

By Senator Campbell

33-1360-00

1 A bill to be entitled
2 An act relating to rules of evidence; amending
3 s. 794.022, F.S.; providing for certain rules
4 of evidence applicable to the criminal
5 prosecution of the crime of sexual battery to
6 apply in any civil action brought under the
7 Florida Civil Rights Act against the
8 perpetrator or alleged perpetrator of such
9 crime; 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. Section 794.022, Florida Statutes, is
14 amended to read:

15 794.022 Rules of evidence.--

16 (1) The testimony of the victim need not be
17 corroborated in a prosecution under s. 794.011.

18 (2) Specific instances of prior consensual sexual
19 activity between the victim and any person other than the
20 offender shall not be admitted into evidence in a prosecution
21 under s. 794.011. However, such evidence may be admitted if
22 it is first established to the court in a proceeding in camera
23 that such evidence may prove that the defendant was not the
24 source of the semen, pregnancy, injury, or disease; or, when
25 consent by the victim is at issue, such evidence may be
26 admitted if it is first established to the court in a
27 proceeding in camera that such evidence tends to establish a
28 pattern of conduct or behavior on the part of the victim which
29 is so similar to the conduct or behavior in the case that it
30 is relevant to the issue of consent.

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1 (3) Notwithstanding any other provision of law,
2 reputation evidence relating to a victim's prior sexual
3 conduct or evidence presented for the purpose of showing that
4 manner of dress of the victim at the time of the offense
5 incited the sexual battery shall not be admitted into evidence
6 in a prosecution under s. 794.011.

7 (4) When consent of the victim is a defense to
8 prosecution under s. 794.011, evidence of the victim's mental
9 incapacity or defect is admissible to prove that the consent
10 was not intelligent, knowing, or voluntary; and the court
11 shall instruct the jury accordingly.

12 (5) An offender's use of a prophylactic device, or a
13 victim's request that an offender use a prophylactic device,
14 is not, by itself, relevant to either the issue of whether or
15 not the offense was committed or the issue of whether or not
16 the victim consented.

17 (6) The rules of evidence provided in this section
18 apply in any civil action brought under the Florida Civil
19 Rights Act against the perpetrator or alleged perpetrator of a
20 violation of s. 794.011.

21 Section 2. This act shall take effect upon becoming a
22 law.

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25 SENATE SUMMARY

26 Provides that the rules of evidence which are applicable
27 to the testimony allowed in prosecuting the crime of
28 sexual battery also apply for purposes of a civil action
brought against the perpetrator or alleged perpetrator of
such crime under the Florida Civil Rights Act.