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2 An act relating to prisons; creating the
3 "Protection Against Sexual Violence in Florida
4 Jails and Prisons Act"; amending s. 944.35,
5 F.S.; requiring the Criminal Justice Standards
6 and Training Commission to develop a course
7 relating to sexual assault identification and
8 prevention as part of the correctional-officer
9 training program; creating s. 951.221, F.S.;
10 prohibiting sexual misconduct by employees of
11 county or municipal detention facilities;
12 providing for termination of employment under
13 certain circumstances; providing penalties;
14 providing an effective date.

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

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

20 Section 2. Paragraph (b) of subsection (3) and
21 subsection (4) of section 944.35, Florida Statutes, are
22 amended, and subsection (5) is added to that section, to read:

23 944.35 Authorized use of force; malicious battery and
24 sexual misconduct prohibited; reporting required; penalties.--

25 (3)

26 (b)1. As used in this paragraph, the term "sexual
27 misconduct" means the oral, anal, or vaginal penetration by,
28 or union with, the sexual organ of another or the anal or
29 vaginal penetration of another by any other object, but does
30 not include an act done for a bona fide medical purpose or an

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1 internal search conducted in the lawful performance of the
2 employee's duty.

3 2. Any employee of the department who engages in
4 sexual misconduct with an inmate or an offender supervised by
5 the department in the community, without committing the crime
6 of sexual battery, commits a felony of the third degree,
7 punishable as provided in s. 775.082, s. 775.083, or s.
8 775.084.

9 3. The consent of the inmate or offender supervised by
10 the department in the community to any act of sexual
11 misconduct may ~~shall~~ not be raised as a defense to a
12 prosecution under this paragraph.

13 4. This paragraph does not apply to any employee of
14 the department who is legally married to an inmate or an
15 offender supervised by the department in the community, nor
16 does it apply to any employee who has no knowledge, and would
17 have no reason to believe, that the person with whom the
18 employee has engaged in sexual misconduct is an inmate or an
19 offender under community supervision of the department.

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

25 (b) Any person who knowingly or willfully submits
26 inaccurate, incomplete, or untruthful information with regard
27 to reports required in this section commits a misdemeanor of
28 the first degree, punishable as provided in s. 775.082 or s.
29 775.083.

30 (c) Any person who knowingly or willfully coerces or
31 threatens any other person with the intent to alter either

1 testimony or a written report regarding an incident where
2 force was used or an incident of sexual misconduct commits a
3 felony of the third degree, punishable as provided in s.
4 775.082, s. 775.083, or s. 775.084.

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6 As part of the correctional-officer training program, the
7 Criminal Justice Standards and Training Commission shall
8 develop course materials for inclusion in the appropriate
9 required course specifically designed to explain the
10 parameters of this subsection and to teach sexual assault
11 identification and prevention methods and techniques.

12 Section 3. Section 951.221, Florida Statutes, is
13 created to read:

14 951.221 Sexual activity between detention facility
15 employees and inmates; penalties.--

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

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

31 Section 4. This act shall take effect October 1, 2001.