



**South Florida Free Beaches
Florida Naturist Association, Inc.**
PO Box 530306, Miami Shores, FL 33153

www.sffb.com

April 2, 2007

The Honorable *[23 selected Senate members]*
Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

*[for hand delivery to members of the
FL Senate Criminal Justice Committee
and other Senators
by SFFB/FNA's legislative lobbyist]*

Dear Senator *[23 individual addressees]*,

As an organization representing family-oriented naturism, and the mentors since 1991 of the designated clothing-optional beach at Haulover Park in South Florida, there are four bills changing the definition and intent of FS 800.03 that are of concern to us this session.

SB 1800, sponsored by Senator Posey, allows warrantless arrests for 800.03 violations. This is a Constitutional issue, and a dangerous precedent attempting to alter legal protections to citizens of long standing – protections indeed deemed essential enough by the founding fathers of our country to be included in the U.S. Constitution. We don't see how this would not be overturned in the courts, and therefore how the Florida legislature could entertain passing such a questionable statute.

We therefore respectfully ask that you use your influence against passage of SB 1800.

SB 1842 and 2058 (companions to HB 269), sponsored respectively by Senators Aronberg and Crist, alter the text of FS 800.02 and 800.03, and make these offences second degree felonies, under certain criteria of place and time, while retaining their status as second and first-degree misdemeanors, respectively, under other circumstances of place and time.

Although there is an established case law precedent that mere nudity is not the offence covered in 800.03, but lewd or lascivious intent and action are essential elements, we are wary of further alterations to the text that may call for new judicial review. Haulover's clothing-optional beach receives upward of a million visits a year, and we don't want to turn this into a felony criminal activity, to the detriment of hundreds of thousands of citizens, and impacting Florida's attractiveness as a tourist destination with those from other countries. Nor does there seem a compelling public interest in dragging backyard nude sunbathers or skinny-dippers on remote beaches through the courts on a felony charge, with all the costs to the state that would be incurred.

Several other elements in 1842 and 2058 are troubling. Even granting that these bills may not affect the case law, making these non-violent sexual offences second degree felonies on a first conviction seems extreme. Reason dictates that these offences do not pose the same threat as violent sexual offences, just as Halloween "egggers" do not pose the same threat as arsonists. (The analogy, of course, is not a suggestion of exact equivalence of the lesser offences.) Even if properly charged under 800.02 or 800.03 (i.e., with lewd intent and action present), the perpetrators of those crimes are often mostly guilty of drunkenness, rudeness, or party behavior. We won't make any apologies for them. Put them in prison for a year if you want; but for ten years? On a first offence?

Additionally, it makes little sense that the same act done 1001 feet from a park can be a misdemeanor, and then a second-degree felony if done 999 feet from the same park. Our criticism, however, is not the specific locations, nor the specific distances, but the entire concept. It is the act should be punished, not the location of the act. The residence restrictions for convicted sexual offenders is not really a precedent, as this has a clear protection value for citizens against those already convicted of violent crimes, and may indeed be considered part of the penalty incurred. If the intent is the protection of children, as the list of locations would seem to suggest, FS 800.04 already provides for a second degree felony penalty for lewd exhibition when minors are present.

We therefore respectfully ask that you use your influence against the passage of SB 1842 and 2058.

SB 2544, sponsored by Senator Storms, raises the penalties for second and third-time offenders of certain sexual crime statutes. We had no problems with the original wording of the companion HB 41, which dealt solely with violent offences. Indeed, we favored the increased penalties for the perpetrators of violent sexual crimes, as something our members with children, or concerned about them – all of them, we trust – would want. However, an amendment in committee in the House added references to 800.02 and 800.03. Again, we don't see how these two offences are in the same class as the violent offences.

We therefore respectfully ask that you use your influence to restore SB 2544 to the original wording of HB 41, omitting references to the non-violent crimes of 800.02 and 800.03.

The many naturist individuals and families we represent, covering a wide range of political opinion and religious affiliations, do not oppose legislation aimed at real family values and the protection of children. However, we also do not want our ability to practice naturism in accepted locations eroded by too-broadly-worded legislation.

In conclusion, we do not support SB 1800, 1842 and 2058. We feel these do nothing to further the protections already present in FS 800.04. We support SB 2544, with an amendment omitting references to 800.02 and 800.03, as a valuable bill to provide increased penalties for repeat violent sexual offenders.

We ask and hope for your support on these issues.

Very truly yours,

A handwritten signature in black ink that reads "Richard Mason". The signature is written in a cursive, flowing style.

Richard Mason, President
South Florida Free Beaches / Florida Naturist Association, Inc.