

Amendment No.1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u>      </u>	(Y/N)
ADOPTED AS AMENDED	<u>      </u>	(Y/N)
ADOPTED W/O OBJECTION	<u>      </u>	(Y/N)
FAILED TO ADOPT	<u>      </u>	(Y/N)
WITHDRAWN	<u>      </u>	(Y/N)
OTHER	<u>      </u>	

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1 Committee/Subcommittee hearing bill: Criminal Justice & Public  
 2 Safety Subcommittee  
 3 Representative Slosberg-King offered the following:

**Amendment**

Remove everything after the enacting clause and insert:

Section 1. Subsection (77) of section 39.01, Florida Statutes, is amended to read:

39.01 Definitions.—When used in this chapter, unless the context otherwise requires:

(77) "Sexual abuse of a child" for purposes of finding a child to be dependent means one or more of the following acts:

(a) Any penetration, however slight, of the female ~~genitals~~ ~~vagina~~ or anal opening of one person by the penis of another person, whether or not there is the emission of semen.

(b) Any sexual contact between the genitals or anal

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17 opening of one person and the mouth or tongue of another person.

18 (c) Any intrusion by one person into the genitals or anal  
19 opening of another person, including the use of any object for  
20 this purpose, except that this does not include any act intended  
21 for a valid medical purpose.

22 (d) The intentional touching of the genitals or intimate  
23 parts, including the breasts, genital area, groin, inner thighs,  
24 and buttocks, or the clothing covering them, of either the child  
25 or the perpetrator, except that this does not include:

26 1. Any act which may reasonably be construed to be a  
27 normal caregiver responsibility, any interaction with, or  
28 affection for a child; or

29 2. Any act intended for a valid medical purpose.

30 (e) The intentional masturbation of the perpetrator's  
31 genitals in the presence of a child.

32 (f) The intentional exposure of the perpetrator's genitals  
33 in the presence of a child, or any other sexual act  
34 intentionally perpetrated in the presence of a child, if such  
35 exposure or sexual act is for the purpose of sexual arousal or  
36 gratification, aggression, degradation, or other similar  
37 purpose.

38 (g) The sexual exploitation of a child, which includes the  
39 act of a child offering to engage in or engaging in  
40 prostitution, or the act of allowing, encouraging, or forcing a  
41 child to:

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- 42           1. Solicit for or engage in prostitution;
- 43           2. Engage in a sexual performance, as defined by chapter
- 44 827; or
- 45           3. Participate in the trade of human trafficking as
- 46 provided in s. 787.06(3)(g).
- 47

48 As used in this subsection, the term "female genitals" includes

49 the labia minora, labia majora, vulva, hymen, and vagina.

50           Section 2. Subsection (1) of section 365.161, Florida

51 Statutes, is amended to read:

52           365.161 Prohibition of certain obscene telephone

53 communications; penalty.—

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

55           ~~(a)~~ (b) "Deviate sexual intercourse" means sexual conduct

56 between persons consisting of contact between the penis and the

57 anus, the mouth and the penis, or the mouth and the vulva.

58           (b) "Female genitals" includes the labia minora, labia

59 majora, vulva, hymen, and vagina.

60           ~~(c)~~ (a) "Obscene" means that status of a communication

61 which:

62           1. The average person applying contemporary community

63 standards would find, taken as a whole, appeals to the prurient

64 interests;

65           2. Describes, in a patently offensive way, deviate sexual

66 intercourse, sadomasochistic abuse, sexual battery, bestiality,

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67 sexual conduct, or sexual excitement; and

68 3. Taken as a whole, lacks serious literary, artistic,  
69 political, or scientific value.

70 ~~(d)(e)~~ "Sadomasochistic abuse" means flagellation or  
71 torture by or upon a person, or the condition of being fettered,  
72 bound, or otherwise physically restrained, for the purpose of  
73 deriving sexual satisfaction from inflicting harm on another or  
74 receiving such harm oneself.

75 ~~(e)(d)~~ "Sexual battery" means oral, anal, or female  
76 genital vaginal penetration by, or union with, the sexual organ  
77 of another or the anal or female genital vaginal penetration of  
78 another by any other object.

