

By Senator Dawson-White

30-1677-99

See HB

1 A bill to be entitled
 2 An act relating to sexual violence in prisons;
 3 creating the "Protection Against Sexual
 4 Violence in Florida Jails and Prisons Act";
 5 amending ss. 944.35, 951.23, F.S.; requiring
 6 the Department of Corrections to develop a
 7 course relating to sexual assault
 8 identification and prevention as part of the
 9 correctional officer training program;
 10 requiring the department and county and
 11 municipal detention facilities to provide an
 12 orientation program and counseling; requiring
 13 reporting of sexual assault by department
 14 employees; creating s. 951.221, F.S.;
 15 prohibiting sexual misconduct by employees of
 16 county or municipal detention facilities;
 17 providing for termination of employment under
 18 certain circumstances; providing penalties;
 19 providing an effective date.

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

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 23 Section 1. This act may be cited as the "Protection
 24 Against Sexual Violence in Florida Jails and Prisons Act."

25 Section 2. Subsection (4) of section 944.35, Florida
 26 Statutes, is amended, and subsections (5), (6), and (7) are
 27 added to said section, to read:

28 944.35 Authorized use of force; malicious battery and
 29 sexual misconduct prohibited; reporting required; penalties.--

30 (4)(a) Any employee required to report pursuant to
 31 this section who knowingly or willfully fails to do so, or who

1 knowingly or willfully prevents another person from doing so,
2 commits a misdemeanor of the first degree, punishable as
3 provided in s. 775.082 or s. 775.083.

4 (b) Any person who knowingly or willfully submits
5 inaccurate, incomplete, or untruthful information with regard
6 to reports required in this section commits a misdemeanor of
7 the first degree, punishable as provided in s. 775.082 or s.
8 775.083.

9 (c) Any person who knowingly or willfully coerces or
10 threatens any other person with the intent to alter either
11 testimony or a written report regarding an incident where
12 force was used or an incident of sexual misconduct commits a
13 felony of the third degree, punishable as provided in s.
14 775.082, s. 775.083, or s. 775.084.

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16 As part of the correctional officer training program, the
17 Criminal Justice Standards and Training Commission shall
18 develop course materials for inclusion in the appropriate
19 required course specifically designed to explain the
20 parameters of this subsection and to teach sexual assault
21 identification and prevention methods and techniques.

22 (5) State correctional institutions and private
23 correctional facilities housing state inmates shall:

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

26 The program shall provide at least the following information:

27 1. A realistic presentation on how to avoid sexual
28 violence while incarcerated.

29 2. Information on how to prevent and reduce the risk
30 of sexual violence.

31 3. Information on available sexual assault counseling.

1 4. The procedure for requesting sexual assault
2 counseling.

3 (b) Post in areas to which all inmates normally have
4 daily access an easily readable toll-free number for the
5 inspector general of the department.

6 (c) Provide sexual assault counseling to any prisoner
7 who requests it.

8 1. Sexual assault counseling shall be provided by
9 trained or experienced representatives of faith-based
10 organizations or community outreach organizations that have
11 been approved by the department to provide such programs.
12 State correctional institutions may contract with faith-based
13 organizations or community outreach organizations to provide
14 sexual assault counseling services.

15 2. Literature and tapes on rape and rape trauma
16 syndrome developed or sponsored by community rape crisis
17 centers or state or national nonprofit organizations with
18 expertise in sexual assault issues shall not be barred from
19 any state correctional institution unless the administrator
20 determines that a particular item is unsuitable. Such
21 literature provided to a state correctional institution shall
22 be left out in areas where inmates can take it without calling
23 attention to themselves, such as in the library, medical
24 clinic, recreation halls, mental health offices, and
25 educational areas.

26 (6) A guard or other employee of a state correctional
27 institution who becomes aware of an actual or threatened
28 sexual assault, or a credible report of an actual or
29 threatened sexual assault, on a prisoner in the custody of the
30 institution shall promptly report this situation to the
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1 inspector general of the department, who shall respond as
2 provided in paragraph (3)(d).

3 (7) In administering its internal disciplinary
4 process, a state correctional institution shall allow a
5 prisoner charged with fighting to plead the need for
6 self-defense against a sexual assault as an exculpatory
7 factor.

8 Section 3. Section 951.221, Florida Statutes, is
9 created to read:

10 951.221 Sexual activity between detention facility
11 employees and inmates; penalties.--

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

22 (2) Notwithstanding prosecution, any violation of the
23 provisions of this section, as determined by the administrator
24 of the facility, shall constitute sufficient cause for
25 dismissal from employment, and such person shall not again be
26 employed in any capacity in connection with the correctional
27 system.

28 Section 4. Subsection (10) of section 951.23, Florida
29 Statutes, 1998 Supplement, is renumbered as subsection (13),
30 and new subsections (10), (11), and (12) are added to said
31 section to read:

1 951.23 County and municipal detention facilities;
2 definitions; administration; standards and requirements.--

3 (10) PROTECTION AGAINST SEXUAL VIOLENCE.--County
4 detention facilities, municipal detention facilities, and
5 private detention facilities under contract with a county
6 commission shall:

7 (a) Provide an initial orientation program on sexual
8 assault to all inmates within 48 hours after detention. The
9 program shall provide at least the following information:

10 1. A realistic presentation on how to avoid sexual
11 violence while incarcerated.

12 2. Information on how to prevent and reduce the risk
13 of sexual violence.

14 3. Information on available sexual assault counseling.

15 4. The procedure for requesting sexual assault
16 counseling.

17 (b) Post in areas to which all inmates normally have
18 daily access an easily readable toll-free number for the
19 person responsible for facility inspection and investigation,
20 internal affairs investigations, inmate grievances, and
21 management reviews.

22 (c) Provide sexual assault counseling to any prisoner
23 who requests it.

24 1. Sexual assault counseling shall be provided by
25 trained or experienced representatives of a faith-based
26 organization, community outreach organization, or other
27 appropriate organization that has been approved by the
28 facility administrator to provide such programs. County
29 detention facilities and municipal detention facilities may
30 contract with faith-based or community outreach organizations
31 to provide these counseling services.

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

12 (d) Develop and implement an employee training program
13 to identify and prevent sexual assault. The training program
14 shall provide at least 2 hours of training for each employee.

15 (11) A guard or other employee of the detention
16 facility who becomes aware of an actual or threatened sexual
17 assault, or a credible report of an actual or threatened
18 sexual assault, on a prisoner in the custody of the detention
19 facility shall promptly report this situation to the person
20 responsible for facility inspection and investigation,
21 internal affairs investigations, inmate grievances, and
22 management reviews.

23 (12) In administering its internal disciplinary
24 process, the detention facility shall allow a prisoner charged
25 with fighting to plead the need for self-defense against a
26 sexual assault as an exculpatory factor.

27 Section 5. This act shall take effect October 1, 1999.
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LEGISLATIVE SUMMARY

Creates the "Protection Against Sexual Violence in Florida Jails and Prisons Act." Requires the Department of Corrections and county and municipal detention facilities to provide an orientation program and counseling. Requires development of a course relating to sexual assault identification and prevention as part of the correctional officer training program. Requires reporting of sexual assault by department employees. Prohibits sexual misconduct by employees of county or municipal detention facilities. Provides for termination of employment under certain circumstances.