

1984

Session Law 84-238

Florida Senate & House of Representatives

Follow this and additional works at: <https://ir.law.fsu.edu/staff-analysis>



Part of the Legislation Commons

Recommended Citation

House of Representatives, Florida Senate &, "Session Law 84-238" (1984). *Staff Analysis*. 511.
<https://ir.law.fsu.edu/staff-analysis/511>

This Article is brought to you for free and open access by the Florida Legislative Documents at Scholarship Repository. It has been accepted for inclusion in Staff Analysis by an authorized administrator of Scholarship Repository. For more information, please contact efarrell@law.fsu.edu.

BILL ACTION REPORT

(C3-75: File with Secretary of Senate)

(S) (H) BILL NO. SB 812

COMMITTEE ON Judiciary-Criminal

DATE May 16, 1984

Date Reported 5/17/84

TIME 2:00 - 5:00 p.m.

FINAL ACTION:

PLACE Room "C" S.O.B.

Favorably with amendments

OTHER COMMITTEE REFERENCES:
(In order shown)

 Favorably with Committee Substitute

Approp.

 Unfavorably

OTHER: Temporarily Passed

 Reconsidered

 Not Considered

THE VOTE WAS:

FINAL BILL VOTE		SENATORS										
Aye	Nay		Aye	Nay	Aye	Nay	Aye	Nay	Aye	Nay	Aye	Nay
		Beard										
WITHOUT OBJECTION		Crawford										
		Johnston										
		Langley										
		Malchon										
		Plummer										
		Weinstein										
		Jenne										
		TOTAL										
	Nay											
			Aye	Nay	Aye	Nay	Aye	Nay	Aye	Nay	Aye	Nay

(Attach additional page if necessary)

Please Complete: The key sponsor appeared ()
 A Senator appeared ()
 Sponsor's aide appeared ()
 Other appearance ()

AMENDMENT -- FOR DRAFTING ONLY

(MUST BE TYPED ON FORM H-29 OR H-39 BEFORE PRESENTATION)

Representative a/ The Committee on Justice

HB 799

SB _____

offered the following amendment

On page 2, line s 24-30, strike

, except that the defendant shall be sentenced to a minimum term of imprisonment of 10 years. Notwithstanding the provisions of s. 948.01, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, nor shall the defendant be eligible for parole or statutory gain-time under s. 944.275, prior to serving such minimum sentence

and insert: _____

adopted

failed of adoption

AMENDMENT -- FOR DRAFTING ONLY

(MUST BE TYPED ON FORM H-29 OR H-39 BEFORE PRESENTATION)

Representative The Committee on _____

HB 799

offered the following amendment:

①

SB _____

On page 1, line 15, strike

Everything after the enacting clause

and insert: Section 1. Section 827.03, Florida Statutes, is amended to read:

827.03 Aggravated child abuse.--Whoever:

(1) Aggravated child abuse is defined as one or more acts committed by a person who:

(a) ~~(1)~~ Commits aggravated battery on a child;

(b) ~~(2)~~ Willfully tortures a child;

(c) ~~(3)~~ Maliciously punishes a child; or

(d) ~~(4)~~ Willfully and lawfully *Cages a Child*

A person who commits aggravated child abuse shall be guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Whoever commits kidnapping, as defined in chapter 787, of a child under the age of 13 and who, in the course of committing the offense, commits one or more of the following, shall be guilty of a life felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084:

(a) Aggravated child abuse, as defined in subsection (1):

adopted

failed of adoption

AMENDMENT -- FOR DRAFTING ONLY

(MUST BE TYPED ON FORM H-29 OR H-39 BEFORE PRESENTATION)

Representative s / The Committee on _____

HB 799

offered the following amendment

SB _____

Continued

On page _____, line _____, strike

and insert (b) Sexual battery, as defined in chapter 794, against the child;

(c) A lewd, lascivious, or indecent assault or act upon or in the presence of the child, in violation of s. 800.04;

(d) A violation of s. 796.03 or s. 796.04 relating to prostitution, upon the child; or

(e) Exploits the child or allows the child to be exploited in violation of s. 450.151.

(3) Whoever commits false imprisonment, as defined in chapter 787, of a child under the age of 13 and who, in the course of committing the offense, commits any offense enumerated in paragraphs (a)-(e) of subsection (1) shall be guilty of a felony of the first degree, punishable by imprisonment for a term of years not exceeding life or as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 2. This act shall take effect October 1, 1984.

adopted

failed of adoption

AMENDMENT -- FOR DRAFTING ONLY

(MUST BE TYPED ON FORM H-29 OR H-39 BEFORE PRESENTATION)

Representative s/ The Committee on _____

title
offered the following amendment.

HB 799

SB _____

2

On page 1, line s 2-11, ~~XXXX~~

and insert: An act relating to kidnapping and false imprisonment;
amending s. 827.03, F.S., clarifying the definition of
aggravated child abuse; providing for crimes involving
kidnapping and false imprisonment of children under the age
of 13; providing a penalty; providing an effective date.

adopted

failed of adoption

AMENDMENT -- FOR DRAFTING ONLY

(MUST BE TYPED ON FORM H-29 OR H-39 BEFORE PRESENTATION)

Representative s/ The Committee on _____

HB 799

SB _____

offered the following amendment:

On page 1, line _____, strike

*Amend
to Amend.
#1*

and insert: _____

*after (d) willfully and unlawfully:
Insert: "cages a child"*

adopted

failed of adoption

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Dugger</u> <i>DD</i>	<u>Liepshutz</u> <i>MLC</i>	1. <u>JCR</u>	_____
2. _____	_____	2. <u>AP</u>	_____
3. _____	_____	3. _____	_____

SUBJECT:

Kidnapping, false imprisonment,
and custody offenses

BILL NO. AND SPONSOR:

Proposed CS/SB 812 by
Senator Carlucci

COPY

reproduced by
FLORIDA STATE ARCHIVES
DEPARTMENT OF STATE
R. A. GRAY BUILDING
Tallahassee, FL 32399-0250
Series 18 Carton 1392

I. SUMMARY:

A. Present Situation:

Section 827.03, F.S., defines the crime of aggravated child abuse, a second degree felony, as the following acts upon a child: aggravated battery, willful torture, malicious punishment, or willful and unlawful caging.

