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1 A bill to be entitled
2 An act relating to sexual offenses; amending s. 90.404,
3 F.S.; permitting admission of evidence of the defendant's
4 commission of other crimes of a sexual nature in a
5 criminal case in which the defendant is charged with a
6 crime of a sexual nature; defining the term "crime of a
7 sexual nature"; requiring certain property or material
8 that is used in a criminal proceeding to remain in the
9 care, custody, and control of the law enforcement agency,
10 the state attorney, or the court; prohibiting the
11 reproduction of such property or material by the defendant
12 when specified criteria are met by the state attorney;
13 permitting access to the materials by the defendant;
14 amending s. 395.1021, F.S.; requiring a licensed facility
15 that provides emergency room services to arrange for the
16 gathering of forensic medical evidence required for
17 investigation and prosecution from a victim who has
18 reported a sexual battery to a law enforcement agency or
19 who requests that such evidence be gathered for a possible
20 future report; amending s. 775.15, F.S.; providing that a
21 prosecution for video voyeurism in violation of specified
22 provisions may be commenced within 1 year after the victim
23 of video voyeurism obtains actual knowledge of the
24 existence of such a recording or the recording is
25 confiscated by a law enforcement agency, whichever occurs
26 first; providing that dissemination of a recording before
27 such knowledge or confiscation does not affect such a time
28 period; amending ss. 794.056 and 938.085, F.S.; requiring

29 that an additional court cost or surcharge be assessed
 30 against a defendant who pleads guilty or nolo contendere
 31 to, or is found guilty of, regardless of adjudication,
 32 certain criminal offenses; providing for proceeds of the
 33 additional court cost or surcharge to be deposited into
 34 the Rape Crisis Program Trust Fund; reenacting s.
 35 20.435(21)(a), F.S., relating to the Rape Crisis Program
 36 Trust Fund, to incorporate the amendment made to s.
 37 794.056, F.S., in a reference thereto; reenacting s.
 38 794.055(3)(b), F.S., relating to access to services for
 39 victims of sexual battery, to incorporate the amendment
 40 made to s. 938.085, F.S., in a reference thereto; amending
 41 s. 960.003, F.S.; revising provisions relating to HIV
 42 testing of persons alleged to have committed certain
 43 offenses; amending s. 960.198, F.S.; authorizing
 44 relocation assistance awards to victims of sexual
 45 violence; amending s. 1003.42, F.S.; requiring that public
 46 schools provide comprehensive health education that
 47 addresses concepts of Internet safety; providing an
 48 effective date.

49
 50 Be It Enacted by the Legislature of the State of Florida:

51
 52 Section 1. Paragraph (b) of subsection (2) of section
 53 90.404, Florida Statutes, is amended to read:

54 90.404 Character evidence; when admissible.—

55 (2) OTHER CRIMES, WRONGS, OR ACTS.—

56 (b)1. In a criminal case in which the defendant is charged

57 | with a crime of a sexual nature ~~involving child molestation,~~
 58 | evidence of the defendant's commission of other crimes of a
 59 | sexual nature, ~~wrongs, or acts of child molestation~~ is
 60 | admissible, and may be considered for its bearing on any matter
 61 | to which it is relevant.

62 | 2. For the purposes of this paragraph, the term "crime of
 63 | a sexual nature" ~~"child molestation"~~ means conduct proscribed by
 64 | s. 784.048, s. 787.01, s. 787.02, s. 787.025(2)(c), s. 794.011,
 65 | s. 794.05, s. 796.03, s. 796.035, s. 796.045, s. 800.04, s.
 66 | 825.1025(2)(b), s. 827.071, ~~or~~ s. 847.0135(5), s. 847.0145, or
 67 | s. 985.701(1) ~~when committed against a person 16 years of age or~~
 68 | ~~younger.~~

69 | Section 2. Prohibition on reproduction of child
 70 | pornography.—

71 | (1) In a criminal proceeding, any property or material
 72 | that portrays sexual performance by a child as defined in s.
 73 | 827.071, Florida Statutes, or constitutes child pornography as
 74 | defined in s. 847.001, Florida Statutes, must remain secured or
 75 | locked in the care, custody, and control of a law enforcement
 76 | agency, the state attorney, or the court.

