

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WITHDRAWN	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>	

1 Committee/Subcommittee hearing bill: Judiciary Committee
 2 Representative Slosberg-King offered the following:

Amendment (with title amendment)

Remove lines 65-319 and insert:

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

Section 2. Subsection (1) of section 365.161, Florida
Statutes, is amended to read:

365.161 Prohibition of certain obscene telephone
communications; penalty.—

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

(a)~~(b)~~ "Deviate sexual intercourse" means sexual conduct
between persons consisting of contact between the penis and the
anus, the mouth and the penis, or the mouth and the vulva.

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16 **(b)** "Female genitals" includes the labia minora, labia
17 majora, clitoris, vulva, hymen, and vagina.

18 **(c)-(a)** "Obscene" means that status of a communication
19 which:

20 1. The average person applying contemporary community
21 standards would find, taken as a whole, appeals to the prurient
22 interests;

23 2. Describes, in a patently offensive way, deviate sexual
24 intercourse, sadomasochistic abuse, sexual battery, bestiality,
25 sexual conduct, or sexual excitement; and

26 3. Taken as a whole, lacks serious literary, artistic,
27 political, or scientific value.

28 **(d)-(e)** "Sadomasochistic abuse" means flagellation or
29 torture by or upon a person, or the condition of being fettered,
30 bound, or otherwise physically restrained, for the purpose of
31 deriving sexual satisfaction from inflicting harm on another or
32 receiving such harm oneself.

33 **(e)-(d)** "Sexual battery" means oral, anal, or female
34 genital vaginal penetration by, or union with, the sexual organ
35 of another or the anal or female genital vaginal penetration of
36 another by any other object.

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

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40 ~~(g)-(f)~~ "Sexual conduct" means actual or simulated sexual
41 intercourse, deviate sexual intercourse, sexual bestiality,
42 masturbation, or sadomasochistic abuse; or any act or conduct
43 which constitutes sexual battery.

44 ~~(h)-(g)~~ "Sexual excitement" means the condition of the
45 human male or female genitals when in a state of sexual
46 stimulation or arousal.

47 Section 3. Subsection (4) of section 491.0112, Florida
48 Statutes, is amended to read:

49 491.0112 Sexual misconduct by a psychotherapist;
50 penalties.-

51 (4) For the purposes of this section, the term:

52 ~~(a)-(d)~~ "Client" means a person to whom the services of a
53 psychotherapist are provided.

54 (b) "Female genitals" includes the labia minora, labia
55 majora, clitoris, vulva, hymen, and vagina.

56 ~~(c)-(a)~~ ~~The term~~ "Psychotherapist" means any person
57 licensed pursuant to chapter 458, chapter 459, part I of chapter
58 464, chapter 490, or chapter 491, or any other person who
59 provides or purports to provide treatment, diagnosis,
60 assessment, evaluation, or counseling of mental or emotional
61 illness, symptom, or condition.

62 ~~(d)-(e)~~ "Sexual misconduct" means the oral, anal, or female
63 genital vaginal penetration of another by, or contact with, the

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64 sexual organ of another or the anal or female genital ~~vaginal~~
65 penetration of another by any object.

66 ~~(e)-(b)~~ "Therapeutic deception" means a representation to
67 the client that sexual contact by the psychotherapist is
68 consistent with or part of the treatment of the client.

69 Section 4. Paragraphs (c) through (f) of subsection (1) of
70 section 775.0847, Florida Statutes, are redesignated as
71 paragraphs (d) through (g), respectively, a new paragraph (c) is
72 added to that subsection, and present paragraphs (d) and (e) of
73 that subsection are amended to read:

74 775.0847 Possession or promotion of certain images of
75 child pornography; reclassification.—

76 (1) For purposes of this section:

77 (c) "Female genitals" includes the labia minora, labia
78 majora, clitoris, vulva, hymen, and vagina.

79 ~~(e)-(d)~~ "Sexual battery" means oral, anal, or female
80 genital ~~vaginal~~ penetration by, or union with, the sexual organ
81 of another or the anal or female genital ~~vaginal~~ penetration of
82 another by any other object; however, sexual battery does not
83 include an act done for a bona fide medical purpose.

