

By Senator Campbell

32-219-05

1 A bill to be entitled
2 An act relating to the offense of sexual
3 battery on a minor; amending s. 95.11, F.S.;
4 providing for the time period for commencing a
5 civil action based upon an act that constitutes
6 sexual battery upon a minor to be tolled under
7 certain circumstances; amending s. 775.15,
8 F.S.; providing that the time period for
9 commencing a prosecution for sexual battery
10 upon a minor does not run during certain
11 specified time periods; providing an effective
12 date.

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

16 Section 1. Present subsection (8) of section 95.11,
17 Florida Statutes, is redesignated as subsection (9), and a new
18 subsection (8) is added to that section, to read:

19 95.11 Limitations other than for the recovery of real
20 property.--Actions other than for recovery of real property
21 shall be commenced as follows:

22 (8) FOR ACTIONS BASED UPON AN ACT THAT CONSTITUTES
23 SEXUAL BATTERY UPON A MINOR.--The time period for commencing
24 an action based on an act upon a victim younger than 18 years
25 of age which constitutes what is described as sexual battery
26 in s. 794.011 shall be tolled until the victim becomes 18
27 years of age or during any period of time in which it is
28 determined by a medical practitioner licensed under chapter
29 458 or chapter 459, or a mental health professional otherwise
30 licensed in this state for the treatment of mental, emotional,
31 or behavioral disorders, that:

1 (a) It is medically inadvisable or the victim is
2 unable to disclose information concerning the incident from
3 which the action arises outside a clinical setting;

4 (b) It is medically inadvisable for the victim to
5 confront the alleged perpetrator of the act; or

6 (c) It is medically inadvisable for the victim to
7 publicly disclose the incident from which the action arises.

8 Section 2. Subsections (1) and (7) of section 775.15,
9 Florida Statutes, are amended to read:

10 775.15 Time limitations.--

11 (1)(a) A prosecution for a capital felony, a life
12 felony, or a felony that resulted in a death may be commenced
13 at any time. A prosecution for a felony that resulted in
14 injury to any person, when such felony arises from the use of
15 a "destructive device," as defined in s. 790.001, may be
16 commenced within 10 years. If the death penalty is held to be
17 unconstitutional by the Florida Supreme Court or the United
18 States Supreme Court, all crimes designated as capital
19 felonies shall be considered life felonies for the purposes of
20 this section, and prosecution for such crimes may be commenced
21 at any time.

22 (b) Except as otherwise expressly provided in
23 subsection (7), a prosecution for a first or second degree
24 felony violation of s. 794.011, if such crime is reported to a
25 law enforcement agency within 72 hours after commission of the
26 crime, may be commenced at any time. If such crime is not
27 reported within 72 hours after the commission of the crime,
28 the prosecution must be commenced within the time periods
29 prescribed in subsection (2).

1 (c) A prosecution for perjury in an official
2 proceeding that relates to the prosecution of a capital felony
3 may be commenced at any time.

4 (7)(a) If the victim of a violation of s. 794.011,
5 former s. 794.05, Florida Statutes 1995, s. 800.04, or s.
6 826.04 is under the age of 18, the applicable period of
7 limitation, if any, does not begin to run until the victim has
8 reached the age of 18 or the violation is reported to a law
9 enforcement agency or other governmental agency, whichever
10 occurs earlier. Such law enforcement agency or other
11 governmental agency shall promptly report such allegation to
12 the state attorney for the judicial circuit in which the
13 alleged violation occurred. If the offense is a first or
14 second degree felony violation of s. 794.011, and the crime is
15 reported within 72 hours after its commission, paragraph
16 (1)(b) applies. This paragraph applies to any such offense
17 except an offense the prosecution of which would have been
18 barred by subsection (2) on or before December 31, 1984.

19 (b) Notwithstanding the provisions of paragraph (1)(b)
20 and paragraph (a) of this subsection, if the offense is a
21 first degree felony violation of s. 794.011 and the victim was
22 under 18 years of age at the time the offense was committed, a
23 prosecution of the offense may be commenced at any time. This
24 paragraph applies to any such offense except an offense the
25 prosecution of which would have been barred by subsection (2)
26 on or before October 1, 2003.

27 (c) Notwithstanding paragraph (1)(b) and paragraphs
28 (a) and (b) of this subsection, if the offense is a violation
29 of s. 794.011 and the victim was younger than 18 years of age
30 at the time the offense was committed, the period of
31 limitation does not run during the time the victim is younger

1 than 18 years of age or during any period of time in which it
2 is determined by a medical practitioner licensed under chapter
3 458 or chapter 459, or a mental health professional otherwise
4 licensed in this state for the treatment of mental, emotional,
5 or behavioral disorders, that:

6 1. It is medically inadvisable or the victim is unable
7 to disclose information concerning the alleged incident
8 outside a clinical setting;

9 2. It is medically inadvisable for the victim to
10 confront the alleged perpetrator; or

11 3. It is medically inadvisable for the victim to
12 publicly disclose the alleged incident.

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14 This paragraph applies to any such offense except an offense
15 the prosecution of which would have been barred on or before
16 July 1, 2005.

17 Section 3. This act shall take effect July 1, 2005.

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20 SENATE SUMMARY

21 Provides for tolling the time for commencing a civil
22 action based upon an act of sexual battery upon a minor,
23 or prosecuting the offense of sexual battery upon a
24 minor, until the victim becomes 18 years of age or during
25 any period in which it is medically inadvisable for the
26 victim to disclose information concerning the incident,
27 confront the perpetrator, or publicly disclose the
28 incident. (See bill for details.)
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