

By Senator Book

32-00096-20

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1                   A bill to be entitled  
 2           An act relating to sexual battery; amending s.  
 3           395.1021, F.S.; requiring certain licensed facilities  
 4           to provide to victims of sexual assault information  
 5           regarding emergency contraception and its  
 6           availability, if requested; providing a definition;  
 7           amending s. 794.011, F.S.; redefining the terms  
 8           "consent" and "sexual battery"; providing an effective  
 9           date.

10  
 11 Be It Enacted by the Legislature of the State of Florida:

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 13           Section 1. Subsection (1) of section 395.1021, Florida  
 14           Statutes, is amended to read:

15           395.1021 Treatment of sexual assault victims.—Any licensed  
 16           facility which provides emergency room services shall arrange  
 17           for the rendering of appropriate medical attention and treatment  
 18           of victims of sexual assault through:

19           (1) ~~Such~~ Gynecological, psychological, and medical services  
 20           that may include, but are not limited to, providing to such  
 21           victims, verbally and in writing, medically and factually  
 22           accurate information regarding emergency contraception,  
 23           including its use, efficacy, and availability at the facility,  
 24           if requested ~~as are needed by the victim.~~ As used in this  
 25           subsection, the term "emergency contraception" means a drug,  
 26           medicine, oral hormonal compound, mixture, preparation,  
 27           instrument, article, or device that is approved by the United  
 28           States Food and Drug Administration and prevents a pregnancy  
 29           after sexual intercourse. The term does not include a drug,

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30 medicine, oral hormonal compound, mixture, preparation,  
31 instrument, article, or device of any nature which is prescribed  
32 for the purpose of terminating a pregnancy.  
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34 Such licensed facility shall also arrange for the protection of  
35 the victim's anonymity while complying with the laws of this  
36 state and may encourage the victim to notify law enforcement  
37 personnel and to cooperate with them in apprehending the  
38 suspect.

39 Section 2. Paragraphs (a) and (h) of subsection (1) of  
40 section 794.011, Florida Statutes, are amended, and subsection  
41 (8) of that section is republished, to read:

42 794.011 Sexual battery.—

43 (1) As used in this chapter:

44 (a) "Consent" means intelligent, knowing, and voluntary  
45 consent and does not include coerced submission. "Consent" may  
46 ~~shall~~ not be deemed or construed to mean the failure by the  
47 alleged victim to offer physical resistance to the offender. A  
48 person may withdraw consent after he or she has given it.

49 (h) "Sexual battery" means oral, anal, or vaginal  
50 penetration by, or union with, the sexual organ of another or  
51 the anal or vaginal penetration of another by any other object,  
52 or ejaculating on another person or his or her clothing;  
53 however, sexual battery does not include an act done for a bona  
54 fide medical purpose.

55 (8) Without regard to the willingness or consent of the  
56 victim, which is not a defense to prosecution under this  
57 subsection, a person who is in a position of familial or  
58 custodial authority to a person less than 18 years of age and

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59 who:

60 (a) Solicits that person to engage in any act which would  
61 constitute sexual battery under paragraph (1)(h) commits a  
62 felony of the third degree, punishable as provided in s.  
63 775.082, s. 775.083, or s. 775.084.

64 (b) Engages in any act with that person while the person is  
65 12 years of age or older but younger than 18 years of age which  
66 constitutes sexual battery under paragraph (1)(h) commits a  
67 felony of the first degree, punishable by a term of years not  
68 exceeding life or as provided in s. 775.082, s. 775.083, or s.  
69 775.084.

70 (c) Engages in any act with that person while the person is  
71 less than 12 years of age which constitutes sexual battery under  
72 paragraph (1)(h), or in an attempt to commit sexual battery  
73 injures the sexual organs of such person commits a capital or  
74 life felony, punishable pursuant to subsection (2).

75 Section 3. This act shall take effect October 1, 2020.