

By the Committee on Juvenile Justice and Representatives  
Putnam, Bainter, Byrd, Feeney and Fasano

1                                   A bill to be entitled  
2           An act relating to criminal and juvenile  
3           justice; amending s. 39.024, F.S.; changing the  
4           membership of the Department of Juvenile  
5           Justice Standards and Training Commission to  
6           include contract providers and a representative  
7           of the business community; creating s. 39.086,  
8           F.S.; defining the terms "sexual misconduct"  
9           and "employee"; providing that it is a second  
10          degree felony for an employee to engage in  
11          sexual misconduct with a juvenile offender  
12          detained or supervised by the department;  
13          providing penalties; providing certain  
14          exceptions; prohibiting certain employment, or  
15          providing for dismissal from departmental  
16          employment, of a person who has engaged in  
17          sexual misconduct with a juvenile offender;  
18          requiring an employee who witnesses sexual  
19          misconduct, or who has reasonable cause to  
20          suspect that sexual misconduct has been  
21          committed, to report such incident; providing  
22          for notification to the inspector general,  
23          facility superintendent, and district juvenile  
24          justice manager; providing that it is a first  
25          degree misdemeanor to knowingly and willfully  
26          fail to make a report as required, or to  
27          prevent another from doing so, or to submit  
28          inaccurate or untruthful information; providing  
29          penalties; providing that it is a third degree  
30          felony to coerce or threaten another person to  
31          alter testimony or a report with respect to an

1 incident of sexual misconduct; providing  
2 penalties; creating s. 39.087, F.S.;  
3 prohibiting the introduction, removal, or  
4 possession of, and other specified acts with  
5 respect to, contraband articles on the grounds  
6 of a juvenile detention facility or other  
7 commitment program; specifying articles that  
8 are contraband; providing penalties; providing  
9 exceptions; providing an effective date.

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

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13 Section 1. Paragraph (a) of subsection (2) of section  
14 39.024, Florida Statutes, is amended to read:

15 39.024 Juvenile justice training academies  
16 established; Juvenile Justice Standards and Training  
17 Commission created; Juvenile Justice Training Trust Fund  
18 created.--

19 (2) JUVENILE JUSTICE STANDARDS AND TRAINING  
20 COMMISSION.--

21 (a) There is created under the Department of Juvenile  
22 Justice the Juvenile Justice Standards and Training  
23 Commission, hereinafter referred to as the commission. The  
24 17-member commission shall consist of the Attorney General or  
25 designee, the Commissioner of Education or designee, a member  
26 of the juvenile court judiciary to be appointed by the Chief  
27 Justice of the Supreme Court, and 14 members to be appointed  
28 by the Secretary of Juvenile Justice as follows:

29 1. Seven ~~Eight~~ members shall be juvenile justice  
30 professionals ~~program staff~~: a superintendent or ~~and~~ a direct  
31 care staff member from an ~~a state-owned and state-operated~~

1 institution; ~~a superintendent, a director, or a direct care~~  
2 ~~staff member~~ from both a contracted ~~and a state-operated~~  
3 community-based program; a superintendent and a direct care  
4 staff member from a regional detention center or facility; ~~an~~  
5 ~~intake supervisor, intake counselor, or case manager;~~ and a  
6 community control and furlough supervisor or counselor; and a  
7 director of a day treatment or aftercare program. No fewer  
8 than three of these members shall be contract providers.

9           2. Two members shall be representatives of local law  
10 enforcement agencies.

11           3. One member shall be an educator from the state's  
12 university and community college program of criminology,  
13 criminal justice administration, social work, psychology,  
14 sociology, or other field of study pertinent to the training  
15 of juvenile justice program staff.

16           4. One member shall be a member of the public.

17           5. One member shall be a state attorney, or assistant  
18 attorney, who has juvenile court experience.

19           6. One member shall be a public defender, or assistant  
20 public defender, who has juvenile court experience.

21           7. One member shall be a representative of the  
22 business community.

23  
24 All appointed members shall be appointed to serve terms of 2  
25 years.

26           Section 2. Section 39.086, Florida Statutes, is  
27 created to read:

28           39.086 Sexual misconduct prohibited; reporting  
29 required; penalties.--

30           (1)(a)1. As used in this subsection, the term:

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1           a. "Sexual misconduct" means fondling the genital  
2 area, groin, inner thighs, buttocks, or breasts of a person;  
3 the oral, anal, or vaginal penetration by or union with the  
4 sexual organ of another; or the anal or vaginal penetration of  
5 another by any other object. The term does not include an act  
6 done for a bona fide medical purpose or an internal search  
7 conducted in the lawful performance of duty by an employee of  
8 the department or an employee of a provider under contract  
9 with the department.

10           b. "Employee" includes paid staff members, volunteers,  
11 and interns who work in a department program or a program  
12 operated by a provider under a contract.