The crime of kidnapping, a first degree felony occurs when a person confines, abducts, or imprisons another against his will and without lawful authority if such perpetrator intends to hold the victim for ransom, commit any felony, inflict bodily harm, or interfere with any governmental function.

The crime of false imprisonment, a third degree felony, contains the same elements as kidnapping except the intended purpose of such confinement must not be any of the enumerated purposes necessary for kidnapping.

Confinement of a child under 13 is against his will for purposes of both offenses if the parent or legal guardian did not consent to the confinement.

B. Effect of Proposed Changes:

The proposed CS/SB 812 would create a life felony offense when a person kidnapped a child under 13 and also committed one of the following enumerated crimes during the kidnapping: aggravated child abuse, sexual battery against the child, a lewd or lascivious act upon the child, prostitution upon the child, or exploitation of the child.

The proposed CS would also create a new offense when those same enumerated crimes were committed against a child under 13 while the child was falsely imprisoned, except the penalty would be a first degree felony.

If a person kidnapped or falsely imprisoned a child under 13 without committing any of these other enumerated offenses, then such person would only be charged with the first degree felony offense of kidnapping or the third degree felony offense of false imprisonment.

The bill would provide intent language specifying that nothing in the bill should be construed to prohibit the imposition of separate judgments and sentences for the new offenses and for each of the separate enumerated offenses.

REVISED: _____

BILL NO. SB 812

DATE: May 4, 1984

Page 2

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

None.

B. Government:

The Department of Corrections estimates that the fiscal impact of this bill will be minimal, if any.

III. COMMENTS:

None.

IV. AMENDMENTS:

None.

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Dugger</u> <i>W.D.</i>	<u>Liepshutz</u> <i>MLL</i>	1. <u>JCR</u>	<u>T.P.</u>
2. _____	_____	2. <u>AP</u>	_____
3. _____	_____	3. _____	_____

SUBJECT:

Kidnapping, false imprisonment,
and custody offenses

BILL NO. AND SPONSOR:

Proposed CS/SB 812 by
Senator Carlucci

I. SUMMARY:

A. Present Situation:

Section 827.03, F.S., defines the crime of aggravated child abuse, a second degree felony, as the following acts upon a child: aggravated battery, willful torture, malicious punishment, or willful and unlawful caging.

The crime of kidnapping, a first degree felony occurs when a person confines, abducts, or imprisons another against his will and without lawful authority if such perpetrator intends to hold the victim for ransom, commit any felony, inflict bodily harm, or interfere with any governmental function.

The crime of false imprisonment, a third degree felony, contains the same elements as kidnapping except the intended purpose of such confinement must not be any of the enumerated purposes necessary for kidnapping.

Confinement of a child under 13 is against his will for purposes of both offenses if the parent or legal guardian did not consent to the confinement.

B. Effect of Proposed Changes:

The proposed CS/SB 812 would create a life felony offense when a person kidnapped a child under 13 and also committed one of the following enumerated crimes during the kidnapping: aggravated child abuse, sexual battery against the child, a lewd or lascivious act upon the child, prostitution upon the child, or exploitation of the child.

The proposed CS would also create a new offense when those same enumerated crimes were committed against a child under 13 while the child was falsely imprisoned, except the penalty would be a first degree felony.

If a person kidnapped or falsely imprisoned a child under 13 without committing any of these other enumerated offenses, then such person would only be charged with the first degree felony offense of kidnapping or the third degree felony offense of false imprisonment.

The bill would provide intent language specifying that nothing in the bill should be construed to prohibit the imposition of separate judgments and sentences for the new offenses and for each of the separate enumerated offenses.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

None.

B. Government:

The Department of Corrections estimates that the fiscal impact of this bill will be minimal, if any.

III. COMMENTS:

None.

IV. AMENDMENTS:

None.

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Dugger</u> <i>D.W.</i>	<u>Liepshutz</u> <i>ML</i>	1. <u>JCR</u>	<u>FAV/CS</u>
2. _____	_____	2. <u>AP</u>	_____
3. _____	_____	3. _____	_____

SUBJECT:

BILL NO. AND SPONSOR:

Kidnapping, false imprisonment,
and custody offenses

CS/SB 812 by
Senator Carlucci

I. SUMMARY:

A. Present Situation:

Section 827.03, F.S., defines the crime of aggravated child abuse, a second degree felony, as the following acts upon a child: aggravated battery, willful torture, malicious punishment, or willful and unlawful caging.

The crime of kidnapping, a first degree felony occurs when a person confines, abducts, or imprisons another against his will and without lawful authority if such perpetrator intends to hold the victim for ransom, commit any felony, inflict bodily harm, or interfere with any governmental function.

The crime of false imprisonment, a third degree felony, contains the same elements as kidnapping except the intended purpose of such confinement must not be any of the enumerated purposes necessary for kidnapping.

Confinement of a child under 13 is against his will for purposes of both offenses if the parent or legal guardian did not consent to the confinement.

B. Effect of Proposed Changes:

CS/SB 812 would create a life felony offense when a person kidnapped a child under 13 and also committed one of the following enumerated crimes during the kidnapping: aggravated child abuse, sexual battery against the child, a lewd or lascivious act upon the child, prostitution upon the child, or exploitation of the child.

The bill would also create a new offense when those same enumerated crimes were committed against a child under 13 while the child was falsely imprisoned, except the penalty would be a first degree felony.

If a person kidnapped or falsely imprisoned a child under 13 without committing any of these other enumerated offenses, then such person would only be charged with the first degree felony offense of kidnapping or the third degree felony offense of false imprisonment.

The bill would provide intent language specifying that nothing in the bill should be construed to prohibit the imposition of separate judgments and sentences for the new offenses and for each of the separate enumerated offenses.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

None.

