

By Senator Jones

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1 A bill to be entitled
 2 An act relating to sexual battery; amending s. 39.806,
 3 F.S.; providing grounds for terminating parental
 4 rights based on sexual battery that results in the
 5 birth of a child; amending s. 39.811, F.S.; conforming
 6 a cross-reference; amending s. 775.089, F.S.;
 7 requiring a court to retain jurisdiction for the
 8 purpose of enforcing a restitution order for sexual
 9 battery that results in the birth of a child; creating
 10 s. 794.057, F.S.; authorizing a court to order
 11 restitution to pay for the monetary expenses of the
 12 child; providing an effective date.

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

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 16 Section 1. Paragraph (m) is added to subsection (1) of
 17 section 39.806, Florida Statutes, and subsection (2) of that
 18 section is amended, to read:

19 39.806 Grounds for termination of parental rights.—

20 (1) Grounds for the termination of parental rights may be
 21 established under any of the following circumstances:

22 (m) The parent has pled guilty or nolo contendere to, or is
 23 convicted of, a sexual battery as defined in s. 794.011, or an
 24 act committed outside this state which would be a sexual battery
 25 if committed in this state, which results in the victim giving
 26 birth to a child.

27 (2) Reasonable efforts to preserve and reunify families are
 28 not required if a court of competent jurisdiction has determined
 29 that any of the circumstances ~~events~~ described in subsection (1)

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30 paragraphs ~~(1)(e)-(1)~~ have occurred.

31 Section 2. Subsection (6) of section 39.811, Florida
32 Statutes, is amended to read:

33 39.811 Powers of disposition; order of disposition.—

34 (6) The parental rights of one parent may be severed
35 without severing the parental rights of the other parent only
36 under the following circumstances:

37 (a) If the child has only one surviving parent;

38 (b) If the identity of a prospective parent has been
39 established as unknown after sworn testimony;

40 (c) If the parent whose rights are being terminated became
41 a parent through a single-parent adoption;

42 (d) If the protection of the child demands termination of
43 the rights of a single parent; or

44 (e) If the parent whose rights are being terminated meets
45 any of the circumstances ~~criteria~~ specified in s. 39.806(1)(d)
46 and (f)-(m) ~~(f)-(1)~~.

47 Section 3. Subsection (3) of section 775.089, Florida
48 Statutes, is amended to read:

49 775.089 Restitution.—

50 (3) ~~(a)~~ The court may require that the defendant make
51 restitution under this section within a specified period or in
52 specified installments.

53 (a) ~~(b)~~ The end of such period or the last such installment
54 may ~~shall~~ not be later than:

55 1. The end of the period of probation if probation is
56 ordered;

57 2. Five years after the end of the term of imprisonment
58 imposed if the court does not order probation; or

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59 3. Five years after the date of sentencing in any other
60 case.

61 ~~(b)(c) Notwithstanding this subsection,~~ A court that has
62 ordered restitution for a misdemeanor offense shall retain
63 jurisdiction for up to 5 years for the purpose of enforcing the
64 restitution order ~~for any period, not to exceed 5 years, that is~~
65 ~~pronounced by the court at the time restitution is ordered.~~
66 However, for the purpose of enforcing a restitution order, a
67 court that has ordered restitution for the offense of sexual
68 battery pursuant to s. 794.057 shall retain jurisdiction until
69 restitution is made.

70 ~~(c)(d)~~ If not otherwise provided by the court under this
71 subsection, restitution must be made immediately.

72 (d) If the restitution ordered by the court is not made
73 within the time period specified, the court may continue the
74 restitution order through the duration of the civil judgment
75 provision set forth in subsection (5) and as provided in s.
76 55.10.

77 Section 4. Section 794.057, Florida Statutes, is created to
78 read:

79 794.057 Restitution for sexual battery.—If a child is born
80 as the result of a sexual battery, the court may order the
81 defendant to make restitution to the victim pursuant to s.
82 775.089 for the monetary expenses related to the support of the
83 child, unless the parental rights of the victim have been
84 terminated pursuant to chapter 39. This section does not
85 preclude the court from ordering any other restitution that the
86 victim of a sexual battery may be entitled pursuant to s.
87 775.089 regardless of whether a child is born. If restitution is

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88 ordered under this section:

89 (1) The court shall give consideration to the child support
90 guideline schedules provided in s. 61.30 when determining the
91 amount of restitution.

92 (2) The amount may not be reduced due to the offender's
93 inability to pay.

94 Section 5. This act shall take effect July 1, 2009.