84 ~~(f)-(e)~~ "Sexual bestiality" means any sexual act, actual or
85 simulated, between a person and an animal involving the sex
86 organ of the one and the mouth, anus, or female genitals ~~vagina~~
87 of the other.

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89 For purposes of sentencing under chapter 921 and determining
90 incentive gain-time eligibility under chapter 944, a felony
91 offense that is reclassified under this section is ranked one
92 level above the ranking under s. 921.0022 or s. 921.0023 of the
93 offense committed.

94 Section 5. Subsections (1), (3), and (8) of section
95 794.011, Florida Statutes, are amended to read:

96 794.011 Sexual battery.—

97 (1) As used in this chapter:

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

102 (b) "Female genitals" includes the labia minora, labia
103 majora, clitoris, vulva, hymen, and vagina.

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

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

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

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

117 ~~(g)(j)~~ "Physically incapacitated" means bodily impaired or
118 handicapped and substantially limited in ability to resist or
119 flee.

120 ~~(h)(f)~~ "Retaliation" includes, but is not limited to,
121 threats of future physical punishment, kidnapping, false
122 imprisonment or forcible confinement, or extortion.

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

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

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

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

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

136 (b) Uses actual physical force likely to cause serious
137 personal injury

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139 commits a life felony, punishable as provided in s. 775.082, s.
140 775.083, s. 775.084, or s. 794.0115.

141 (8) Without regard to the willingness or consent of the
142 victim, which is not a defense to prosecution under this
143 subsection, a person who is in a position of familial or
144 custodial authority to a person less than 18 years of age and
145 who:

146 (a) Solicits that person to engage in any act which would
147 constitute sexual battery ~~under paragraph (1)(h)~~ commits a
148 felony of the third degree, punishable as provided in s.
149 775.082, s. 775.083, or s. 775.084.

150 (b) Engages in any act with that person while the person
151 is 12 years of age or older but younger than 18 years of age
152 which constitutes sexual battery ~~under paragraph (1)(h)~~ commits
153 a felony of the first degree, punishable by a term of years not
154 exceeding life or as provided in s. 775.082, s. 775.083, or s.
155 775.084.

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

161 Section 6. Subsections (2) through (4) of section 794.05,
162 Florida Statutes, are redesignated as subsections (3) through

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163 (5), respectively, a new subsection (2) is added to that
164 section, and subsection (1) of that section is amended to read:

165 794.05 Unlawful sexual activity with certain minors.—

166 (1) A person 24 years of age or older who engages in
167 sexual activity with a person 16 or 17 years of age commits a
168 felony of the second degree, punishable as provided in s.
169 775.082, s. 775.083, or s. 775.084. ~~As used in this section,~~
170 ~~"sexual activity" means oral, anal, or vaginal penetration by,~~
171 ~~or union with, the sexual organ of another or the anal or~~
172 ~~vaginal penetration of another by any other object; however,~~
173 ~~sexual activity does not include an act done for a bona fide~~
174 ~~medical purpose.~~

175 (2) As used in this section, the term:

176 (a) "Female genitals" includes the labia minora, labia
177 majora, clitoris, vulva, hymen, and vagina.

178 (b) "Sexual activity" means oral, anal, or female genital
179 penetration by, or union with, the sexual organ of another or
180 the anal or female genital penetration of another by any other
181 object; however, sexual activity does not include an act done
182 for a bona fide medical purpose.

183 Section 7. Paragraphs (a) through (d) of subsection (1) of
184 section 796.07, Florida Statutes, are redesignated as paragraphs
185 (b) through (e), respectively, a new paragraph (a) is added to
186 that subsection, and current paragraph (d) of that section is
187 amended to read:

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188 796.07 Prohibiting prostitution and related acts.—

189 (1) As used in this section:

190 (a) "Female genitals" includes the labia minora, labia
191 majora, clitoris, vulva, hymen, and vagina.

192 ~~(e)-(d)~~ "Sexual activity" means oral, anal, or female
193 genital vaginal penetration by, or union with, the sexual organ
194 of another; anal or female genital vaginal penetration of
195 another by any other object; or the handling or fondling of the
196 sexual organ of another for the purpose of masturbation;
197 however, the term does not include acts done for bona fide
198 medical purposes.