B. Government:

The Department of Corrections estimates that the fiscal impact of this bill will be minimal, if any.

III. COMMENTS:

None.

IV. AMENDMENTS:

None.

r

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

NOTE: This analysis reflects the nature of the bill as it left the Committee on Judiciary-Criminal. Any further changes to the bill are not included in this analysis. See the "Comments" section for the final procedural action taken by the Legislature.

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Dugger</u> <i>DD</i>	<u>Liepshutz</u>	1. <u>JCR</u>	<u>FAV/CS</u>
2. _____	_____	2. <u>AP</u>	_____
3. _____	_____	3. _____	_____

SUBJECT: Kidnapping, false imprisonment, and custody offenses

BILL NO. AND SPONSOR: CS/SB 812 by Senator Carlucci

I. SUMMARY:

A. Present Situation:

Section 827.03, F.S., defines the crime of aggravated child abuse, a second degree felony, as the following acts upon a child: aggravated battery, willful torture, malicious punishment, or willful and unlawful caging.

The crime of kidnapping, a first degree felony occurs when a person confines, abducts, or imprisons another against his will and without lawful authority if such perpetrator intends to hold the victim for ransom, commit any felony, inflict bodily harm, or interfere with any governmental function.

The crime of false imprisonment, a third degree felony, contains the same elements as kidnapping except the intended purpose of such confinement must not be any of the enumerated purposes necessary for kidnapping.

Confinement of a child under 13 is against his will for purposes of both offenses if the parent or legal guardian did not consent to the confinement.

B. Effect of Proposed Changes:

CS/SB 812 would create a life felony offense when a person kidnapped a child under 13 and also committed one of the following enumerated crimes during the kidnapping: aggravated child abuse, sexual battery against the child, a lewd or lascivious act upon the child, prostitution upon the child, or exploitation of the child.

The bill would also create a new offense when those same enumerated crimes were committed against a child under 13 while the child was falsely imprisoned, except the penalty would be a first degree felony.

FINAL UPDATE: June 13, 1984

REVISED: May 16, 1984

BILL NO. CS/SB 812

DATE: May 8, 1984

Page 2

If a person kidnapped or falsely imprisoned a child under 13 without committing any of these other enumerated offenses, then such person would only be charged with the first degree felony offense of kidnapping or the third degree felony offense of false imprisonment.

The bill would provide intent language specifying that nothing in the bill should be construed to prohibit the imposition of separate judgments and sentences for the new offenses and for each of the separate enumerated offenses.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

None.

B. Government:

The Department of Corrections estimates that the fiscal impact of this bill will be minimal, if any.

III. COMMENTS:

Final Update: On June 1, 1984, HB 799 was substituted for CS/SB 812. HB 799 became law on June 18, 1984. Chapter 84-238, Laws of Florida.

IV. AMENDMENTS:

None.

Notice of
COMMITTEE MEETING
House of Representatives

To _____

March 26, _____, 1984

COPY

reproduced by
FLORIDA STATE ARCHIVES
DEPARTMENT OF STATE
R. A. GRAY BUILDING
Tallahassee, FL 32399-0250
Series 19 Carton 1348

Criminal Code _____ subcommittee of
(strike if not applicable)

the Committee on Criminal Justice _____

will meet in Committee Room 314 HOB _____
at 3:30-5:30 ~~p.m.~~ ^{XXXX}

on April 4, 1984 _____ to consider:
(date)

- Passed in committee* HB 799 - Moffitt - Kidnapping: juveniles
- Passed in committee* HB 7 - Hawkins, M. E. - Worthless checks and drafts
- Passed in committee* HB 766 - Arnold - Sexual battery: minimum mandatory sentencing
- Passed in committee* HB 360 - Combee - DUI: alternative public service
- Passed in committee* HB 372 - Wetherell - RICO forfeiture proceedings
- Passed in committee* HB 504 - Lehtinen - RICO: civil remedies
- Passed in committee* ~~HB 540~~ HB 540 - Simon & Abrams - Grand jury: replacement of juror
- Passed w/ amend* HB 760 - Ward - Real property forfeiture
- Passed in committee* HB 542 - Gordon - Misprison of forcible felony
- Passed in committee* HB 787 - Gordon - Sexual battery: mentally defective victim
- Passed in committee* HB 930 - Gordon & Murphy - Perjury: recantation

Clavin L. Martin
Chairman

I certify this notice was received in
the Office of the Sergeant at Arms at
_____ o'clock, on _____.

Sergeant at Arms

I certify this notice was filed by me in the
Office of the Sergeant at Arms and the Office
of the Clerk on _____, and copies
have been sent in compliance with House Rules.

Committee Secretary

White - to be posted
Canary - Calendar
Pink - Computer
Goldenrod - your file

BILL ACTION RECORD

House of Representatives

SubCommittee on Criminal Code

Bill No. 1759

Meeting Time _____

Date received _____

Place _____

Committee Action: Date Reported _____

Referred to Subcommittee on _____

- ___ Temporarily passed
- ___ Reconsidered
- ___ favorable
- ___ favorable with ___ amendments
- ___ favorable with committee substitute
- ___ unfavorable

Subcommittee report:
 ___ favorable
 ___ favorable with ___ amendments
 ___ unfavorable

Other action: _____

Final vote on bill													
Yeas	Nays	Yeas		Nays		Yeas		Nays		Yeas		Nays	
		Grant	X										
		Meffert											
		McEwan	X										
		Ready	X										
		Thomas											
		Titone											
		Wetherell	X										
		Upchurch, Chm.	X										
		TOTALS											
Yeas	Nays	Yeas	Nays	Yeas	Nays	Yeas	Nays	Yeas	Nays	Yeas	Nays	Yeas	Nays

SUBCOMMITTEE REPORT

File with Parent Committee

To: Chairman, Committee on Criminal Justice

The Subcommittee on Criminal Code (Subcom. I)

met at 3:30 o'clock on April 4, 19 84,

in Room 314 HOB, and considered HB 799.

