



781464

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/04/2014	.	
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The Committee on Judiciary (Bradley) recommended the following:

**Senate Amendment**

Delete lines 53 - 129  
and insert:

(d) A person commits a felony of the first degree, punishable by a term of years not exceeding life or as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115 if the person commits sexual battery upon a person 12 years of age or older without that person's consent, under any of the circumstances listed in paragraph (e), and such person was previously convicted of a violation of:



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12 1. Section 787.01(2) or s. 787.02(2) when the violation  
13 involved a victim who was a minor and, in the course of  
14 committing that violation, the defendant committed against the  
15 minor a sexual battery under this chapter or a lewd act under s.  
16 800.04 or s. 847.0135(5);

17 2. Section 787.01(3)(a)2. or 3.;

18 3. Section 787.02(3)(a)2. or 3.;

19 4. Section 800.04;

20 5. Section 825.1025;

21 6. Section 847.0135(5); or

22 7. This chapter, excluding subsection (10) of this section.

23 (e) The following circumstances apply to paragraphs (a)-  
24 (d):

25 1. ~~(a) When~~ The victim is physically helpless to resist.

26 2. ~~(b) When~~ The offender coerces the victim to submit by  
27 threatening to use force or violence likely to cause serious  
28 personal injury on the victim, and the victim reasonably  
29 believes that the offender has the present ability to execute  
30 the threat.

31 3. ~~(c) When~~ The offender coerces the victim to submit by  
32 threatening to retaliate against the victim, or any other  
33 person, and the victim reasonably believes that the offender has  
34 the ability to execute the threat in the future.

35 4. ~~(d) When~~ The offender, without the prior knowledge or  
36 consent of the victim, administers or has knowledge of someone  
37 else administering to the victim any narcotic, anesthetic, or  
38 other intoxicating substance that ~~which~~ mentally or physically  
39 incapacitates the victim.

40 5. ~~(e) When~~ The victim is mentally defective, and the



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41 offender has reason to believe this or has actual knowledge of  
42 this fact.

43 ~~6.(f) When~~ The victim is physically incapacitated.

44 ~~7.(g) When~~ The offender is a law enforcement officer,  
45 correctional officer, or correctional probation officer as  
46 defined ~~in~~ by s. 943.10(1), (2), (3), (6), (7), (8), or (9), who  
47 is certified under ~~the provisions of~~ s. 943.1395 or is an  
48 elected official exempt from such certification by virtue of s.  
49 943.253, or any other person in a position of control or  
50 authority in a probation, community control, controlled release,  
51 detention, custodial, or similar setting, and such officer,  
52 official, or person is acting in such a manner as to lead the  
53 victim to reasonably believe that the offender is in a position  
54 of control or authority as an agent or employee of government.

55 (5) (a) A person 18 years of age or older who commits sexual  
56 battery upon a person 12 years of age or older but younger than  
57 18 years of age, without that person's consent, and in the  
58 process thereof does not use physical force and violence likely  
59 to cause serious personal injury commits a felony of the first  
60 second degree, punishable as provided in s. 775.082, s. 775.083,  
61 s. 775.084, or s. 794.0115.

62 (b) A person 18 years of age or older who commits sexual  
63 battery upon a person 18 years of age or older, without that  
64 person's consent, and in the process does not use physical force  
65 and violence likely to cause serious personal injury commits a  
66 felony of the second degree, punishable as provided in s.  
67 775.082, s. 775.083, s. 775.084, or s. 794.0115.

68 (c) A person younger than 18 years of age who commits  
69 sexual battery upon a person 12 years of age or older, without



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70 that person's consent, and in the process does not use physical  
71 force and violence likely to cause serious personal injury  
72 commits a felony of the second degree, punishable as provided in  
73 s. 775.082, s. 775.083, s. 775.084, or s. 794.0115.

74 (d) A person commits a felony of the first degree,  
75 punishable as provided in s. 775.082, s. 775.083, s. 775.084, or  
76 s. 794.0115 if the person commits sexual battery upon a person  
77 12 years of age or older, without that person's consent, and in  
78 the process does not use physical force and violence likely to  
79 cause serious personal injury and the person was previously  
80 convicted of a violation of:

81 1. Section 787.01(2) or s. 787.02(2) when the violation  
82 involved a victim who was a minor and, in the course of  
83 committing that violation, the defendant committed against the  
84 minor a sexual battery under this chapter or a lewd act under s.  
85 800.04 or s. 847.0135(5);

86 2. Section 787.01(3)(a)2. or 3.;

87 3. Section 787.02(3)(a)2. or 3.;

88 4. Section 800.04;

89 5. Section 825.1025;

90 6. Section 847.0135(5); or

91 7. This chapter, excluding subsection (10) of this section.  
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