

By the Committee on Crime Prevention, Corrections & Safety
and Representative Gannon

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

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

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20 Section 1. Effective July 1, 2001, present paragraphs
21 (i) and (j) of subsection (1) of section 794.011, Florida
22 Statutes, are redesignated as paragraphs (j) and (k),
23 respectively, and a new paragraph (i) is added to said
24 subsection to read:

25 794.011 Sexual battery.--

26 (1) As used in this chapter:

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

29 Section 2. Section 794.022, Florida Statutes, is
30 amended to read:

31 794.022 Rules of evidence.--

- 1 (1) The testimony of the victim need not be
2 corroborated in a prosecution under s. 794.011.
- 3 (2) Specific instances of prior consensual sexual
4 activity between the victim and any person other than the
5 offender shall not be admitted into evidence in a prosecution
6 under s. 794.011. However, such evidence may be admitted if
7 it is first established to the court in a proceeding in camera
8 that such evidence may prove that the defendant was not the
9 source of the semen, pregnancy, injury, or disease; or, when
10 consent by the victim is at issue, such evidence may be
11 admitted if it is first established to the court in a
12 proceeding in camera that such evidence tends to establish a
13 pattern of conduct or behavior on the part of the victim which
14 is so similar to the conduct or behavior in the case that it
15 is relevant to the issue of consent.
- 16 (3) Notwithstanding any other provision of law,
17 reputation evidence relating to a victim's prior sexual
18 conduct or evidence presented for the purpose of showing that
19 manner of dress of the victim at the time of the offense
20 incited the sexual battery shall not be admitted into evidence
21 in a prosecution under s. 794.011.
- 22 (4) When consent of the victim is a defense to
23 prosecution under s. 794.011, evidence of the victim's mental
24 incapacity or defect is admissible to prove that the consent
25 was not intelligent, knowing, or voluntary; and the court
26 shall instruct the jury accordingly.
- 27 (5) An offender's use of a prophylactic device, or a
28 victim's request that an offender use a prophylactic device,
29 is not, by itself, relevant to either the issue of whether or
30 not the offense was committed or the issue of whether or not
31 the victim consented.

1 (6) The rules of evidence provided in this section
2 apply in any civil action brought under the Florida Civil
3 Rights Act involving the perpetration or alleged perpetration
4 of a violation of s. 794.011.

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

8 796.07 Prohibiting prostitution, etc.; evidence;
9 penalties; definitions.--

10 (1) As used in this section:

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

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

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

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

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

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

23 825.1025 Lewd or lascivious offenses committed upon or
24 in the presence of an elderly person or disabled adult.--

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

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

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1 (b) "Vaginal" or "vagina" refers to the internal or
2 external parts of the sexual organ of a female.
3 Section 6. Effective July 1, 2001, paragraph (j) is
4 added to subsection (1) of section 827.071, Florida Statutes,
5 to read:
6 827.071 Sexual performance by a child; penalties.--
7 (1) As used in this section, the following definitions
8 shall apply:
9 (j) "Vaginal" or "vagina" refers to the internal or
10 external parts of the sexual organ of a female.
11 Section 7. Effective July 1, 2001, subsection (14) is
12 added to section 847.001, Florida Statutes, to read:
13 847.001 Definitions.--When used in this chapter:
14 (14) "Vaginal" or "vagina" refers to the internal or
15 external parts of the sexual organ of a female.
16 Section 8. Except as otherwise provided herein, this
17 act shall take effect upon becoming a law.
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