79 ~~(f)(e)~~ "Sexual bestiality" means any sexual act between a  
80 person and an animal involving the sex organ of the one and the  
81 mouth, anus, or female genitals ~~vagina~~ of the other.

82 ~~(g)(f)~~ "Sexual conduct" means actual or simulated sexual  
83 intercourse, deviate sexual intercourse, sexual bestiality,  
84 masturbation, or sadomasochistic abuse; or any act or conduct  
85 which constitutes sexual battery.

86 ~~(h)(g)~~ "Sexual excitement" means the condition of the  
87 human male or female genitals when in a state of sexual  
88 stimulation or arousal.

89 Section 3. Paragraphs (c) through (f) of subsection (1) of  
90 section 775.0847, Florida Statutes, are redesignated as  
91 paragraphs (d) through (g), respectively, a new paragraph (c) is

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92 added to that subsection, and present paragraphs (d) and (e) of  
93 that subsection are amended, to read:

94 775.0847 Possession or promotion of certain images of  
95 child pornography; reclassification.—

96 (1) For purposes of this section:

97 (c) "Female genitals" includes the labia minora, labia  
98 majora, vulva, hymen, and vagina.

99 (e)-(d) "Sexual battery" means oral, anal, or female  
100 genital vaginal penetration by, or union with, the sexual organ  
101 of another or the anal or female genital vaginal penetration of  
102 another by any other object; however, sexual battery does not  
103 include an act done for a bona fide medical purpose.

104 (f)-(e) "Sexual bestiality" means any sexual act, actual or  
105 simulated, between a person and an animal involving the sex  
106 organ of the one and the mouth, anus, or female genitals vagina  
107 of the other.

108  
109 For purposes of sentencing under chapter 921 and determining  
110 incentive gain-time eligibility under chapter 944, a felony  
111 offense that is reclassified under this section is ranked one  
112 level above the ranking under s. 921.0022 or s. 921.0023 of the  
113 offense committed.

114 Section 4. Subsections (1), (3), and (8) of section  
115 794.011, Florida Statutes, are amended to read:

116 794.011 Sexual battery.—

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117 (1) As used in this chapter:

118 (a) "Consent" means intelligent, knowing, and voluntary  
119 consent and does not include coerced submission. "Consent" shall  
120 not be deemed or construed to mean the failure by the alleged  
121 victim to offer physical resistance to the offender.

122 (b) "Female genitals" includes the labia minora, labia  
123 majora, vulva, hymen, and vagina.

124 (c)~~(b)~~ "Mentally defective" means a mental disease or  
125 defect which renders a person temporarily or permanently  
126 incapable of appraising the nature of his or her conduct.

127 (d)~~(e)~~ "Mentally incapacitated" means temporarily  
128 incapable of appraising or controlling a person's own conduct  
129 due to the influence of a narcotic, anesthetic, or intoxicating  
130 substance administered without his or her consent or due to any  
131 other act committed upon that person without his or her consent.

132 (e)~~(d)~~ "Offender" means a person accused of a sexual  
133 offense in violation of a provision of this chapter.

134 (f)~~(e)~~ "Physically helpless" means unconscious, asleep, or  
135 for any other reason physically unable to communicate  
136 unwillingness to an act.

137 (g)~~(j)~~ "Physically incapacitated" means bodily impaired or  
138 handicapped and substantially limited in ability to resist or  
139 flee.

140 (h)~~(f)~~ "Retaliation" includes, but is not limited to,  
141 threats of future physical punishment, kidnapping, false

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142 imprisonment or forcible confinement, or extortion.

143 (i)~~(g)~~ "Serious personal injury" means great bodily harm  
144 or pain, permanent disability, or permanent disfigurement.

145 (j)~~(h)~~ "Sexual battery" means oral, anal, or female  
146 genital ~~vaginal~~ penetration by, or union with, the sexual organ  
147 of another or the anal or female genital ~~vaginal~~ penetration of  
148 another by any other object; however, sexual battery does not  
149 include an act done for a bona fide medical purpose.

150 (k)~~(i)~~ "Victim" means a person who has been the object of  
151 a sexual offense.

