3. Section 787.02(3) (a)2. or 3.; 33 4. Chapter 794, excluding s. 794.011(10); 34 5. Section 825.1025; 35 6. Section 847.0135(5); or 36 7. This section. 37 (5) LEWD OR LASCIVIOUS MOLESTATION	30	this section or s. 847.0135(5);
33 4. Chapter 794, excluding s. 794.011(10); 34 5. Section 825.1025; 35 6. Section 847.0135(5); or 36 7. This section. 37 (5) LEWD OR LASCIVIOUS MOLESTATION.—	31	2. Section 787.01(3)(a)2. or 3.;
34       5. Section 825.1025;         35       6. Section 847.0135(5); or         36       7. This section.         37       (5) LEWD OR LASCIVIOUS MOLESTATION	32	3. Section 787.02(3)(a)2. or 3.;
<ul> <li>35 6. Section 847.0135(5); or</li> <li>36 7. This section.</li> <li>37 (5) LEWD OR LASCIVIOUS MOLESTATION</li> </ul>	33	4. Chapter 794, excluding s. 794.011(10);
<pre>36 7. This section. 37 (5) LEWD OR LASCIVIOUS MOLESTATION</pre>	34	5. Section 825.1025;
37 (5) LEWD OR LASCIVIOUS MOLESTATION	35	6. Section 847.0135(5); or
	36	7. This section.
38 (a) A person who intentionally touches in a lewd or	37	(5) LEWD OR LASCIVIOUS MOLESTATION
	38	(a) A person who intentionally touches in a lewd or
39 lascivious manner the breasts, genitals, genital area, or	39	lascivious manner the breasts, genitals, genital area, or
40 buttocks, or the clothing covering them, of a person less than	40	buttocks, or the clothing covering them, of a person less than

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16 years of age, or forces or entices a person under 16 years of 41 42 age to so touch the perpetrator, commits lewd or lascivious molestation. 43 44 (b) An offender 18 years of age or older who commits lewd or lascivious molestation against a victim less than 12 years of 45 age commits a life felony, punishable as provided in s. 46 47 775.082(3)(a)4. (c)1. An offender less than 18 years of age who commits 48 49 lewd or lascivious molestation against a victim less than 12 50 years of age; or 51 2. An offender 18 years of age or older who commits lewd or 52 lascivious molestation against a victim 12 years of age or older 53 but less than 16 years of age 54 commits a felony of the first second degree, punishable as 55 56 provided in s. 775.082, s. 775.083, or s. 775.084. 57 (d) An offender less than 18 years of age who commits lewd or lascivious molestation against a victim 12 years of age or 58 59 older but less than 16 years of age commits a felony of the first third degree, punishable as provided in s. 775.082, s. 60 775.083, or s. 775.084. 61 62 (e) A person commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084 63 64 if the person is 18 years of age or older and commits lewd or 65 lascivious molestation against a victim 12 years of age or older 66 but less than 16 years of age and the person was previously 67 convicted of a violation of: 1. Section 787.01(2) or s. 787.02(2) when the violation 68 involved a victim who was a minor and, in the course of 69

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70	committing the violation, the defendant committed against the
71	minor a sexual battery under chapter 794 or a lewd act under
72	this section or s. 847.0135(5);
73	2. Section 787.01(3)(a)2. or 3.;
74	3. Section 787.02(3)(a)2. or 3.;
75	4. Chapter 794, excluding s. 794.011(10);
76	5. Section 825.1025;
77	6. Section 847.0135(5); or
78	7. This section.
79	(6) LEWD OR LASCIVIOUS CONDUCT
80	(a) A person who:
81	1. Intentionally touches a person under 16 years of age in
82	a lewd or lascivious manner; or
83	2. Solicits a person under 16 years of age to commit a lewd
84	or lascivious act
85	
86	commits lewd or lascivious conduct.
87	(b) An offender 18 years of age or older who commits lewd
88	or lascivious conduct commits a felony of the <u>first</u> <del>second</del>
89	degree, punishable as provided in s. 775.082, s. 775.083, or s.
90	775.084.
91	(c) An offender less than 18 years of age who commits lewd
92	or lascivious conduct commits a felony of the <u>first</u> <del>third</del>
93	degree, punishable as provided in s. 775.082, s. 775.083, or s.
94	775.084.
95	(7) LEWD OR LASCIVIOUS EXHIBITION
96	(a) A person who:
97	1. Intentionally masturbates;
98	2. Intentionally exposes the genitals in a lewd or
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99	lascivious manner; or
100	3. Intentionally commits any other sexual act that does not
101	involve actual physical or sexual contact with the victim,
102	including, but not limited to, sadomasochistic abuse, sexual
103	bestiality, or the simulation of any act involving sexual
104	activity
105	
106	in the presence of a victim who is less than 16 years of age,
107	commits lewd or lascivious exhibition.
108	(b) An offender 18 years of age or older who commits a lewd
109	or lascivious exhibition commits a felony of the <u>first</u> second
110	degree, punishable as provided in s. 775.082, s. 775.083, or s.
111	775.084.
112	(c) An offender less than 18 years of age who commits a
113	lewd or lascivious exhibition commits a felony of the <u>first</u>
114	third degree, punishable as provided in s. 775.082, s. 775.083,
115	or s. 775.084.
116	
117	=========== T I T L E A M E N D M E N T =================================
118	And the title is amended as follows:
119	Delete line 200
120	and insert:
121	s. 800.04, F.S.; increasing the penalty of certain
122	lewd and lascivious offenses; s. 800.09, F.S.;
123	revising the definitions of the terms