On motion to report the bill FAVORABLE

the vote was: FAVORABLE WITH 1 AMENDMENTS (number)

YEA	MEMBER	NAY
✓	Grant	
	Meffert	
✓	McEwan	
✓	Ready	
	Thomas	

Total Yea 7

YEA	MEMBER	NAY
✗	Titone	
	Wetherell	
	Upchurch, Chm.	

Total Nays 2

Subcommittee Chairman

SUBCOMMITTEE APPEARANCE RECORD

The following persons (other than legislators) appeared before the subcommittee during consideration of this bill:

Name	Representing	Address

(If additional persons, enter on reverse side and check here)

Received by Parent Committee:

Date

Received by

AMENDMENT -- FOR DRAFTING ONLY

(MUST BE TYPED ON FORM H-29 OR H-39 BEFORE PRESENTATION)

Representative s/ The Committee on State

HB 799

offered the following amendment:

SB _____

On page 2, line s 24-30, strike

~~, except that the defendant shall be sentenced to a minimum term of imprisonment of 10 years. Notwithstanding the provisions of s. 948.01, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, nor shall the defendant be eligible for parole or statutory gain-time under s. 944.275, prior to serving such minimum sentence~~

and insert: _____

adopted

failed of adoption

To Mary Pat

Notice of
COMMITTEE MEETING
House of Representatives

April 9, 1984

_____ subcommittee of
(strike if not applicable)
the Committee on Criminal Justice

will meet in Committee Room 314 HOB at 3:30 p.m.

on April 11, 1984 to consider:
(date)

- Passed w/ amendments* HB 799 - Moffitt - kidnapping: juveniles
- Passed w/ amendments* CB 5 - eligibility - requirement for training schools
- Passed w/ amendments* HB 918 - Davis & Martinez - juvenile mediation - arbitration
- C/S Passed w/ amendments* HB 182 - Kutun - boating safety
- Passed w/ amendments* HB 360 - Combee - DUI: alternative and public service
- Passed w/ amendments* HB 547 - Bailey - crime compensation - definition
- Passed* HB 371 - Grant - radio equipment - communication of felony
- Passed C/S* HB 372 - Wetherell - RICO forfeiture proceedings
- Passed C/S* HB 504 - Lehtinen - RICO: civil remedies
- t.p.* HB 760 - Ward - real property forfeiture
- t.p.* HB 527 - Clements - motor vehicle salvage
- Passed* HB 540 - Simon & Abrams - grand jury: replacement of juror
- t.p.* HB 704 - Reddick - appointment of special officers
- t.p.* HB 787 - Gordon - sexual battery: mentally defective victim
- Passed w/ amendments* HB 909 - Locke - auto race meets: bond
- Passed w/ amendments* HB 920 - Casas - stolen vehicle: recovery
- Passed w/ amendments* HB 485 - Carlton - DWI: blood alcohol level

COPY

reproduced by
FLORIDA STATE ARCHIVES
DEPARTMENT OF STATE
R A G B Y BUILDING
Tallahassee, FL 32399-0250
Series 19 Carton 1348

Elwin L. Mortimer
Chairman

I certify this notice was received in
the Office of the Sergeant at Arms at
_____ o'clock, on _____.

Sergeant at Arms

I certify this notice was filed by me in the
Office of the Sergeant at Arms and the Office
of the Clerk on _____, and copies
have been sent in compliance with House Rules.

Committee Secretary

White - to be posted
Canary - Calendar
Pink - Computer
Goldenrod - your file

BILL ACTION RECORD

House of Representatives

Committee on Criminal Justice
 Meeting Time _____
 Place _____

Bill No. 799
 Date received _____
 Date Reported _____

Committee Action:
 Temporarily passed
 Reconsidered
 favorable
 favorable with ___ amendments
 favorable with committee substitute
 unfavorable

Referred to Subcommittee on _____
 Subcommittee report:
 favorable
 favorable with ___ amendments
 unfavorable

Other action: _____

Final vote on bill			<i>Amended #1</i>		<i>Little Amend.</i>		<i>Amended #1</i>					
Yeas	Nays		Yeas	Nays	Yeas	Nays	Yeas	Nays	Yeas	Nays	Yeas	Nays
		Arnold	X		X		X					
		Brantley										
		Burke										
		Casas										
		Clements										
		Combee										
		Grant										
		McEwan										
		Meffert										
		Ready										
		Reynolds										
		Robinson										
		Shelley										
		Spaet										
		Thomas										
		Titone										
		Upchurch										
		Wetherell										
		Martinez, Chm.										
		TOTALS										
Yeas	Nays		Yeas	Nays	Yeas	Nays	Yeas	Nays	Yeas	Nays	Yeas	Nays

COMMITTEE INFORMATION RECORD

House of Representatives

Committee on Criminal Justice
 Date of meeting 4/11/84
 Time 3:30
 Place 314 JOB

Bill No. 799

FINAL ACTION: FAVORABLE
 FAVORABLE WITH 2 AMENDMENTS
 FAVORABLE WITH SUBSTITUTE
 UNFAVORABLE

VOTE:

YEA	MEMBER	NAY
X	Arnold	
X	Brantley	
X	Burke	
X	Casas	
X	Clements	
X	Combee	
X	Grant	
X	McEwan	
X	Meffert	
X	Peady	
X	Reynolds	
X	Robinson	
X	Shelley	
	Spaet	
X	Thomas	

YEA	MEMBER	NAY
X	Titone	
X	Upchurch	
X	Wetherell	
X	Martinez, Chm.	

Total Yeas 16

Total Nays 0

 Chairman

COMMITTEE APPEARANCE RECORD

The following persons (other than legislators) appeared before the committee during the consideration of this bill:

Name	Representing	Address

NOTE: Please indicate by an "X" any State employee appearing at the request of Committee Chairman.