199 Section 8. Subsection (1) of section 800.04, Florida
200 Statutes, is amended to read:

201 800.04 Lewd or lascivious offenses committed upon or in
202 the presence of persons less than 16 years of age.—

203 (1) DEFINITIONS.—As used in this section:

204 ~~(a)-(e)~~ "Coercion" means the use of exploitation, bribes,
205 threats of force, or intimidation to gain cooperation or
206 compliance.

207 (b) "Consent" means intelligent, knowing, and voluntary
208 consent, and does not include submission by coercion.

209 (c) "Female genitals" includes the labia minora, labia
210 majora, clitoris, vulva, hymen, and vagina.

211 ~~(d)-(a)~~ "Sexual activity" means the oral, anal, or female
212 genital vaginal penetration by, or union with, the sexual organ

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213 of another or the anal or female genital ~~vaginal~~ penetration of
214 another by any other object; however, sexual activity does not
215 include an act done for a bona fide medical purpose.

216 ~~(e)(d)~~ "Victim" means a person upon whom an offense
217 described in this section was committed or attempted or a person
218 who has reported a violation of this section to a law
219 enforcement officer.

220 Section 9. Subsection (1) of section 825.1025, Florida
221 Statutes, is amended to read:

222 825.1025 Lewd or lascivious offenses committed upon or in
223 the presence of an elderly person or disabled person.—

224 (1) As used in this section, the term: "Sexual activity"
225 ~~means the oral, anal, or vaginal penetration by, or union with,~~
226 ~~the sexual organ of another or the anal or vaginal penetration~~
227 ~~of another by any other object; however, sexual activity does~~
228 ~~not include an act done for a bona fide medical purpose.~~

229 (a) "Female genitals" includes the labia minora, labia
230 majora, clitoris, vulva, hymen, and vagina.

231 (b) "Sexual activity" means the oral, anal, or female
232 genital penetration by, or union with, the sexual organ of
233 another or the anal or female genital penetration of another by
234 any other object; however, sexual activity does not include an
235 act done for a bona fide medical purpose.

236 Section 10. Paragraphs (b) through (j) of subsection (1)
237 of section 827.071, Florida Statutes, are redesignated as

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238 paragraphs (c) through (k), respectively, a new paragraph (b) is
239 added to that subsection, and present paragraphs (f), (g), and
240 (j) of that subsection are amended to read:

241 827.071 Sexual performance by a child; penalties.—

242 (1) As used in this section, the following definitions
243 shall apply:

244 (b) "Female genitals" includes the labia minora, labia
245 majora, clitoris, vulva, hymen, and vagina.

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

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

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

258 Section 11. Subsections (6) through (20) of section
259 847.001, Florida Statutes, are redesignated as subsections (7)
260 through (21), respectively, a new subsection (6) is added to
261 that section, and present subsections (14), (15), and (19) of
262 that section are amended to read:

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263 847.001 Definitions.—As used in this chapter, the term:

264 (6) "Female genitals" includes the labia minora, labia
265 majora, clitoris, vulva, hymen, and vagina.

266 (15)~~(14)~~ "Sexual battery" means oral, anal, or female
267 genital vaginal penetration by, or union with, the sexual organ
268 of another or the anal or female genital vaginal penetration of
269 another by any other object; however, "sexual battery" does not
270 include an act done for a bona fide medical purpose.

271 (16)~~(15)~~ "Sexual bestiality" means any sexual act, actual
272 or simulated, between a person and an animal involving the sex
273 organ of the one and the mouth, anus, or female genitals vagina
274 of the other.

275 (20)~~(19)~~ "Simulated" means the explicit depiction of
276 conduct described in subsection (17) ~~(16)~~ which creates the
277 appearance of such conduct and which exhibits any uncovered
278 portion of the breasts, genitals, or buttocks.

279 Section 12. Section 872.06, Florida Statutes, is amended
280 to read:

281 872.06 Abuse of a dead human body; penalty.—

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

283 (a) "Female genitals" includes the labia minora, labia
284 majora, clitoris, vulva, hymen, and vagina.

