

11.7(a) INDECENT, LEWD, OR LASCIVIOUS TOUCHING OF CERTAIN MINORS

§ 794.051, Fla. Stat.

To prove the crime of Indecent, Lewd, or Lascivious Touching of Certain Minors, the State must prove the following three elements beyond a reasonable doubt:

Give 1a or 1b or both as applicable.

1. (Defendant)
 - a. **intentionally touched the [breast] [genitals] [genital area] [buttocks] [clothing covering the [breast] [genitals] [genital area] [buttocks]] of (victim) in a lewd or lascivious manner.**
 - b. **[forced] [or] [enticed] (victim) to touch [his] [her] [breast] [genitals] [genital area] [buttocks] [clothing covering [his] [her] [breast] [genitals] [genital area] [buttocks]] in a lewd or lascivious manner.**
2. **At the time, (defendant) was 24 years of age or older.**
3. **At the time, (victim) was 16 or 17 years of age.**

The words “lewd” and “lascivious” mean the same thing: a wicked, lustful, unchaste, licentious, or sensual intent on the part of the person doing an act.

Give if requested. § 794.022, Fla. Stat.

(Victim’s) lack of chastity is not a defense to the crime charged.

Give if requested. § 794.021, Fla. Stat; Feliciano v. State, 937 So. 2d 818 (Fla. 1st DCA 2006).

The defendant’s ignorance of (victim’s) age, (victim’s) misrepresentation of his or her age, or the defendant’s bona fide belief of (victim’s) age is not a defense to the crime charged.

“Bona fide” means genuine.

Lesser Included Offenses

INDECENT, LEWD, OR LASCIVIOUS TOUCHING OF CERTAIN MINORS — 794.051

CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
None			
	Written Solicitation of Certain Minors to Commit a Lewd or Lascivious Act	794.053	11.7(b)
	Attempt	777.04(1)	5.1
	Battery	784.03	8.3
	Assault	784.011	8.1
	Unnatural and lascivious act*	800.02*	11.8*

Comments

*The courts do not require the State to allege the defendant's act was "unnatural" or "against the laws of nature" for § 800.02, Fla. Stat., to be given as a lesser-included offense. If the sexual activity involved penile-vaginal sexual intercourse (or contact), § 800.02, Fla. Stat. should *not* be given as a lesser-included offense. However, if the sexual activity involved something other than penile-vaginal sexual intercourse (or contact), § 800.02, Fla. Stat. should be given as a lesser-included offense. See *State v. Knighton*, 235 So. 3d 312 (Fla. 2018).

This crime does not apply to a person 16 or 17 years of age who has had the disability of nonage removed under chapter 743. See 794.051(2), Fla. Stat.

This instruction was adopted on December 21, 2022, and amended on March 8, 2024.