(If additional persons, enter on reverse side and check here)

File 2 copies with Clerk

COMMITTEE INFORMATION RECORD

House of Representatives

Committee on Criminal Justice

Bill No. HR 5

Date of meeting 4/11/84

Time 3:30

Place 314 HOB

FINAL ACTION: FAVORABLE 1
 FAVORABLE WITH 2 AMENDMENTS
 FAVORABLE WITH SUBSTITUTE
 UNFAVORABLE

VOTE:

YEA	MEMBER	NAY
	Arnold	
X	Brantley	
	Burke	
	Casas	
X	Clements	
X	Combee	
X	Grant	
X	McEwan	
X	Meffert	
	Ready	
	Reynolds	
X	Robinson	
X	Shelley	
X	Spaet	
X	Thomas	

YEA	MEMBER	NAY
X	Titone	
X	Upchurch	
X	Wetherell	
X	Martinez, Chm.	

Total Yeas 14

Total Nays 0

Chairman

COMMITTEE APPEARANCE RECORD

The following persons (other than legislators) appeared before the committee during the consideration of this bill:

Name	Representing	Address
------	--------------	---------

NOTE: Please indicate by an "X" any State employee appearing at the request of Committee Chairman.

(If additional persons, enter on reverse side and check here)

File 2 copies with Clerk

Bill Analysis



FLORIDA HOUSE OF REPRESENTATIVES

H Lee Moffitt, Speaker Steve Pajcic, Speaker pro tempore
Committee on Criminal Justice

Elvin L. Martinez
Chairman
Harold W. Spael
Vice Chairman

HB 799 by Rep. Moffitt
relating to kidnapping;
juveniles

DATE: March 27, 1984

REVISED: _____

OTHER COMMITTEES OF REFERENCE
Appropriations

REVISED: _____

SENATE BILL: _____

I. SUMMARY

A. PRESENT SITUATION:

Section 787.01, F.S., currently defines the offense of "kidnapping." Confinement of a child under the age of 13 years within the definition of kidnapping, without the consent of his parent or legal guardian is considered kidnapping under subsection (1)(b).

Section 787.02, F.S., provides that confinement of a child under 13 years of age without the consent of his parent or legal guardian is "false imprisonment."

Section 787.03, F.S., states that whoever unlawfully takes or entices any child 17 years of age or under from the custody of his parent, guardian or other lawful custodian, commits the offense of "interference with custody" and is guilty of a misdemeanor of the first degree. Proof that the child was 17 years of age or under creates a presumption that the defendant knew the child's age.

B. EFFECT OF PROPOSED CHANGES:

Section 787.01(1) is amended to raise the maximum age from 13 to 18 for which the confinement of a child without parental consent constitutes kidnapping.

A new subsection (2) is created to establish the crime of aggravated child kidnapping. Whoever kidnaps a child and who:
(1) Commits aggravated child abuse upon the child as defined in

Page 2

s. 827.03; (2) Commits, or allows to be committed, sexual battery against a child; (3) Commits a lewd, lascivious, or indecent assault upon or in the presence of the child in violation of s. 800.04; (4) Commits a violation of s. 796.03 or 796.04, relating to prostitution, upon the child; or, (5) Exploits or allows the child to be exploited in violation of s. 450.151, is guilty of aggravated child kidnapping.

Subsection (3) is created to provide a first-degree felony penalty and a minimum ten-year term of imprisonment for such offenses. Adjudication of guilt or imposition of such sentence could not be suspended, deferred or withheld and the defendant would not be eligible for parole or gain-time prior to serving the minimum sentence.

Section 787.02 is amended to raise the maximum age from 13 to 18 for which confinement of a child without the consent of the parent or legal guardian constitutes false imprisonment.

Amendments to section 787.03 clarify the intended age groups to which this section applies. The phrase "17 years of age or under" is changed to "under the age of 18."

II. FISCAL IMPACT

During fiscal year 82-83, less than one percent of total prison admissions were for offenses relating to kidnapping, false imprisonment, and interference with custody. Less than one-half of one percent of total admissions to probation and parole services were for such offenses. In light of these figures, the Department of Corrections estimates the fiscal impact of this legislation to be minimum, if any.

III. COMMENTS

In the latter part of 1980, the Fourth District Court of Appeal of Florida held, in Wright v. State, 390 So. 2d 118, that, "...the term "eleven years of age or younger" encompasses the time between a person's birth and their eleventh birthday." The question on appeal was whether a person eleven years, ten months and twenty-one days of age falls within the statutory classification of "eleven years of age or younger" pursuant to s. 794.011(2), Florida Statutes. The court answered this question in the negative.

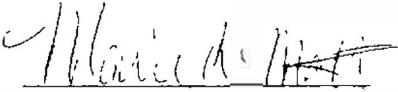
In light of this decision, this bill clarifies the intended age groups specified by law.

To the extent that this bill provides a minimum mandatory penalty for aggravated child kidnapping, the mandated penalty takes precedence over criminal sentencing under guidelines adopted and implemented by the Legislature last year. The net effect of this bill does not modify currently existing maximum penalties under chapter 787.

IV. AMENDMENTS

STAFF SUMMARY ANALYSIS - HB 799
March 27, 1984

Page 3

Prepared by: 
Marie A. Mattox

Staff Director: 
J. Thomas Wright

Copy to Sponsor: March 27, 1984

By Representative Dantzler

A bill to be entitled

An act relating to child abuse; amending ss. 827.03, 827.04, F.S.; increasing penalties for certain acts of child abuse; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 827.03, Florida Statutes, is amended to read:

827.03 Aggravated child abuse.--

(1) Whoever:

(a) ~~+~~ Commits aggravated battery on a child; or

~~(2) Willfully tortures a child;~~

(b) ~~+~~ Maliciously punishes a child; or

~~(4) Willfully and unlawfully cages a child~~

is ~~shall~~ be guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Whoever:

(a) Willfully tortures a child; or

(b) Willfully and unlawfully cages a child

is guilty of a felony of the first degree punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 2. Subsections (1) and (2) of section 827.04, Florida Statutes, are amended to read:

827.04 Child abuse.--

(1) Whoever, willfully or by culpable negligence, deprives a child of, or allows a child to be deprived of,

necessary food, clothing, shelter, or medical treatment, or who, knowingly or by culpable negligence, permits physical or mental injury to the child, and in so doing causes great bodily harm, permanent disability, or permanent disfigurement to such child, shall be guilty of a felony of the second ~~third~~ degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Whoever, willfully or by culpable negligence, deprives a child of, or allows a child to be deprived of, necessary food, clothing, shelter, or medical treatment, or who, knowingly or by culpable negligence, permits physical or mental injury to the child, shall be guilty of a felony of the third ~~misdemeanor-of-the-first~~ degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 3. This act shall take effect October 1, 1984.