285 (b) "Sexual abuse" means:

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286 ~~1.(a)~~ Anal or female genital ~~vaginal~~ penetration of a dead
287 human body by the sexual organ of a person or by any other
288 object;

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

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

294 (2) A person who mutilates, commits sexual abuse upon, or
295 otherwise grossly abuses a dead human body commits a felony of
296 the second degree, punishable as provided in s. 775.082, s.
297 775.083, or s. 775.084. Any act done for a bona fide medical
298 purpose or for any other lawful purpose does not under any
299 circumstance constitute a violation of this section.

300 Section 13. Paragraph (b) of subsection (3) of section
301 944.35, Florida Statutes, is amended to read:

302 944.35 Authorized use of force; malicious battery and
303 sexual misconduct prohibited; reporting required; penalties.-

304 (3)

305 (b)1. As used in this paragraph, the term: "sexual
306 ~~misconduct~~" means the oral, anal, or vaginal penetration by, or
307 union with, the sexual organ of another or the anal or vaginal
308 penetration of another by any other object, but does not include
309 an act done for a bona fide medical purpose or an internal

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310 ~~search conducted in the lawful performance of the employee's~~
311 ~~duty.~~

312 a. "Female genitals" includes the labia minora, labia
313 majora, clitoris, vulva, hymen, and vagina.

314 b. "Sexual misconduct" means the oral, anal, or female
315 genital penetration by, or union with, the sexual organ of
316 another or the anal or female genital penetration of another by
317 any other object, but does not include an act done for a bona
318 fide medical purpose or an internal search conducted in the
319 lawful performance of the employee's duty.

320 2. Any employee of the department or a private
321 correctional facility as defined in s. 944.710 who engages in
322 sexual misconduct with an inmate or an offender supervised by
323 the department in the community, without committing the crime of
324 sexual battery, commits a felony of the third degree, punishable
325 as provided in s. 775.082, s. 775.083, or s. 775.084.

326 3. The consent of the inmate or offender supervised by the
327 department in the community to any act of sexual misconduct may
328 not be raised as a defense to a prosecution under this
329 paragraph.

330 4. This paragraph does not apply to any employee of the
331 department or any employee of a private correctional facility
332 who is legally married to an inmate or an offender supervised by
333 the department in the community, nor does it apply to any
334 employee who has no knowledge, and would have no reason to

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335 believe, that the person with whom the employee has engaged in
336 sexual misconduct is an inmate or an offender under community
337 supervision of the department.

338 Section 14. Subsection (2) of section 951.27, Florida
339 Statutes, is amended to read:

340 951.27 Blood tests of inmates.-

341 (2) Except as otherwise provided in this subsection,
342 serologic blood test results obtained pursuant to subsection (1)
343 are confidential and exempt from ~~the provisions of~~ s. 119.07(1)
344 and s. 24(a), Art. I of the State Constitution. However, such
345 results may be provided to employees or officers of the sheriff
346 or chief correctional officer who are responsible for the
347 custody and care of the affected inmate and have a need to know
348 such information, and as provided in ss. 775.0877 and 960.003.
349 In addition, upon request of the victim or the victim's legal
350 guardian, or the parent or legal guardian of the victim if the
351 victim is a minor, the results of any HIV test performed on an
352 inmate ~~who has been~~ arrested for any sexual offense involving
353 oral, anal, or female genital ~~vaginal~~ penetration by, or union
354 with, the sexual organ of another, must ~~shall~~ be disclosed to
355 the victim or the victim's legal guardian, or to the parent or
356 legal guardian of the victim if the victim is a minor. In such
357 cases, the county or municipal detention facility shall furnish
358 the test results to the Department of Health, which is
359 responsible for disclosing the results to public health agencies

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360 as provided in s. 775.0877 and to the victim or the victim's
361 legal guardian, or the parent or legal guardian of the victim if
362 the victim is a minor, as provided in s. 960.003(3). As used in
363 this subsection, the term "female genitals" includes the labia
364 minora, labia majora, clitoris, vulva, hymen, and vagina.

365 Section 15. Subsection (10) of section 395.0197, Florida
366 Statutes, is amended to read:

367 395.0197 Internal risk management program.—

368 (10) Any witness who witnessed or who possesses actual
369 knowledge of the act that is the basis of an allegation of
370 sexual abuse shall:

371 (a) Notify the local police; and

372 (b) Notify the hospital risk manager and the
373 administrator.

