

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

11

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

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14 Section 1. Paragraphs (f) and (g) of subsection (5) of
 15 section 95.11, Florida Statutes, are amended, subsection (8) is
 16 redesignated as subsection (9), and a new subsection (8) is
 17 added to said section, to read:

18 95.11 Limitations other than for the recovery of real
 19 property.--Actions other than for recovery of real property
 20 shall be commenced as follows:

21 (5) WITHIN ONE YEAR.--

22 (f) Except for actions described in subsection (9) ~~(8)~~, a
 23 petition for extraordinary writ, other than a petition
 24 challenging a criminal conviction, filed by or on behalf of a
 25 prisoner as defined in s. 57.085.

26 (g) Except for actions described in subsection (9) ~~(8)~~, an
 27 action brought by or on behalf of a prisoner, as defined in s.
 28 57.085, relating to the conditions of the prisoner's

29 confinement.

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

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

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

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

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

49 775.15 Time limitations.--

50 (1)(a) A prosecution for a capital felony, a life felony,
 51 or a felony that resulted in a death may be commenced at any
 52 time. A prosecution for a felony that resulted in injury to any
 53 person, when such felony arises from the use of a "destructive
 54 device," as defined in s. 790.001, may be commenced within 10
 55 years. If the death penalty is held to be unconstitutional by
 56 the Florida Supreme Court or the United States Supreme Court,

57 | all crimes designated as capital felonies shall be considered
 58 | life felonies for the purposes of this section, and prosecution
 59 | for such crimes may be commenced at any time.

60 | (b) Except as otherwise expressly provided in subsection
 61 | (7), a prosecution for a first or second degree felony violation
 62 | of s. 794.011, if such crime is reported to a law enforcement
 63 | agency within 72 hours after commission of the crime, may be
 64 | commenced at any time. If such crime is not reported within 72
 65 | hours after the commission of the crime, the prosecution must be
 66 | commenced within the time periods prescribed in subsection (2).

67 | (c) A prosecution for perjury in an official proceeding
 68 | that relates to the prosecution of a capital felony may be
 69 | commenced at any time.

70 | (7)(a) If the victim of a violation of s. 794.011, former
 71 | s. 794.05, Florida Statutes 1995, s. 800.04, or s. 826.04 is
 72 | under the age of 18, the applicable period of limitation, if
 73 | any, does not begin to run until the victim has reached the age
 74 | of 18 or the violation is reported to a law enforcement agency
 75 | or other governmental agency, whichever occurs earlier. Such law
 76 | enforcement agency or other governmental agency shall promptly
 77 | report such allegation to the state attorney for the judicial
 78 | circuit in which the alleged violation occurred. If the offense
 79 | is a first or second degree felony violation of s. 794.011, and
 80 | the crime is reported within 72 hours after its commission,
 81 | paragraph (1)(b) applies. This paragraph applies to any such
 82 | offense except an offense the prosecution of which would have
 83 | been barred by subsection (2) on or before December 31, 1984.

84 | (b) Notwithstanding the provisions of paragraph (1)(b) and

85 paragraph (a) of this subsection, if the offense is a first
 86 degree felony violation of s. 794.011 and the victim was under
 87 18 years of age at the time the offense was committed, a
 88 prosecution of the offense may be commenced at any time. This
 89 paragraph applies to any such offense except an offense the
 90 prosecution of which would have been barred by subsection (2) on
 91 or before October 1, 2003.

92 (c) Notwithstanding paragraph (1)(b) and paragraphs (a)
 93 and (b) of this subsection, if the offense is a violation of s.
 94 794.011 and the victim was younger than 18 years of age at the
 95 time the offense was committed, the period of limitation does
 96 not run during the time the victim is younger than 18 years of
 97 age or during any period of time in which it is determined by a
 98 medical practitioner licensed under chapter 458 or chapter 459,
 99 or a mental health professional otherwise licensed in this state
 100 for the treatment of mental, emotional, or behavioral disorders,
 101 that:

102 1. It is medically inadvisable or the victim is unable to
 103 disclose information concerning the alleged incident outside a
 104 clinical setting;

105 2. It is medically inadvisable for the victim to confront
 106 the alleged perpetrator; or

107 3. It is medically inadvisable for the victim to publicly
 108 disclose the alleged incident.

109
 110 This paragraph applies to any such offense except an offense the
 111 prosecution of which would have been barred on or before July 1,
 112 2005.

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