HOUSE SUMMARY

Increases the penalties for certain acts of child abuse.

This public document was promulgated at an average cost of 1.6 cents per single page for the information of members of the Legislature and the public.

By Senator Carlucci-
8-1140-84

See HB 799

1 A bill to be entitled
 2 An act relating to kidnapping, false
 3 imprisonment, and custody offenses; amending s
 4 787 01, F S , redefining the crime of
 5 kidnapping and providing for the crime of
 6 aggravated kidnapping; providing a penalty,
 7 amending ss. 787 02 and 787 03, F S ,
 8 increasing the maximum age of the victim for
 9 purposes of the crimes of false imprisonment
 10 and interference with custody, providing an
 11 effective date

12
13 Be It Enacted by the Legislature of the State of Florida

14
15 Section 1 Section 787 01, Florida Statutes, is
16 amended to read:

17 787.01 Kidnapping.--

18 (1)(a) "Kidnapping" means forcibly, secretly, or by
19 threat confining, abducting, or imprisoning another person
20 against his will and without lawful authority, with intent to.

- 21 1. Hold for ransom or reward or as a shield or
- 22 hostage.
- 23 2. Commit or facilitate commission of any felony
- 24 3. Inflict bodily harm upon or to terrorize the victim
- 25 or another person.

26 4. Interfere with the performance of any governmental
27 or political function.

28 (b) Confinement of a child under the age of 18 is
29 against his will within the meaning of subsection (1) if such
30 confinement is without the consent of his parent or legal
31 guardian.

cost of \$8.78 per printed page for
the public of proposed legislation.

promulgated
Legislature

public document
copies to file

1 (2) Whoever kidnaps a child as defined in this
 2 section, and who.

3 (a) Commits aggravated battery upon the child;

4 (b) Willfully tortures the child;

5 (c) Maliciously punishes the child;

6 (d) Willfully and unlawfully cages the child;

7 (e) Commits, or allows to be committed, sexual
 8 battery, as defined in chapter 794, against the child;

9 (f) Commits a lewd, lascivious, or indecent assault or
 10 act upon or in the presence of the child in violation of s.
 11 800.04;

12 (g) Commits a violation of s. 796.03 or s. 796.04,
 13 relating to prostitution, upon the child; or

14 (h) Exploits the child or allows the child to be
 15 exploited in violation of s 450.151;

16
 17 is guilty of aggravated child kidnapping.

18 (3)(a) (2) Whoever kidnaps a person is guilty of a
 19 felony of the first degree, punishable by imprisonment for a
 20 term of years not exceeding life or as provided in s. 775.082,
 21 s. 775.083, or s. 775.084.

22 (b) Whoever commits aggravated child kidnapping is
 23 guilty of a felony of the first degree, punishable as provided
 24 in s. 775.082, s 775.083, or s 775.084, except that the
 25 defendant shall be sentenced to a minimum term of imprisonment
 26 of 10 years Notwith standingthe provisions of s 948.01,
 27 adjudication of guilt or imposition of sentence shall not be
 28 suspended, deferred, or withheld, nor shall the defendant be
 29 eligible for parole or statutory gain-time under s 944.275,
 30 prior to serving such minimum sentence.

1 Section 2. Section 787 02, Florida Statutes, is
2 amended to read:

3 787 02 False imprisonment.--

4 (1)(a) "False imprisonment" means forcibly, by threat,
5 or secretly confining, abducting, imprisoning, or restraining
6 another person without lawful authority and against his will
7 with any purpose other than those referred to in s. 787.01

8 (b) Confinement of a child under the age of 18 is
9 against his will within the meaning of this section if such
10 confinement is without the consent of his parent or legal
11 guardian

12 (2) Whoever commits the offense of false imprisonment
13 shall be guilty of a felony of the third degree, punishable as
14 provided in s. 775 082, s. 775 083, or s 775.084.

15 Section 3. Section 787.03, Florida Statutes, is
16 amended to read.

17 787 03 Interference with custody.--

18 (1) Whoever, without lawful authority, knowingly or
19 recklessly takes or entices any child under the age of 18 ~~17~~
20 ~~years of age or under~~ or any incompetent person from the
21 custody of his parent, guardian, or other lawful custodian
22 commits the offense of interference with custody and shall be
23 guilty of a misdemeanor of the first degree, punishable as
24 provided in s. 775.082, s 775.083, or s 775.084

25 (2) It is a defense that

26 (a) The defendant reasonably believes that his action
27 was necessary to preserve the child or the incompetent person
28 from danger to his welfare

29 (b) The child or incompetent person was taken away at
30 his own instigation without enticement and without purpose to
31

1 commit a criminal offense with or against the child or
2 incompetent person

3 (3) Proof that a child was under the age of 18 ~~17~~
4 ~~years of age or under~~ creates the presumption that the
5 defendant knew the child's age or acted in reckless disregard
6 thereof.

7 Section 4. This act shall take effect October 1, 1984

8
9 *****

10 HOUSE SUMMARY

11 Raises the maximum age of the victim of kidnapping false
12 imprisonment, and interference with custody for purposes
13 of defining such offenses and the creation of certain
presumptions relating thereto.

14 Creates the crime of aggravated child kidnapping and
15 provides a first degree felony penalty and a minimum 10-
year term of imprisonment for such offense.

