

1 A bill to be entitled
2 An act relating to sex crimes; amending ss.
3 794.011, 796.07, 800.04, 825.1025, 827.071,
4 847.001, F.S., relating to sexual battery,
5 prostitution, lewd or lascivious offenses,
6 sexual performance by a child, and obscene
7 literature and other material; defining the
8 terms "vaginal" and "vagina" for purposes of
9 laws defining certain prohibited sexual
10 activities; amending s. 794.022, F.S.;
11 providing for certain rules of evidence
12 applicable to the criminal prosecution of the
13 crime of sexual battery to apply in any civil
14 action brought under the Florida Civil Rights
15 Act involving the perpetration or alleged
16 perpetration of such crime; providing an
17 effective date.

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

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

23 794.022 Rules of evidence.--

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

26 (2) Specific instances of prior consensual sexual
27 activity between the victim and any person other than the
28 offender shall not be admitted into evidence in a prosecution
29 under s. 794.011. However, such evidence may be admitted if
30 it is first established to the court in a proceeding in camera
31 that such evidence may prove that the defendant was not the

1 source of the semen, pregnancy, injury, or disease; or, when
2 consent by the victim is at issue, such evidence may be
3 admitted if it is first established to the court in a
4 proceeding in camera that such evidence tends to establish a
5 pattern of conduct or behavior on the part of the victim which
6 is so similar to the conduct or behavior in the case that it
7 is relevant to the issue of consent.

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

14 (4) When consent of the victim is a defense to
15 prosecution under s. 794.011, evidence of the victim's mental
16 incapacity or defect is admissible to prove that the consent
17 was not intelligent, knowing, or voluntary; and the court
18 shall instruct the jury accordingly.

19 (5) An offender's use of a prophylactic device, or a
20 victim's request that an offender use a prophylactic device,
21 is not, by itself, relevant to either the issue of whether or
22 not the offense was committed or the issue of whether or not
23 the victim consented.

24 (6) The rules of evidence provided in this section
25 apply in any civil action brought under the Florida Civil
26 Rights Act involving the perpetration or alleged perpetration
27 of a violation of s. 794.011.

28 Section 2. Effective July 1, 2001, present paragraphs
29 (i) and (j) of subsection (1) of section 794.011, Florida
30 Statutes, are redesignated as paragraphs (j) and (k),
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1 respectively, and a new paragraph (i) is added to that
2 subsection, to read:

3 794.011 Sexual battery.--

4 (1) As used in this chapter:

5 (i) "Vaginal" or "vagina" refers to the internal or
6 external parts of the sexual organ of a female.

7 Section 3. Effective July 1, 2001, paragraph (e) is
8 added to subsection (1) of section 796.07, Florida Statutes,
9 to read:

10 796.07 Prohibiting prostitution, etc.; evidence;
11 penalties; definitions.--

12 (1) As used in this section:

13 (e) "Vaginal" or "vagina" refers to the internal or
14 external parts of the sexual organ of a female.

15 Section 4. Effective July 1, 2001, paragraph (e) is
16 added to subsection (1) of section 800.04, Florida Statutes,
17 to read:

18 800.04 Lewd or lascivious offenses committed upon or
19 in the presence of persons less than 16 years of age.--

20 (1) DEFINITIONS.--As used in this section:

21 (e) "Vaginal" or "vagina" refers to the internal or
22 external parts of the sexual organ of a female.

23 Section 5. Effective July 1, 2001, subsection (1) of
24 section 825.1025, Florida Statutes, is amended to read:

25 825.1025 Lewd or lascivious offenses committed upon or
26 in the presence of an elderly person or disabled adult.--

27 (1) As used in this section, the term:

28 (a) "Sexual activity" means the oral, anal, or vaginal
29 penetration by, or union with, the sexual organ of another or
30 the anal or vaginal penetration of another by any other
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1 object; however, sexual activity does not include an act done
2 for a bona fide medical purpose.

3 (b) "Vaginal" or "vagina" refers to the internal or
4 external parts of the sexual organ of a female.

5 Section 6. Effective July 1, 2001, paragraph (j) is
6 added to subsection (1) of section 827.071, Florida Statutes,
7 to read:

8 827.071 Sexual performance by a child; penalties.--

9 (1) As used in this section, the following definitions
10 shall apply:

11 (j) "Vaginal" or "vagina" refers to the internal or
12 external parts of the sexual organ of a female.

13 Section 7. Effective July 1, 2001, subsection (14) is
14 added to section 847.001, Florida Statutes, to read:

15 847.001 Definitions.--When used in this chapter:

16 (14) "Vaginal" or "vagina" refers to the internal or
17 external parts of the sexual organ of a female.

18 Section 8. Except as otherwise expressly provided in
19 this act, this act shall take effect upon becoming a law.

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