152 (3) A person who commits sexual battery upon a person 12  
153 years of age or older, without that person's consent, and in the  
154 process thereof:

155 (a) Uses or threatens to use a deadly weapon; or

156 (b) Uses actual physical force likely to cause serious  
157 personal injury

158  
159 commits a life felony, punishable as provided in s. 775.082, s.  
160 775.083, s. 775.084, or s. 794.0115.

161 (8) Without regard to the willingness or consent of the  
162 victim, which is not a defense to prosecution under this  
163 subsection, a person who is in a position of familial or  
164 custodial authority to a person less than 18 years of age and  
165 who:

166 (a) Solicits that person to engage in any act which would

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167 constitute sexual battery as defined in this section ~~under~~  
168 ~~paragraph (1)(h)~~ commits a felony of the third degree,  
169 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

170 (b) Engages in any act with that person while the person  
171 is 12 years of age or older but younger than 18 years of age  
172 which constitutes sexual battery as defined in this section  
173 ~~under paragraph (1)(h)~~ commits a felony of the first degree,  
174 punishable by a term of years not exceeding life or as provided  
175 in s. 775.082, s. 775.083, or s. 775.084.

176 (c) Engages in any act with that person while the person  
177 is less than 12 years of age which constitutes sexual battery as  
178 defined in this section ~~under paragraph (1)(h)~~, or in an attempt  
179 to commit sexual battery injures the sexual organs of such  
180 person commits a capital or life felony, punishable pursuant to  
181 subsection (2).

182 Section 5. Subsection (10) of section 395.0197, Florida  
183 Statutes, is amended to read:

184 395.0197 Internal risk management program.—

185 (10) Any witness who witnessed or who possesses actual  
186 knowledge of the act that is the basis of an allegation of  
187 sexual abuse shall:

188 (a) Notify the local police; and

189 (b) Notify the hospital risk manager and the  
190 administrator.

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192 For purposes of this subsection, "sexual abuse" means acts of a  
193 sexual nature committed for the sexual gratification of anyone  
194 upon, or in the presence of, a vulnerable adult, without the  
195 vulnerable adult's informed consent, or a minor. "Sexual abuse"  
196 includes, but is not limited to, the acts defined in s.  
197 794.011(1)(j) ~~s. 794.011(1)(h)~~, fondling, exposure of a  
198 vulnerable adult's or minor's sexual organs, or the use of the  
199 vulnerable adult or minor to solicit for or engage in  
200 prostitution or sexual performance. "Sexual abuse" does not  
201 include any act intended for a valid medical purpose or any act  
202 which may reasonably be construed to be a normal caregiving  
203 action.

204 Section 6. Subsection (26) of section 415.102, Florida  
205 Statutes, is amended to read:

206 415.102 Definitions of terms used in ss. 415.101-415.113.—  
207 As used in ss. 415.101-415.113, the term:

208 (26) "Sexual abuse" means acts of a sexual nature  
209 committed in the presence of a vulnerable adult without that  
210 person's informed consent. "Sexual abuse" includes, but is not  
211 limited to, the acts defined in s. 794.011(1)(j) ~~s.~~  
212 ~~794.011(1)(h)~~, fondling, exposure of a vulnerable adult's sexual  
213 organs, or the use of a vulnerable adult to solicit for or  
214 engage in prostitution or sexual performance. "Sexual abuse"  
215 does not include any act intended for a valid medical purpose or  
216 any act that may reasonably be construed to be normal caregiving

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217 action or appropriate display of affection.

218 Section 7. Paragraphs (b) through (j) of subsection (1) of  
219 section 827.071, Florida Statutes, are redesignated as  
220 paragraphs (c) through (k), respectively, a new paragraph (b) is  
221 added to that subsection, and present paragraphs (f), (g), and  
222 (j) of that subsection are amended, to read:

223 827.071 Sexual performance by a child; penalties.—

224 (1) As used in this section, the following definitions  
225 shall apply:

226 (b) "Female genitals" includes the labia minora, labia  
227 majora, vulva, hymen, and vagina.

228 (g)~~(f)~~ "Sexual battery" means oral, anal, or female  
229 genital ~~vaginal~~ penetration by, or union with, the sexual organ  
230 of another or the anal or female genital ~~vaginal~~ penetration of  
231 another by any other object; however, "sexual battery" does not  
232 include an act done for a bona fide medical purpose.

