

By Senator Cowin

20-276A-03

1                                   A bill to be entitled  
 2           An act relating to sentencing; amending s.  
 3           921.0026, F.S.; prohibiting the court from  
 4           departing downward from the lowest sentence  
 5           permitted under the Criminal Punishment Code  
 6           based on the victim's consent to a sexual  
 7           offense if the victim was younger than 16 years  
 8           of age and the defendant was 18 years of age or  
 9           older; provides for the prohibition to apply  
 10          regardless of whether the victim's consent was  
 11          raised as a defense in the case; providing an  
 12          effective date.

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

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16           Section 1. Subsection (4) is added to section  
 17 921.0026, Florida Statutes, to read:

18           921.0026 Mitigating circumstances.--This section  
 19 applies to any felony offense, except any capital felony,  
 20 committed on or after October 1, 1998.

21           (4) A downward departure from the lowest permissible  
 22 sentence for a sexual offense, including, but not limited to,  
 23 a sexual offense described in chapter 794, chapter 800, or  
 24 chapter 827, is not permissible on the basis of the victim's  
 25 consent to the offense if the victim was younger than 16 years  
 26 of age and the defendant was 18 years of age or older,  
 27 regardless of whether consent was raised as a defense in the  
 28 prosecution of the offense.

29           Section 2. This act shall take effect July 1, 2003.

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SENATE SUMMARY

Provides that in sentencing a defendant under the Criminal Punishment Code for a sexual offense, the court may not depart downward from the lowest sentence permitted based upon the victim's consent if the victim was younger than 16 years of age and the defendant was 18 years of age or older. Provides that the prohibition applies regardless of whether the victim's consent was raised as a defense in the case.