

By Senator Campbell

33-32-01

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A bill to be entitled  
An act relating to rules of evidence; amending  
s. 794.022, F.S.; providing for certain rules  
of evidence applicable to the criminal  
prosecution of the crime of sexual battery to  
apply in any civil action brought under the  
Florida Civil Rights Act involving the  
perpetration or alleged perpetration of such  
crime; providing an effective date.

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

Section 1. Section 794.022, Florida Statutes, is  
amended to read:

794.022 Rules of evidence.--

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

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

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 involving the perpetration or alleged perpetration  
20 of a 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 offense of  
28 sexual battery also apply for purposes of a civil action  
29 brought under the Florida Civil Rights Act.  
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