

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

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

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 15       Section 1. Paragraphs (f) and (g) of subsection (5) of  
 16       section 95.11, Florida Statutes, are amended, present subsection  
 17       (8) is renumbered as subsection (9), and a new subsection (8) is  
 18       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       (5) WITHIN ONE YEAR.--

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

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

29 57.085, relating to the conditions of the prisoner's  
 30 confinement.

31 (8) FOR ACTIONS BASED UPON AN ACT THAT CONSTITUTES SEXUAL  
 32 BATTERY UPON A MINOR.--The time period for commencing an action  
 33 based on an act upon a victim younger than 18 years of age which  
 34 constitutes what is described as sexual battery in s. 794.011  
 35 shall be tolled until the victim becomes 18 years of age or  
 36 during any period of time in which it is determined by a medical  
 37 practitioner licensed under chapter 458 or chapter 459, a  
 38 psychotherapist licensed under chapter 491, or a psychologist  
 39 licensed under chapter 490, that the victim should not yet:

40 (a) Disclose information concerning the incident from  
 41 which the action arises outside a clinical setting;

42 (b) Confront the alleged perpetrator of the act; or

43 (c) Publicly disclose the incident from which the action  
 44 arises.

45  
 46 This subsection applies only to actions brought against an  
 47 individual tortfeasor who is alleged to have been the actual  
 48 perpetrator and does not apply to actions based on negligence,  
 49 respondeat superior, or any other attempted action against a  
 50 third party who is not alleged to have been the actual  
 51 perpetrator of the alleged abuse, incest, or sexual battery.

52 Section 2. Subsection (13) of section 775.15, Florida  
 53 Statutes, is amended to read:

54 775.15 Time limitations; general time limitations;  
 55 exceptions.--

56 (13) (a) If the victim of a violation of s. 794.011, former

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57 s. 794.05, Florida Statutes 1995, s. 800.04, or s. 826.04 is  
58 under the age of 18, the applicable period of limitation, if  
59 any, does not begin to run until the victim has reached the age  
60 of 18 or the violation is reported to a law enforcement agency  
61 or other governmental agency, whichever occurs earlier. Such law  
62 enforcement agency or other governmental agency shall promptly  
63 report such allegation to the state attorney for the judicial  
64 circuit in which the alleged violation occurred. If the offense  
65 is a first or second degree felony violation of s. 794.011, and  
66 the offense is reported within 72 hours after its commission,  
67 the prosecution for such offense may be commenced at any time.  
68 This paragraph applies to any such offense except an offense the  
69 prosecution of which would have been barred by subsection (2) on  
70 or before December 31, 1984.

71 (b) If the offense is a first degree felony violation of  
72 s. 794.011 and the victim was under 18 years of age at the time  
73 the offense was committed, a prosecution of the offense may be  
74 commenced at any time. This paragraph applies to any such  
75 offense except an offense the prosecution of which would have  
76 been barred by subsection (2) on or before October 1, 2003.

77 (c) Notwithstanding paragraph (a), if the offense is a  
78 second or third degree felony violation of s. 794.011 and the  
79 victim was under 18 years of age at the time the offense was  
80 committed, the applicable period of limitation, if any, does not  
81 run during any period of time in which it is determined by a  
82 medical practitioner licensed under chapter 458 or chapter 459,  
83 a psychotherapist licensed under chapter 491, or a psychologist  
84 licensed under chapter 490, that the victim should not yet:

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- 85        1. Disclose information concerning the incident from which  
86 the action arises outside a clinical setting;  
87        2. Confront the alleged perpetrator of the act; or  
88        3. Publicly disclose the incident from which the action  
89 arises.

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91 This paragraph applies to any such offense except an offense the  
92 prosecution of which would have been barred on or before July 1,  
93 2007.

94        Section 3. This act shall take effect July 1, 2007.