

THE FLORIDA SENATE
2015 SUMMARY OF LEGISLATION PASSED
Committee on Criminal Justice

CS/HB 133 — Sexual Offenses

by Civil Justice Subcommittee and Rep. Plasencia and others (CS/SB 1270 by Fiscal Policy Committee and Senators Soto and Abruzzo)

Statute of Limitation

The bill provides that the act may be cited as the “43 Days Initiative Act.”

It amends the statute of limitation law, s. 775.15, F.S., by extending the current statute of limitation time period for a first or second degree felony sexual battery when the victim is 16 years of age or older and does not report the crime within 72 hours. The bill provides a statute of limitation of 8 years for these offenses instead of the previous 3 or 4 year time period.

Under the bill, if a 16 year old or older victim of *second* degree felony sexual battery or an 18 year old or older victim of *first* degree felony sexual battery reports the crime within 72 hours, current law is applicable and there is no time limitation for bringing a prosecution.

The bill applies to any such offense except one already time-barred on or before July 1, 2015, meaning it applies retroactively to previously committed offenses as long as the statute of limitation has not run on these offenses prior to July 1, 2015.

Sexting

The bill also amends the punishment schedule in the sexting statute, s. 847.0141, F.S., by including the issuance of a citation for first violations, which are classified as noncriminal violations. The bill specifies that for a first violation of sexting the minor must sign and accept a citation indicating a promise to appear before the juvenile court. In lieu of appearing in court, the minor may complete 8 hours of community service work, pay a \$60 civil penalty, or participate in a cyber-safety program, if such a program is locally available. The minor must satisfy any penalty within 30 days after receipt of the citation.

If the citation is contested and the court determines that the minor committed a noncriminal violation under this section, the court may order the minor to perform 8 hours of community service, pay a \$60 civil penalty, or participate in a cyber-safety program, or any combination thereof.

A minor who fails to comply with the citation waives the right to contest it and the court may impose any of the stated penalties or issue an order to show cause. Upon a finding of contempt, the court may impose additional age-appropriate penalties, which may include issuance of an order to the Department of Highway Safety and Motor Vehicles to withhold issuance of, or suspend the driver license or driving privilege of, the minor for 30 consecutive days. The court may not impose incarceration.

The bill also requires 80 percent of all civil penalties received by a juvenile court pursuant to the citation process outlined above to be remitted by the clerk of the court to the county commission to provide training on cyber safety for minors. The remaining 20 percent must remain with the clerk of the court to defray administrative costs.

The bill specifically addresses the holding in *State v. C.M.*, 154 So.3d 1177 (Fla. 4th DCA 2015) by amending s. 985.0301, F.S., to provide that the circuit court has exclusive original jurisdiction of proceeding in which a child is alleged to have committed a noncriminal violation that has been assigned to juvenile court by law.

If approved by the Governor, these provisions take effect July 1, 2015.

Vote: Senate 37-0; House 117-1