By Committee on Judiciary- Criminal and Senator Carlucci-

1 A bill to be entitled
 2 An act relating to kidnapping and false
 3 imprisonment, amending s. 827 03, F S.,
 4 clarifying the definition of aggravated child
 5 abuse, providing for crimes involving
 6 kidnapping and false imprisonment of children
 7 under the age of 13, providing penalties;
 8 providing an effective date.

9
 10 Be It Enacted by the Legislature of the State of Florida

11
 12 Section 1. Section 827 03, Florida Statutes, is
 13 amended to read.

14 827 03 Aggravated child abuse.--

15 (1) Aggravated child abuse is defined as one or more
 16 acts committed by a person who Whenever:

17 (a) (1) Commits aggravated battery on a child,

18 (b) (2) Willfully tortures a child,

19 (c) (3) Maliciously punishes a child, or

20 (d) (4) Willfully and unlawfully cages a child.

21
 22 A person who commits aggravated child abuse is shall be guilty
 23 of a felony of the second degree, punishable as provided in s
 24 775.082, s. 775.083, or s 775 084.

25 (2) Whoever commits kidnapping, as defined in chapter
 26 787, of a child under the age of 13 and who, in the course of
 27 committing the offense, commits one or more of the following,
 28 is guilty of a life felony, punishable as provided in s
 29 775.082, s 775 083, or s 775 084..

30 (a) Aggravated child abuse, as defined in subsection
 31 (1);

T
 11
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25
 26
 27
 28
 29
 30
 31

Public documents
 promulgated
 by the
 Legislature
 cost of \$9.78 per printed page for
 a public of proposed legislation.

1 (b) Sexual battery, as defined in chapter 794, against
2 the child,

3 (c) A lewd, lascivious, or indecent assault or act
4 upon or in the presence of the child, in violation of s.
5 800 04,

6 (d) A violation of s. 796.03 or s 796 04, relating to
7 prostitution upon the child; or

8 (e) Exploits the child or allows the child to be
9 exploited in violation of s. 450 151

10 (3) Whoever commits false imprisonment, as defined in
11 chapter 787, of a child under the age of 13 and who, in the
12 course of committing the offense, commits any offense
13 enumerated in paragraphs (a)-(e) of subsection (2) is guilty
14 of a felony of the first degree, punishable by imprisonment
15 for a term of years not exceeding life or as provided in s
16 775 082, s 775 083, or s 775 084

17
18 Pursuant to s 775 021(4), nothing contained in this section
19 shall be construed to prohibit the imposition of separate
20 judgments and sentences for the life felony or first degree
21 offense described in subsection (2) or subsection (3) and for
22 each separate offense enumerated in paragraphs (a)-(e) of
23 subsection (2).

24 Section 2. This act shall take effect October 1, 1984
25
26
27
28
29
30
31

1	<u>(2) Whoever kidnaps a child as defined in this</u>	1.19
2	<u>section, and who:</u>	
3	<u>(a) Commits aggravated battery upon the child;</u>	1.19/1
4	<u>(b) Willfully tortures the child;</u>	1:1
5	<u>(c) Maliciously punishes the child;</u>	1:1
6	<u>(d) Willfully and unlawfully cages the child;</u>	1:1
7	<u>(e) Commits, or allows to be committed, sexual</u>	1:1us
8	<u>battery, as defined in chapter 794, against the child;</u>	1.24
9	<u>(f) Commits a lewd, lascivious, or indecent assault or</u>	1:1us
10	<u>act upon or in the presence of the child in violation of s.</u>	1.26
11	<u>800.04;</u>	
12	<u>(g) Commits a violation of s. 796.03 or s. 796.04,</u>	1:1us
13	<u>relating to prostitution, upon the child; or</u>	1.28
14	<u>(h) Exploits the child or allows the child to be</u>	1:1us
15	<u>exploited in violation of s. 450.151;</u>	1.30
16		
17	<u>is guilty of aggravated child kidnapping.</u>	1:1
18	<u>(3)(a)†2‡ Whoever kidnaps a person is guilty of a</u>	1:1us
19	<u>felony of the first degree, punishable by imprisonment for a</u>	1.33
20	<u>term of years not exceeding life or as provided in s. 775.082,</u>	
21	<u>s. 775.083, or s. 775.084.</u>	
22	<u>(b) Whoever commits aggravated child kidnapping is</u>	1:1us
23	<u>guilty of a felony of the first degree, punishable as provided</u>	1.35
24	<u>in s. 775.082, s. 775.083, or s. 775.084, except that the</u>	
25	<u>defendant shall be sentenced to a minimum term of imprisonment</u>	1.36
26	<u>of 10 years. Notwithstanding the provisions of s. 948.01,</u>	1.37
27	<u>adjudication of guilt or imposition of sentence shall not be</u>	1.38
28	<u>suspended, deferred, or withheld, nor shall the defendant be</u>	
29	<u>eligible for parole or statutory gain-time under s. 944.275,</u>	1.4
30	<u>prior to serving such minimum sentence.</u>	
31		

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR SENATE BILL 812

1. Rather than creating the first degree felony offense of aggravated child kidnapping, with a 10 year minimum mandatory prison sentence, the CS will create a life felony offense if during the commission of kidnapping a child under 13 years, the perpetrator commits one or more of the following offenses against the child: aggravated child abuse, sexual battery, lewd or lascivious act, prostitution, or exploitation.
2. Also creates a first degree felony offense if during the commission of falsely imprisoning a child under 13 years, the perpetrator commits one or more of the above enumerated offenses against the child.
3. Provides intent language specifying that nothing in the CS should be construed to prohibit the imposition of separate judgments and sentences for the newly created offenses and for each of the enumerated offenses.

By Representative Moffitt

1 A bill to be entitled
 2 An act relating to kidnapping, false
 3 imprisonment, and custody offenses; amending s.
 4 787.01, F.S., redefining the crime of
 5 kidnapping and providing for the crime of
 6 aggravated kidnapping; providing a penalty;
 7 amending ss. 787.02 and 787.03, F.S.,
 8 increasing the maximum age of the victim for
 9 purposes of the crimes of false imprisonment
 10 and interference with custody; providing an
 11 effective date.