233 (h)~~(g)~~ "Sexual bestiality" means any sexual act between a  
234 person and an animal involving the sex organ of the one and the  
235 mouth, anus, or female genitals ~~vagina~~ of the other.

236 (k)~~(j)~~ "Simulated" means the explicit depiction of conduct  
237 set forth in paragraph (i) ~~(h)~~ which creates the appearance of  
238 such conduct and which exhibits any uncovered portion of the  
239 breasts, genitals, or buttocks.

240 Section 8. Subsections (6) through (20) of section  
241 847.001, Florida Statutes, are renumbered as subsections (7)

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242 through (21), respectively, a new subsection (6) is added to  
243 that section, and present subsections (14), (15), and (19) of  
244 that section are amended, to read:

245 847.001 Definitions.—As used in this chapter, the term:

246 (6) "Female genitals" includes the labia minora, labia  
247 majora, vulva, hymen, and vagina.

248 (15)-(14) "Sexual battery" means oral, anal, or female  
249 genital vaginal penetration by, or union with, the sexual organ  
250 of another or the anal or female genital vaginal penetration of  
251 another by any other object; however, "sexual battery" does not  
252 include an act done for a bona fide medical purpose.

253 (16)-(15) "Sexual bestiality" means any sexual act, actual  
254 or simulated, between a person and an animal involving the sex  
255 organ of the one and the mouth, anus, or female genitals vagina  
256 of the other.

257 (20)-(19) "Simulated" means the explicit depiction of  
258 conduct described in subsection (17) ~~(16)~~ which creates the  
259 appearance of such conduct and which exhibits any uncovered  
260 portion of the breasts, genitals, or buttocks.

261 Section 9. Subsection (1) of section 847.0141, Florida  
262 Statutes, is amended to read:

263 847.0141 Sexting; prohibited acts; penalties.—

264 (1) A minor commits the offense of sexting if he or she  
265 knowingly:

266 (a) Uses a computer, or any other device capable of

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267 | electronic data transmission or distribution, to transmit or  
268 | distribute to another minor any photograph or video of any  
269 | person which depicts nudity, ~~as defined in s. 847.001(9)~~, and is  
270 | harmful to minors, as those terms are defined in s. 847.001 ~~s.~~  
271 | ~~847.001(6)~~.

272 | (b) Possesses a photograph or video of any person that was  
273 | transmitted or distributed by another minor which depicts  
274 | nudity, ~~as defined in s. 847.001(9)~~, and is harmful to minors,  
275 | as those terms are defined in s. 847.001 ~~s. 847.001(6)~~. A minor  
276 | does not violate this paragraph if all of the following apply:

277 | 1. The minor did not solicit the photograph or video.

278 | 2. The minor took reasonable steps to report the  
279 | photograph or video to the minor's legal guardian or to a school  
280 | or law enforcement official.

281 | 3. The minor did not transmit or distribute the photograph  
282 | or video to a third party.

283 | Section 10. Section 872.06, Florida Statutes, is amended  
284 | to read:

285 | 872.06 Abuse of a dead human body; penalty.—

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

287 | (a) "Female genitals" includes the labia minora, labia  
288 | majora, vulva, hymen, and vagina.

289 | (b) "Sexual abuse" means:

290 | ~~1.(a)~~ Anal or female genital ~~vaginal~~ penetration of a dead  
291 | human body by the sexual organ of a person or by any other

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292 object;

293 ~~2.(b)~~ Contact or union of the penis, female genitals  
294 ~~vagina~~, or anus of a person with the mouth, penis, female  
295 genitals ~~vagina~~, or anus of a dead human body; or

296 ~~3.(e)~~ Contact or union of a person's mouth with the penis,  
297 female genitals ~~vagina~~, or anus of a dead human body.

298 (2) A person who mutilates, commits sexual abuse upon, or  
299 otherwise grossly abuses a dead human body commits a felony of  
300 the second degree, punishable as provided in s. 775.082, s.  
301 775.083, or s. 775.084. Any act done for a bona fide medical  
302 purpose or for any other lawful purpose does not under any  
303 circumstance constitute a violation of this section.

304 Section 11. This act shall take effect October 1, 2022.