

1 A bill to be entitled
 2 An act relating to sexual misconduct with students by
 3 authority figures; creating s. 775.0862, F.S.; providing
 4 definitions; providing for reclassification of specified
 5 sexual offenses committed against students by an authority
 6 figure or an offender that is acting in such a manner as
 7 to lead the victim to reasonably believe that the offender
 8 is such an authority figure; providing for severity
 9 ranking of offenses; amending s. 921.0022, F.S.; providing
 10 for application of the severity ranking chart of the
 11 Criminal Punishment Code; providing an 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. Section 775.0862, Florida Statutes, is created
 16 to read:

17 775.0862 Sexual battery offenses against students by
 18 authority figures; reclassification.--

19 (1) For purposes of this section, the term:

20 (a) "Authority figure" means a person who is in a position
 21 of control or authority as an agent or employee of an
 22 educational institution.

23 (b) "Educational institution" means an institution that is
 24 a part of the state system of public education or any other
 25 institution:

26 1. In which participants, trainees, or students are
 27 offered an organized course of study or training designed to
 28 transfer to them knowledge, skills, information, doctrines,

29 attitudes, or abilities from, by, or under the guidance of an
 30 instructor or teacher; and

31 2. That is approved, licensed, or issued a permit to
 32 operate as a school by the Department of Education or any other
 33 governmental agency that is authorized within the state to
 34 approve, license, or issue a permit for the operation of a
 35 school.

36 (c) "Student" means any child or adult who is enrolled in
 37 any instructional program or activity conducted under the
 38 authority and direction of an educational institution.

39 (2) The felony degree of any violation of:

40 (a) Any offense for which a conviction would require
 41 registration as a sexual predator under s. 775.21; or

42 (b) Any offense for which a conviction would require
 43 registration as a sexual offender under s. 943.0435

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 45 shall be, unless the offense falls within s. 794.011(4)(g),
 46 reclassified as provided in this section if the offense is
 47 committed by an authority figure or the offender is acting in
 48 such a manner as to lead the victim to reasonably believe that
 49 the offender is such an authority figure and the victim is a
 50 student.

51 (3) (a) In the case of a felony of the third degree, the
 52 offense is reclassified to a felony of the second degree.

53 (b) In the case of a felony of the second degree, the
 54 offense is reclassified to a felony of the first degree.

55 (c) In the case of a felony of the first degree, the
 56 offense is reclassified to a life felony.

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58 For purposes of sentencing under chapter 921 and determining
59 incentive gain-time eligibility under chapter 944, a felony
60 offense that is reclassified under this subsection is ranked one
61 level above the ranking under s. 921.0022 or s. 921.0023 of the
62 offense committed.

63 Section 2. Subsection (2) of section 921.0022, Florida
64 Statutes, is amended to read:

65 921.0022 Criminal Punishment Code; offense severity
66 ranking chart.--

67 (2) The offense severity ranking chart has 10 offense
68 levels, ranked from least severe, which are level 1 offenses, to
69 most severe, which are level 10 offenses, and each felony
70 offense is assigned to a level according to the severity of the
71 offense. For purposes of determining which felony offenses are
72 specifically listed in the offense severity ranking chart and
73 which severity level has been assigned to each of these
74 offenses, the numerical statutory references in the left column
75 of the chart and the felony degree designations in the middle
76 column of the chart are controlling; the language in the right
77 column of the chart is provided solely for descriptive purposes.
78 Reclassification of the degree of the felony through the
79 application of s. 775.0845, s. 775.0861, s. 775.0862, s.
80 775.087, s. 775.0875, s. 794.023, or any other law that provides
81 an enhanced penalty for a felony offense, to any offense listed
82 in the offense severity ranking chart in this section shall not
83 cause the offense to become unlisted and is not subject to the
84 provisions of s. 921.0023.

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Section 3. This act shall take effect October 1, 2009.