

Bill No. CS for SB 1260

Amendment No. ____

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Dawson-White moved the following amendment to amendment (230646):

Senate Amendment (with title amendment)

On page 7, between lines 6 and 7,

and insert:

Section 4. This act may be cited as the "Protection Against Sexual Violence in Florida Jails and Prisons Act."

Section 5. Paragraph (b) of subsection (3) and subsection (4) of section 944.35, Florida Statutes, are amended, and subsection (5) is added to that section, to read:

944.35 Authorized use of force; malicious battery and sexual misconduct prohibited; reporting required; penalties.--

(3)

(b)1. As used in this paragraph, the term "sexual misconduct" means the oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object, but does not include an act done for a bona fide medical purpose or an internal search conducted in the lawful performance of the

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1 employee's duty.

2 2. Any employee of the department who engages in
3 sexual misconduct with an inmate or an offender supervised by
4 the department in the community, without committing the crime
5 of sexual battery, commits a felony of the third degree,
6 punishable as provided in s. 775.082, s. 775.083, or s.
7 775.084.

8 3. The consent of the inmate or offender supervised by
9 the department in the community to any act of sexual
10 misconduct shall not be raised as a defense to a prosecution
11 under this paragraph.

12 4. This paragraph does not apply to any employee of
13 the department who is legally married to an inmate or an
14 offender supervised by the department in the community, nor
15 does it apply to any employee who has no knowledge, and would
16 have no reason to believe, that the person with whom the
17 employee has engaged in sexual misconduct is an inmate or an
18 offender under community supervision of the department.

19 (4)(a) Any employee required to report pursuant to
20 this section who knowingly or willfully fails to do so, or who
21 knowingly or willfully prevents another person from doing so,
22 commits a misdemeanor of the first degree, punishable as
23 provided in s. 775.082 or s. 775.083.

24 (b) Any person who knowingly or willfully submits
25 inaccurate, incomplete, or untruthful information with regard
26 to reports required in this section commits a misdemeanor of
27 the first degree, punishable as provided in s. 775.082 or s.
28 775.083.

29 (c) Any person who knowingly or willfully coerces or
30 threatens any other person with the intent to alter either
31 testimony or a written report regarding an incident where

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1 force was used or an incident of sexual misconduct commits a
2 felony of the third degree, punishable as provided in s.
3 775.082, s. 775.083, or s. 775.084.

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5 As part of the correctional officer training program, the
6 Criminal Justice Standards and Training Commission shall
7 develop course materials for inclusion in the appropriate
8 required course specifically designed to explain the
9 parameters of this subsection and to teach sexual assault
10 identification and prevention methods and techniques.

11 (5) State correctional institutions and private
12 correctional facilities housing state inmates may, to the
13 extent that funds are available:

14 (a) Provide an initial orientation program on sexual
15 assault to all inmates within 48 hours after incarceration.

16 The program shall provide at least the following information:

17 1. A realistic presentation on how to avoid sexual
18 violence while incarcerated.

19 2. Information on how to prevent and reduce the risk
20 of sexual violence.

21 3. Information on available sexual assault counseling.

22 4. The procedure for requesting sexual assault
23 counseling.

24 (b) Provide sexual assault counseling to any inmate
25 who has reported being victimized by a sexual assault and
26 requests such counseling.

27 1. Sexual assault counseling may be provided by
28 trained or experienced psychological specialists employed by
29 the Department of Corrections, by a private correctional
30 vendor under contract with the Correctional Privatization
31 Commission, or by trained or experienced representatives of a

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1 faith-based organization, community outreach organization, or
2 other appropriate organization that has been approved by the
3 facility administrator to provide such programs.

4 2. Literature and tapes on rape and rape trauma
5 syndrome developed or sponsored by community rape crisis
6 centers or state or national nonprofit organizations with
7 expertise in sexual assault issues shall not be barred from
8 any state correctional institution unless the administrator
9 determines that a particular item is unsuitable. Such
10 literature provided to a state correctional institution shall
11 be left out in areas where inmates can take it without calling
12 attention to themselves, such as in the library, medical
13 clinic, wellness areas, mental health offices, and educational
14 areas.

15 Section 6. Section 951.221, Florida Statutes, is
16 created to read:

17 951.221 Sexual activity between detention facility
18 employees and inmates; penalties.--

19 (1) Any employee of a county or municipal detention
20 facility or of a private detention facility under contract
21 with a county commission who engages in sexual misconduct, as
22 defined in s. 944.35(3)(b)1., with an inmate or an offender
23 supervised by the facility without committing the crime of
24 sexual battery commits a felony of the third degree,
25 punishable as provided in s. 775.082, s. 775.083, or s.
26 775.084. The consent of an inmate to any act of sexual
27 misconduct shall not be raised as a defense to prosecution
28 under this section.

29 (2) Notwithstanding prosecution, any violation of the
30 provisions of this section, as determined by the administrator
31 of the facility, shall constitute sufficient cause for

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1 dismissal from employment, and such person shall not again be
2 employed in any capacity in connection with the correctional
3 system.

4 Section 7. Present subsection (10) of section 951.23,
5 Florida Statutes, 1998 Supplement, is renumbered as subsection
6 (11), and a new subsection (10) is added to that section, to
7 read:

8 951.23 County and municipal detention facilities;
9 definitions; administration; standards and requirements.--

10 (10) PROTECTION AGAINST SEXUAL VIOLENCE.--County
11 detention facilities, municipal detention facilities, and
12 private detention facilities under contract with a county
13 commission may, to the extent funds are available:

14 (a) Provide information on sexual assault to all
15 inmates within 48 hours after detention. The information
16 should address:

17 1. Realistic methods and suggestions for how to avoid
18 sexual violence while incarcerated.

19 2. Methods and suggestions for how to prevent and
20 reduce the risk of sexual violence.

21 (b) If the detention facility provides or authorizes
22 the provision of sexual assault counseling, inform inmates
23 within 48 hours after detention on the availability of sexual
24 assault counseling and the procedure for requesting sexual
25 assault counseling provided by facility staff, vendors, or
26 community based, not-for-profit organizations.

27 (c) Provide to employees while in training information
28 about methods and suggestions for identifying and preventing
29 sexual assault. If a county, municipality, or private vendor
30 that operates a detention facility offers such training, the
31 program should provide at least 2 hours of training for each

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1 employee.

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3 (Redesignate subsequent sections.)

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6 ===== T I T L E A M E N D M E N T =====

7 And the title is amended as follows:

8 On page 7, line 28, after the semicolon,

9

10 insert:

11 creating the "Protection Against Sexual
12 Violence in Florida Jails and Prisons Act";
13 amending ss. 944.35, 951.23, F.S.; requiring
14 the Criminal Justice Standards and Training
15 Commission to develop a course relating to
16 sexual assault identification and prevention as
17 part of the correctional officer training
18 program; authorizing the department and county
19 and municipal detention facilities to provide
20 an orientation program and counseling; creating
21 s. 951.221, F.S.; prohibiting sexual misconduct
22 by employees of county or municipal detention
23 facilities; providing for termination of
24 employment under certain circumstances;
25 providing penalties;

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