

By Senator Berman

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1 A bill to be entitled
2 An act relating to victims of crimes of sexual
3 violence or sexual exploitation; creating s. 960.31,
4 F.S.; defining terms; providing that a victim of any
5 crime of sexual violence or sexual exploitation has
6 the right to prevent any person or entity from
7 disclosing or disseminating information or records
8 that might identify him or her as a victim of such
9 crimes; prohibiting a person or an entity in
10 possession of information or records that might
11 identify an individual as a victim of a crime of
12 sexual violence or sexual exploitation from disclosing
13 or disseminating such information or records without
14 first obtaining the express written consent of the
15 victim; authorizing an aggrieved person to initiate a
16 civil action for an injunction against certain persons
17 or entities after following specified procedures;
18 providing that an aggrieved party who prevails in
19 seeking an injunction is entitled to reasonable
20 attorney fees and costs; providing that specified
21 rights may be waived only by express action; providing
22 construction; providing applicability; providing an
23 effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

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27 Section 1. Section 960.31, Florida Statutes, is created to
28 read:

29 960.31 Rights of victims of crimes of sexual violence or

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30 sexual exploitation.—

31 (1) As used in this section, the term:

32 (a) "Crime of sexual violence or sexual exploitation" means
33 any sexual offense prohibited by law under s. 787.06, chapter
34 794, chapter 796, chapter 800, or s. 827.071.

35 (b) "Public proceeding" includes any public proceeding and
36 is not limited to a criminal justice proceeding.

37 (c) "School" includes any public or private K-12 school,
38 college, or university.

39 (d) "Victim" includes minors and adults, including adult
40 survivors of a crime of sexual violence or sexual exploitation
41 suffered as a minor. The term also includes a person who suffers
42 direct or threatened physical, psychological, or financial harm
43 as a result of the commission or attempted commission of a crime
44 of sexual violence or sexual exploitation. The term also
45 includes the victim's lawful representative, the parent or
46 guardian of a minor victim, and the next of kin of a homicide
47 victim, except upon a showing that the interests of such
48 individual would be in actual or potential conflict with the
49 interests of the victim. The term does not include the accused.
50 The terms "crime" and "criminal" include delinquent acts and
51 conduct.

52 (2) (a) A victim of any crime of sexual violence or sexual
53 exploitation has the right to prevent any person or entity from
54 disclosing or disseminating information or records that might
55 identify him or her as the victim of sexual violence or sexual
56 exploitation to any member of the public, including in response
57 to a public records request or in any public proceeding, in
58 accordance with s. 16, Art. I of the State Constitution.

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59 (b) A person or an entity in possession of information or
60 records that might identify an individual as a victim of a crime
61 of sexual violence or sexual exploitation may not disclose or
62 disseminate such information or records without first obtaining
63 the express written consent of the victim, including in response
64 to a public records request or in any public proceeding, in
65 accordance with s. 16, Art. I of the State Constitution.

66 (3) For purposes of this section, a crime of sexual
67 violence or sexual exploitation is deemed to have occurred at
68 the moment the crime is committed, regardless of whether the
69 accused perpetrator is identified, arrested, prosecuted, or
70 convicted, and regardless of whether a law enforcement officer
71 or law enforcement agency confirms by probable cause that a
72 crime occurred.

73 (4) This section applies to any crime of sexual violence or
74 sexual exploitation reported by, or on behalf of, a victim. Such
75 a crime is deemed reported if the victim, or someone acting on
76 the victim's behalf, reports the crime to any of the following:

77 (a) A law enforcement officer or law enforcement agency,
78 including a law enforcement officer or law enforcement agency of
79 a school.

80 (b) A licensed medical provider or facility, including by
81 seeking a sexual assault examination or any other medical care
82 related to the crime of sexual violence or sexual exploitation.

83 (c) A mental health provider, including any crime victim
84 counselor or victim advocate, or any school counseling service.

85 (d) A school employee in a teaching or administrative
86 position.

87 (e) A school employee whose job functions include oversight

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88 of on-campus housing at any school.

89 (5) A person aggrieved in violation of this section may
90 initiate a civil action for an injunction against a person or an
91 entity, excluding a public official, a public employee, or a
92 public entity, to prevent or remedy further violation of this
93 section.

94 (a) Except as provided in paragraph (d), at least 5
95 business days before instituting such action, and as a condition
96 precedent to such an action, the aggrieved person shall serve
97 notice in writing on the intended defendant, specifying that the
98 identity of the aggrieved person qualifies for protection under
99 this section based on the criteria under subsection (4), without
100 the need to specify which criteria apply or provide any
101 documentary proof.

102 (b) In response to such notice, the recipient of the notice
103 may avoid the civil action for injunction by certifying in
104 writing to the aggrieved party all of the following:

105 1. An intent to thereafter maintain as confidential all
106 information and records identifying the aggrieved person as the
107 victim of a crime of sexual violence or sexual exploitation;

108 2. Confirmation that the recipient of the notice has
109 withdrawn from public access any such information or records
110 that were previously exposed; and

111 3. That the recipient of the notice has informed in writing
112 any persons or entities to whom the information and documents
113 were previously disseminated that the victim's rights under this
114 section apply and that the information and documents may not be
115 further disseminated. Copies of any such notices under this
116 subparagraph must be provided to the aggrieved person as part of

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117 the certification.

118 (c) If the recipient of the notice timely provides written
119 certification as provided in paragraph (b), the aggrieved person
120 may not initiate an injunction proceeding unless at least one of
121 the following applies:

122 1. The violation of this section was knowing and malicious
123 and was committed with the intent to cause harm to the aggrieved
124 party.

125 2. The violation of this section was done with reckless
126 indifference to such harm.

127 3. The person or entity in violation of this section was
128 the perpetrator of the crime of sexual violence or sexual
129 exploitation or was otherwise legally responsible for the crime.

130 (d) Paragraph (a) does not apply if the person or entity in
131 violation of this section commits a new violation of this
132 section after receiving notice in accordance with paragraph (a)
133 for a previous violation.

134 (e) In addition to injunctive relief, an aggrieved party
135 who prevails in seeking an injunction under this subsection is
136 entitled to an award of reasonable attorney fees and costs
137 incurred in enforcing rights under this section.

138 (6) The remedies provided in this section are cumulative to
139 other existing remedies.

140 (7) The rights guaranteed under this section may be waived
141 only by express action. An action by a victim may not be deemed
142 an implicit waiver of his or her rights under this act.

143 (8) This act does not apply in any case in which a law
144 enforcement agency, after investigation, concludes that the
145 reported crime was intentionally false.

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146 (9) The granting of the rights enumerated in this section
147 to a victim may not be construed to deny or impair any other
148 rights possessed by a victim.

149 Section 2. This act shall take effect July 1, 2022.