77 | (2) Notwithstanding any law or rule of court, a court
 78 | shall deny, in a criminal proceeding, any request by the
 79 | defendant to copy, photograph, duplicate, or otherwise reproduce
 80 | any property or material that portrays sexual performance by a
 81 | child or constitutes child pornography so long as the state
 82 | attorney makes the property or material reasonably available to
 83 | the defendant.

84 | (3) For purposes of this section, property or material is

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85 deemed to be reasonably available to the defendant if the state
86 attorney provides ample opportunity at a designated facility for
87 the inspection, viewing, and examination of the property or
88 material that portrays sexual performance by a child or
89 constitutes child pornography by the defendant, his or her
90 attorney, or any individual whom the defendant uses as an expert
91 during the discovery process or at a court proceeding.

92 Section 3. Subsection (2) of section 395.1021, Florida
93 Statutes, is amended to read:

94 395.1021 Treatment of sexual assault victims.—Any licensed
95 facility which provides emergency room services shall arrange
96 for the rendering of appropriate medical attention and treatment
97 of victims of sexual assault through:

98 (2) ~~The administration of medical examinations, tests, and~~
99 ~~analyses required by law enforcement personnel in the gathering~~
100 ~~of forensic medical evidence required for investigation and~~
101 ~~prosecution from a victim who has reported a sexual battery to a~~
102 ~~law enforcement agency or who requests that such evidence be~~
103 ~~gathered for a possible future report.~~

104
105 Such licensed facility shall also arrange for the protection of
106 the victim's anonymity while complying with the laws of this
107 state and may encourage the victim to notify law enforcement
108 personnel and to cooperate with them in apprehending the
109 suspect.

110 Section 4. Subsection (17) is added to section 775.15,
111 Florida Statutes, to read:

112 775.15 Time limitations; general time limitations;

113 exceptions.-

114 (17) Notwithstanding the time periods prescribed in this
 115 section, a prosecution for video voyeurism in violation of s.
 116 810.145 may be commenced within 1 year after the date on which
 117 the victim of video voyeurism obtains actual knowledge of the
 118 existence of such a recording or the date on which the recording
 119 is confiscated by a law enforcement agency, whichever occurs
 120 first. Any dissemination of such a recording before the victim
 121 obtains actual knowledge thereof or before its confiscation by a
 122 law enforcement agency does not affect any provision of this
 123 subsection.

124 Section 5. Section 794.056, Florida Statutes, is amended
 125 to read:

126 794.056 Rape Crisis Program Trust Fund.-

127 (1) The Rape Crisis Program Trust Fund is created within
 128 the Department of Health for the purpose of providing funds for
 129 rape crisis centers in this state. Trust fund moneys shall be
 130 used exclusively for the purpose of providing services for
 131 victims of sexual assault. Funds credited to the trust fund
 132 consist of those funds collected as an additional court
 133 assessment in each case in which a defendant pleads guilty or
 134 nolo contendere to, or is found guilty of, regardless of
 135 adjudication, an offense defined in s. 775.21, s. 784.011, s.
 136 784.021, s. 784.03, s. 784.041, s. 784.045, s. 784.048, s.
 137 784.07, s. 784.08, s. 784.081, s. 784.082, s. 784.083, s.
 138 784.085, s. 787.025, s. 787.06, s. 787.07, ~~s.~~ 794.011, s.
 139 794.05, s. 794.08, s. 796.03, s. 796.035, s. 796.04, s. 796.045,
 140 s. 796.05, s. 796.06, s. 796.07(2)(a)-(d) and (i), s. 800.03, s.