12
 13 Be It Enacted by the Legislature of the State of Florida:

14
 15 Section 1. Section 787.01, Florida Statutes, is
 16 amended to read:

17 787.01 Kidnapping.--

18 (1)(a) "Kidnapping" means forcibly, secretly, or by
 19 threat confining, abducting, or imprisoning another person
 20 against his will and without lawful authority, with intent to:

- 21 1. Hold for ransom or reward or as a shield or
- 22 hostage.
- 23 2. Commit or facilitate commission of any felony.
- 24 3. Inflict bodily harm upon or to terrorize the victim
- 25 or another person.
- 26 4. Interfere with the performance of any governmental
- 27 or political function.

28 (b) Confinement of a child under the age of 18 ~~13~~ is
 29 against his will within the meaning of subsection (1) if such
 30 confinement is without the consent of his parent or legal
 31 guardian.

This public document was promulgated at an average cost of 1.6 cents per page for the information of the members of the Legislature and the public.

1 commit a criminal offense with or against the child or
2 incompetent person.

1.64

3 (3) Proof that a child was under the age of 18 ~~17~~
4 ~~years-of-age-or-under~~ creates the presumption that the
5 defendant knew the child's age or acted in reckless disregard
6 thereof.

1:10s

1.66

1.67

7 Section 4. This act shall take effect October 1, 1984.

1.68

9 *****

10 HOUSE SUMMARY

11 Raises the maximum age of the victim of kidnapping false
12 imprisonment, and interference with custody for purposes
of defining such offenses and the creation of certain
presumptions relating thereto.

13 Creates the crime of aggravated child kidnapping and
14 provides a first degree felony penalty and a minimum 10-
15 year term of imprisonment for such offense.

1 Section 2. Section 787.02, Florida Statutes, is 1.4
 2 amended to read:

3 787.02 False imprisonment.-- 1.4

4 (1)(a) "False imprisonment" means forcibly, by threat, 1.4
 5 or secretly confining, abducting, imprisoning, or restraining 1.4
 6 another person without lawful authority and against his will
 7 with any purpose other than those referred to in s. 787.01. 1.4

8 (b) Confinement of a child under the age of 18 ~~17~~ is 1.4
 9 against his will within the meaning of this section if such 1.4
 10 confinement is without the consent of his parent or legal
 11 guardian. 1.4

12 (2) Whoever commits the offense of false imprisonment 1.4
 13 shall be guilty of a felony of the third degree, punishable as 1.5
 14 provided in s. 775.082, s. 775.083, or s. 775.084. 1.5

15 Section 3. Section 787.03, Florida Statutes, is 1.5
 16 amended to read:

17 787.03 Interference with custody.-- 1.5

18 (1) Whoever, without lawful authority, knowingly or 1.5
 19 recklessly takes or entices any child under the age of 18 ~~17~~
 20 ~~years-of-age-or-under~~ or any incompetent person from the 1.5
 21 custody of his parent, guardian, or other lawful custodian 1.5
 22 commits the offense of interference with custody and shall be 1.5
 23 guilty of a misdemeanor of the first degree, punishable as 1.5
 24 provided in s. 775.082, s. 775.083, or s. 775.084. 1.5

25 (2) It is a defense that: 1.5

26 (a) The defendant reasonably believes that his action 1.6
 27 was necessary to preserve the child or the incompetent person 1.6
 28 from danger to his welfare. 1.6

29 (b) The child or incompetent person was taken away at 1.6
 30 his own instigation without enticement and without purpose to 1.6
 31:

1 necessary food, clothing, shelter, or medical treatment, or
 2 who, knowingly or by culpable negligence, permits physical or 1.14
 3 mental injury to the child, and in so doing causes great 1.15
 4 bodily harm, permanent disability, or permanent disfigurement 1.17
 5 to such child, shall be guilty of a felony of the second third 1.19
 6 degree, punishable as provided in s. 775.082, s. 775.083, or 1.20
 7 s. 775.084.

8 (2) Whoever, willfully or by culpable negligence, 1.21
 9 deprives a child of, or allows a child to be deprived of, 1.22
 10 necessary food, clothing, shelter, or medical treatment, or 1.23
 11 who, knowingly or by culpable negligence, permits physical or 1.24
 12 mental injury to the child, shall be guilty of a felony of the 1.26
 13 third ~~wisdemeanor-of-the-first~~ degree, punishable as provided
 14 in s. 775.082, s. 775.083, or s. 775.084. 1.27

15 Section 3. This act shall take effect October 1, 1984. 1.28

16 *****

17 HOUSE SUMMARY

18 Increases the penalties for certain acts of child abuse.
 19
 20
 21
 22
 23
 24
 25
 26
 27
 28
 29
 30
 31

By Representative Dantzer

This public document was promulgated at an average cost of 1.6 cents per single page for the information of members of the Legislature and the public.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

A bill to be entitled
An act relating to child abuse; amending ss.
827.03, 827.04, F.S.; increasing penalties for
certain acts of child abuse; providing an
effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 827.03, Florida Statutes, is
amended to read:

827.03 Aggravated child abuse.--

(1) Whoever:

(a) ~~(1)~~ Commits aggravated battery on a child; or

~~(2) --Willfully tortures a child;~~

(b) ~~(3)~~ Maliciously punishes a child; or

~~(4) --Willfully and unlawfully cages a child~~

is shall be guilty of a felony of the second degree,
punishable as provided in s. 775.082, s. 775.083, or s.
775.084.

(2) Whoever:

(a) Willfully tortures a child; or

(b) Willfully and unlawfully cages a child

is guilty of a felony of the first degree punishable as
provided in s. 775.082, s. 775.083, or s. 775.084.

Section 2. Subsections (1) and (2) of section 827.04,
Florida Statutes, are amended to read:

827.04 Child abuse.--

(1) Whoever, willfully or by culpable negligence,

deprives a child of, or allows a child to be deprived of,