13           2. An employee who engages in sexual misconduct with a  
14 juvenile offender detained or supervised by, or committed to  
15 the custody of, the department commits a felony of the second  
16 degree, punishable as provided in s. 775.082, s. 775.083, or  
17 s. 775.084. An employee may be found guilty of violating this  
18 subsection without having committed the crime of sexual  
19 battery.

20           3. The consent of the juvenile offender to any act of  
21 sexual misconduct is not a defense to prosecution under this  
22 subsection.

23           4. This subsection does not apply to an employee of  
24 the department, or an employee of a provider under contract  
25 with the department, who:

26           a. Is legally married to a juvenile offender who is  
27 detained or supervised by, or committed to the custody of, the  
28 department.

29           b. Has no reason to believe that the person with whom  
30 the employee engaged in sexual misconduct is a juvenile  
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1 offender detained or supervised by, or committed to the  
2 custody of, the department.

3 (b) Notwithstanding prosecution, any violation of this  
4 subsection, as determined by the Public Employees Relations  
5 Commission, constitutes sufficient cause under s. 110.227 for  
6 dismissal from employment with the department, and such person  
7 may not again be employed in any capacity in connection with  
8 the juvenile justice system.

9 (2) An employee of the department, or an employee of a  
10 provider under contract with the department, who witnesses  
11 sexual misconduct committed against a juvenile offender, or  
12 who has reasonable cause to suspect that sexual misconduct has  
13 been committed against a juvenile offender, shall immediately  
14 report the incident to the department's incident hotline, and  
15 prepare, date, and sign an independent report that  
16 specifically describes the nature of the sexual misconduct,  
17 the location and time of the incident, and the persons  
18 involved. The employee shall deliver the report to the  
19 supervisor or program director, who is responsible for  
20 providing copies to the department's inspector general and the  
21 district juvenile justice manager. The inspector general  
22 shall immediately conduct an appropriate administrative  
23 investigation, and, if there is probable cause to believe that  
24 a violation of subsection (1) has occurred, the inspector  
25 general shall notify the state attorney in the circuit in  
26 which the incident occurred.

27 (3)(a) Any person who is required to prepare a report  
28 under this section and who knowingly or willfully fails to do  
29 so, or who knowingly or willfully prevents another person from  
30 doing so, commits a misdemeanor of the first degree,  
31 punishable as provided in s. 775.082 or s. 775.083.

1           (b) Any person who knowingly or willfully submits  
2 inaccurate, incomplete, or untruthful information with respect  
3 to a report required under this section commits a misdemeanor  
4 of the first degree, punishable as provided in s. 775.082 or  
5 s. 775.083.

6           (c) Any person who knowingly or willfully coerces or  
7 threatens any other person with the intent to alter testimony  
8 or a written report regarding an incident of sexual misconduct  
9 commits a felony of the third degree, punishable as provided  
10 in s. 775.082, s. 775.083, or s. 775.084.

11           Section 3. Section 39.087, Florida Statutes, is  
12 created to read:

13           39.087 Introduction, removal, or possession of certain  
14 articles unlawful; penalty.--

15           (1)(a) Except as authorized through program policy or  
16 operating procedure or as authorized by the facility  
17 superintendent, program director, or manager, a person may not  
18 introduce into or upon the grounds of a juvenile detention  
19 facility or commitment program, or take or send, or attempt to  
20 take or send, from a juvenile detention facility or commitment  
21 program, any of the following articles, which are declared to  
22 be contraband under this section:

23           1. Any unauthorized article of food or clothing.

24           2. Any intoxicating beverage or any beverage that  
25 causes or may cause an intoxicating effect.

26           3. Any controlled substance, as defined in s.  
27 893.02(4), or any prescription or nonprescription drug that  
28 has a hypnotic, stimulating, or depressing effect.

29           4. Any firearm or weapon of any kind or any explosive  
30 substance.

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1       (b) A person may not transmit contraband to, cause  
2 contraband to be transmitted to or received by, attempt to  
3 transmit contraband to, or attempt to cause contraband to be  
4 transmitted to or received by, a juvenile offender into or  
5 upon the grounds of a juvenile detention facility or  
6 commitment program, except as authorized through program  
7 policy or operating procedures or as authorized by the  
8 facility superintendent, program director, or manager.

9       (c) A juvenile offender or any person, while upon the  
10 grounds of a juvenile detention facility or commitment  
11 program, may not be in actual or constructive possession of  
12 any article or thing declared to be contraband under this  
13 section, except as authorized through program policy or  
14 operating procedures or as authorized by the facility  
15 superintendent, program director, or manager.

16       (2) Any person who violates this section as it  
17 pertains to an article of contraband described in subparagraph  
18 (1)(a)1. commits a felony of the third degree, punishable as  
19 provided in s. 775.082, s. 775.083, or s. 775.084. In all  
20 other cases, a person who violates this section commits a  
21 felony of the second degree, punishable as provided in s.  
22 775.082, s. 775.083, or s. 775.084.

23       Section 4. This act shall take effect October 1, 1997.  
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