

By Representative Roberts

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 and 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 by department employees of sexual  
14          assault; correcting a cross reference; creating  
15          s. 951.221, F.S.; prohibiting sexual misconduct  
16          by employees of county or municipal detention  
17          facilities; providing for termination of  
18          employment under certain circumstances;  
19          providing penalties; providing an effective  
20          date.

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

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

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

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

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

6           (b) Any person who knowingly or willfully submits  
7 inaccurate, incomplete, or untruthful information with regard  
8 to reports required in this section commits a misdemeanor of  
9 the first degree, punishable as provided in s. 775.082 or s.  
10 775.083.

11           (c) Any person who knowingly or willfully coerces or  
12 threatens any other person with the intent to alter either  
13 testimony or a written report regarding an incident where  
14 force was used or an incident of sexual misconduct commits a  
15 felony of the third degree, punishable as provided in s.  
16 775.082, s. 775.083, or s. 775.084.

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

24           (5) State correctional institutions and private  
25 correctional facilities housing state inmates shall:

26           (a) Provide an initial orientation program on sexual  
27 assault to all inmates within 48 hours after incarceration.  
28 The program shall provide at least the following information:

29           1. A realistic presentation on how to avoid sexual  
30 violence while incarcerated.

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

3           3. Information on available sexual assault counseling.

4           4. The procedure for requesting sexual assault  
5 counseling.

6           (b) Post in areas to which all inmates normally have  
7 daily access an easily readable toll-free number for reporting  
8 sexual misconduct to the inspector general of the department.

9           (c) Provide sexual assault counseling to any prisoner  
10 who requests it.

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

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

29           (6) A guard or other employee of a state correctional  
30 institution who becomes aware of an actual or threatened  
31 sexual assault, or a credible report of an actual or

1 threatened sexual assault, on a prisoner in the custody of the  
2 institution shall promptly report this situation to the  
3 inspector general of the department, who shall respond as  
4 provided in paragraph (3)(d).

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

10 Section 3. Section 951.221, Florida Statutes, is  
11 created to read:

12 951.221 Sexual activity between detention facility  
13 employees and inmates; penalties.--

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

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

30 Section 4. Subsections (10) and (11) of section  
31 951.23, Florida Statutes, are renumbered as subsections (13)

1 and (14), respectively, paragraph (e) of subsection (9) is  
2 amended, and new subsections (10), (11), and (12) are added to  
3 said section, to read:

4 951.23 County and municipal detention facilities;  
5 definitions; administration; standards and requirements.--

6 (9) INMATE COMMISSARY AND WELFARE FUND.--

7 (e) The officer in charge shall be responsible for an  
8 audit of the fiscal management of the commissary by a  
9 disinterested party on an annual basis, which shall include  
10 certification of compliance with the pricing requirements of  
11 paragraph~~(1)~~(b) ~~above~~. Appropriate transaction records and  
12 stock inventory shall be kept current.

13 (10) PROTECTION AGAINST SEXUAL VIOLENCE.--County  
14 detention facilities and municipal detention facilities and  
15 private detention facilities under contract with a county  
16 commission shall:

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

20 1. A realistic presentation on how to avoid sexual  
21 violence while incarcerated.

22 2. Information on how to prevent and reduce the risk  
23 of sexual violence.

24 3. Information on available sexual assault counseling.

25 4. The procedure for requesting sexual assault  
26 counseling.

27 (b) Post in areas to which all inmates normally have  
28 daily access an easily readable toll-free number for reporting  
29 sexual misconduct to the person responsible for facility  
30 inspection and investigation, internal affairs investigations,  
31 inmate grievances, and management reviews.

1           (c) Provide sexual assault counseling to any prisoner  
2 who requests it.

3           1. Sexual assault counseling shall be provided by  
4 trained or experienced representatives of a faith-based  
5 organization, community outreach organization, or other  
6 appropriate organization that has been approved by the  
7 facility administrator to provide such programming. County  
8 detention facilities and municipal detention facilities may  
9 contract with faith-based or community outreach organizations  
10 to provide these counseling services.

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

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

25           (11) A guard or other employee of the detention  
26 facility who becomes aware of an actual or threatened sexual  
27 assault, or a credible report of an actual or threatened  
28 sexual assault, on a prisoner in the custody of the detention  
29 facility shall promptly report this situation to the person  
30 responsible for facility inspection and investigation,  
31 internal affairs investigations, inmate grievances, and

1 management reviews who shall immediately conduct an  
2 appropriate investigation, and, if probable cause is  
3 determined that a violation of this subsection has occurred,  
4 the respective state attorney in the circuit in which the  
5 incident occurred shall be notified.

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

10 Section 5. This act shall take effect October 1, 2000.

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12 HOUSE SUMMARY

13  
14 Creates the "Protection Against Sexual Violence in  
15 Florida Jails and Prisons Act." Requires the Department  
16 of Corrections and county and municipal detention  
17 facilities to provide an orientation program and  
18 counseling. Requires development of a course relating to  
19 sexual assault identification and prevention as part of  
20 the correctional officer training program. Requires  
21 reporting of sexual assault by department employees.  
22 Prohibits sexual misconduct by employees of county or  
23 municipal detention facilities. Provides for termination  
24 of employment under certain circumstances.  
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