

By Senator Campbell

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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 that are applicable
27 to the testimony allowed in prosecuting the offense of
28 sexual battery also apply for purposes of a civil action
brought under the Florida Civil Rights Act.