374

375 For purposes of this subsection, "sexual abuse" means acts of a
376 sexual nature committed for the sexual gratification of anyone
377 upon, or in the presence of, a vulnerable adult, without the
378 vulnerable adult's informed consent, or a minor. "Sexual abuse"
379 includes, but is not limited to, the acts defined in s.
380 794.011(1)(j) ~~s. 794.011(1)(h)~~, fondling, exposure of a
381 vulnerable adult's or minor's sexual organs, or the use of the
382 vulnerable adult or minor to solicit for or engage in
383 prostitution or sexual performance. "Sexual abuse" does not
384 include any act intended for a valid medical purpose or any act

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385 | which may reasonably be construed to be a normal caregiving
386 | action.

387 | Section 16. Subsection (26) of section 415.102, Florida
388 | Statutes, is amended to read:

389 | 415.102 Definitions of terms used in ss. 415.101-415.113.—

390 | As used in ss. 415.101-415.113, the term:

391 | (26) "Sexual abuse" means acts of a sexual nature
392 | committed in the presence of a vulnerable adult without that
393 | person's informed consent. "Sexual abuse" includes, but is not
394 | limited to, the acts defined in s. 794.011(1)(j) ~~s.~~
395 | ~~794.011(1)(h)~~, fondling, exposure of a vulnerable adult's sexual
396 | organs, or the use of a vulnerable adult to solicit for or
397 | engage in prostitution or sexual performance. "Sexual abuse"
398 | does not include any act intended for a valid medical purpose or
399 | any act that may reasonably be construed to be normal caregiving
400 | action or appropriate display of affection.

401 | Section 17. Subsection (1) of section 847.0141, Florida
402 | Statutes, is amended to read:

403 | 847.0141 Sexting; prohibited acts; penalties.—

404 | (1) A minor commits the offense of sexting if he or she
405 | knowingly:

406 | (a) Uses a computer, or any other device capable of
407 | electronic data transmission or distribution, to transmit or
408 | distribute to another minor any photograph or video of any
409 | person which depicts nudity, ~~as defined in s. 847.001(9)~~, and is

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410 harmful to minors, as those terms are defined in s. 847.001 ~~s.~~
411 ~~847.001(6)~~.

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

417 1. The minor did not solicit the photograph or video.

418 2. The minor took reasonable steps to report the
419 photograph or video to the minor's legal guardian or to a school
420 or law enforcement official.

421 3. The minor did not transmit or distribute the photograph
422 or video to a third party.

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T I T L E A M E N D M E N T

426

Remove lines 3-18 and insert:

427 amending s. 39.01, F.S.; defining the term "female genitals" and

428 revising the definitions of the terms "sexual battery" and

429 "sexual bestiality"; amending s. 365.161, F.S.; defining the

430 term "female genitals" and revising the definitions of the terms

431 "sexual battery" and "sexual bestiality"; amending s. 491.0112,

432 F.S.; defining the term "female genitals" and revising the

433 definition of the term "sexual misconduct"; amending s.

434 775.0847, F.S.; defining the term "female genitals" and revising

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435 the definitions of the terms "sexual battery" and "sexual
436 bestiality"; amending s. 794.011, F.S.; defining the term
437 "female genitals"; revising the definition of the term "sexual
438 battery"; amending ss. 794.05, 796.07, 800.04, and 825.1025,
439 F.S.; defining the term "female genitals" and revising the
440 definition of the term "sexual activity"; amending ss. 827.071
441 and 847.001, F.S.; defining the term "female genitals" and
442 revising the definitions of the terms "sexual battery" and
443 "sexual bestiality"; amending s. 872.06, F.S.; defining the term
444 "female genitals" and revising the definition of the term
445 "sexual abuse"; amending s. 944.35, F.S.; defining the term
446 "female genitals" and revising the definition of the term
447 "sexual misconduct"; amending s. 951.27, F.S.; requiring that
448 HIV test results performed on inmates arrested for sexual
449 offenses involving female genital penetration be disclosed under
450 certain circumstances; defining the term "female genitals";
451 amending s. 872.06, F.S.; defining the term "female genitals"
452 and revising the definition of the term "sexual abuse"; amending
453 ss. 395.0197, 415.102, and 847.0141, F.S.; conforming cross-
454 references; providing an effective

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