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141 810.14, s. 810.145, s. 812.135, s. 817.025, s. 825.102, s.
 142 825.1025, s. 827.071, s. 836.10, s. 847.0135(2), s. 847.0137, s.
 143 847.0145, or s. 943.0435. Funds credited to the trust fund also
 144 shall include revenues provided by law, moneys appropriated by
 145 the Legislature, and grants from public or private entities.

146 (2) The Department of Health shall establish by rule
 147 criteria consistent with the provisions of s. 794.055(3)(a) for
 148 distributing moneys from the trust fund to rape crisis centers.

149 Section 6. Section 938.085, Florida Statutes, is amended
 150 to read:

151 938.085 Additional cost to fund rape crisis centers.—In
 152 addition to any sanction imposed when a person pleads guilty or
 153 nolo contendere to, or is found guilty of, regardless of
 154 adjudication, a violation of s. 775.21, s. 784.011, s. 784.021,
 155 s. 784.03, s. 784.041, s. 784.045, s. 784.048, s. 784.07, s.
 156 784.08, s. 784.081, s. 784.082, s. 784.083, s. 784.085, s.
 157 787.025, s. 787.06, s. 787.07, ~~or~~ s. 794.011, s. 794.05, s.
 158 794.08, s. 796.03, s. 796.035, s. 796.04, s. 796.045, s. 796.05,
 159 s. 796.06, s. 796.07(2)(a)-(d) and (i), s. 800.03, s. 810.14, s.
 160 810.145, s. 812.135, s. 817.025, s. 825.102, s. 825.1025, s.
 161 827.071, s. 836.10, s. 847.0135(2), s. 847.0137, s. 847.0145, or
 162 s. 943.0435, the court shall impose a surcharge of \$151. Payment
 163 of the surcharge shall be a condition of probation, community
 164 control, or any other court-ordered supervision. The sum of \$150
 165 of the surcharge shall be deposited into the Rape Crisis Program
 166 Trust Fund established within the Department of Health by
 167 chapter 2003-140, Laws of Florida. The clerk of the court shall
 168 retain \$1 of each surcharge that the clerk of the court collects

169 as a service charge of the clerk's office.

170 Section 7. For the purpose of incorporating the amendment
 171 made by this act to section 794.056, Florida Statutes, in a
 172 reference thereto, paragraph (a) of subsection (21) of section
 173 20.435, Florida Statutes, is reenacted to read:

174 20.435 Department of Health; trust funds.—The following
 175 trust funds shall be administered by the Department of Health:

176 (21) Rape Crisis Program Trust Fund.

177 (a) Funds to be credited to and uses of the trust fund
 178 shall be administered in accordance with the provisions of s.
 179 794.056.

180 Section 8. For the purpose of incorporating the amendment
 181 made by this act to section 938.085, Florida Statutes, in a
 182 reference thereto, paragraph (b) of subsection (3) of section
 183 794.055, Florida Statutes, is reenacted to read:

184 794.055 Access to services for victims of sexual battery.—

185 (3)

186 (b) Funds received under s. 938.085 shall be used to
 187 provide sexual battery recovery services to victims and their
 188 families. Funds shall be distributed to rape crisis centers
 189 based on an allocation formula that takes into account the
 190 population and rural characteristics of each county. No more
 191 than 15 percent of the funds shall be used by the statewide
 192 nonprofit association for statewide initiatives. No more than 5
 193 percent of the funds may be used by the department for
 194 administrative costs.

