

CHAMBER ACTION

1 The Criminal Justice Committee recommends the following:

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3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

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

15
16 Be It Enacted by the Legislature of the State of Florida:

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18 Section 1. Paragraphs (f) and (g) of subsection (5) of
19 section 95.11, Florida Statutes, are amended, subsection (8) is
20 redesignated as subsection (9), and a new subsection (8) is
21 added to said section, to read:

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22 95.11 Limitations other than for the recovery of real
23 property.--Actions other than for recovery of real property
24 shall be commenced as follows:

25 (5) WITHIN ONE YEAR.--

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

30 (g) Except for actions described in subsection (9) ~~(8)~~, an
31 action brought by or on behalf of a prisoner, as defined in s.
32 57.085, relating to the conditions of the prisoner's
33 confinement.

34 (8) FOR ACTIONS BASED UPON AN ACT THAT CONSTITUTES SEXUAL
35 BATTERY UPON A MINOR.--The time period for commencing an action
36 based on an act upon a victim younger than 18 years of age which
37 constitutes what is described as sexual battery in s. 794.011
38 shall be tolled until the victim becomes 18 years of age or
39 during any period of time in which it is determined by a medical
40 practitioner licensed under chapter 458 or chapter 459, a
41 psychotherapist licensed under chapter 491, or a psychologist
42 licensed under chapter 490, that:

43 (a) The victim should not yet disclose information
44 concerning the incident from which the action arises outside a
45 clinical setting;

46 (b) The victim should not yet confront the alleged
47 perpetrator of the act; or

48 (c) The victim should not yet publicly disclose the
49 incident from which the action arises.

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

52 775.15 Time limitations.--

53 (1)(a) A prosecution for a capital felony, a life felony,
54 or a felony that resulted in a death may be commenced at any
55 time. A prosecution for a felony that resulted in injury to any
56 person, when such felony arises from the use of a "destructive
57 device," as defined in s. 790.001, may be commenced within 10
58 years. If the death penalty is held to be unconstitutional by
59 the Florida Supreme Court or the United States Supreme Court,
60 all crimes designated as capital felonies shall be considered
61 life felonies for the purposes of this section, and prosecution
62 for such crimes may be commenced at any time.

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

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

73 (7)(a) If the victim of a violation of s. 794.011, former
74 s. 794.05, Florida Statutes 1995, s. 800.04, or s. 826.04 is
75 under the age of 18, the applicable period of limitation, if
76 any, does not begin to run until the victim has reached the age
77 of 18 or the violation is reported to a law enforcement agency

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78 | or other governmental agency, whichever occurs earlier. Such law
 79 | enforcement agency or other governmental agency shall promptly
 80 | report such allegation to the state attorney for the judicial
 81 | circuit in which the alleged violation occurred. If the offense
 82 | is a first or second degree felony violation of s. 794.011, and
 83 | the crime is reported within 72 hours after its commission,
 84 | paragraph (1)(b) applies. This paragraph applies to any such
 85 | offense except an offense the prosecution of which would have
 86 | been barred by subsection (2) on or before December 31, 1984.

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

95 | (c) Notwithstanding paragraph (1)(b) and paragraphs (a)
 96 | and (b) of this subsection, if the offense is a violation of s.
 97 | 794.011 and the victim was younger than 18 years of age at the
 98 | time the offense was committed, the period of limitation does
 99 | not run during the time the victim is younger than 18 years of
 100 | age or during any period of time in which it is determined by a
 101 | medical practitioner licensed under chapter 458 or chapter 459,
 102 | a psychotherapist licensed under chapter 491, or a psychologist
 103 | licensed under chapter 490, that:

104 | 1. The victim should not yet disclose information
 105 | concerning the alleged incident outside a clinical setting;

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106 2. The victim should not yet confront the alleged
107 perpetrator of the act; or

108 3. The victim should not yet publicly disclose the alleged
109 incident.

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111 This paragraph applies to any such offense except an offense the
112 prosecution of which would have been barred on or before July 1,
113 2005.

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