195 Section 9. Subsection (2) of section 960.003, Florida
 196 Statutes, is amended to read:

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197 960.003 HIV testing for persons charged with or alleged by
 198 petition for delinquency to have committed certain offenses;
 199 disclosure of results to victims.—

200 (2) TESTING OF PERSON CHARGED WITH OR ALLEGED BY PETITION
 201 FOR DELINQUENCY TO HAVE COMMITTED CERTAIN OFFENSES.—

202 (a) In any case in which a person has been charged by
 203 information or indictment with or alleged by petition for
 204 delinquency to have committed any offense enumerated in s.
 205 775.0877(1)(a)-(n), which involves the transmission of body
 206 fluids from one person to another, upon request of the victim or
 207 the victim's legal guardian, or of the parent or legal guardian
 208 of the victim if the victim is a minor, the court shall order
 209 such person to undergo HIV testing within 48 hours after ~~of~~ the
 210 information or indictment ~~court order~~.

211 (b) However, when a victim of any sexual offense
 212 enumerated in s. 775.0877(1)(a)-(n) is under the age of 18 at
 213 the time the offense was committed or when a victim of any
 214 sexual offense enumerated in s. 775.0877(1)(a)-(n) or s.
 215 825.1025 is a disabled adult or elderly person as defined in s.
 216 825.1025 regardless of whether the offense involves the
 217 transmission of bodily fluids from one person to another, then
 218 upon the request of the victim or the victim's legal guardian,
 219 or of the parent or legal guardian, the court shall order such
 220 person to undergo HIV testing within 48 hours after ~~of~~ the
 221 information or indictment ~~court order~~. The testing shall be
 222 performed under the direction of the Department of Health in
 223 accordance with s. 381.004. The results of an HIV test performed
 224 on a defendant or juvenile offender pursuant to this subsection

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225 shall not be admissible in any criminal or juvenile proceeding
 226 arising out of the alleged offense.

227 Section 10. Section 960.198, Florida Statutes, is amended
 228 to read:

229 960.198 Relocation assistance for victims of domestic
 230 violence and sexual violence.-

231 (1) Notwithstanding the criteria set forth in s. 960.13
 232 for crime victim compensation awards, the department may award a
 233 one-time payment of up to \$1,500 on any one claim and a lifetime
 234 maximum of \$3,000 to a victim of domestic violence who needs
 235 immediate assistance to escape from a domestic violence
 236 environment or to a victim of sexual violence.

237 (2) In order for an award to be granted to a victim for
 238 relocation assistance:

239 (a) There must be proof that a domestic violence or sexual
 240 violence offense was committed;

241 (b) The domestic violence or sexual violence offense must
 242 be reported to the proper authorities;

243 (c) The victim's need for assistance must be certified by
 244 a certified domestic violence center or a certified rape crisis
 245 center in this state; and

246 (d) The center certification must assert that the victim
 247 is cooperating with law enforcement officials, if applicable,
 248 and must include documentation that the victim has developed a
 249 safety plan.

250 Section 11. Paragraph (n) of subsection (2) of section
 251 1003.42, Florida Statutes, is amended to read:

252 1003.42 Required instruction.-

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253 (2) Members of the instructional staff of the public
254 schools, subject to the rules of the State Board of Education
255 and the district school board, shall teach efficiently and
256 faithfully, using the books and materials required that meet the
257 highest standards for professionalism and historic accuracy,
258 following the prescribed courses of study, and employing
259 approved methods of instruction, the following:

260 (n) Comprehensive health education that addresses concepts
261 of community health; consumer health; environmental health;
262 family life, including an awareness of the benefits of sexual
263 abstinence as the expected standard and the consequences of
264 teenage pregnancy; mental and emotional health; injury
265 prevention and safety; Internet safety; nutrition; personal
266 health; prevention and control of disease; and substance use and
267 abuse. The health education curriculum for students in grades 7
268 through 12 shall include a teen dating violence and abuse
269 component that includes, but is not limited to, the definition
270 of dating violence and abuse, the warning signs of dating
271 violence and abusive behavior, the characteristics of healthy
272 relationships, measures to prevent and stop dating violence and
273 abuse, and community resources available to victims of dating
274 violence and abuse.

275
276 The State Board of Education is encouraged to adopt standards
277 and pursue assessment of the requirements of this subsection.

278 Section 12. This act shall take effect July 1, 2011.