

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WITHDRAWN	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: Criminal Justice
2 Subcommittee

3 Representative Lopez, V. offered the following:

4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Paragraph (b) of subsection (3) of section
8 944.35, Florida Statutes, is amended to read:

9 944.35 Authorized use of force; malicious battery and
10 sexual misconduct prohibited; reporting required; penalties.—

11 (3)

12 (b)1. As used in this paragraph, the term:

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

15 b. "Private correctional facility" has the same meaning as
16 in s. 944.710.

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17 ~~c.b.~~ "Sexual misconduct" means the oral, anal, or female
18 genital penetration by, or union with, the sexual organ of
19 another or the anal or female genital penetration of another by
20 any other object, but does not include an act done for a bona
21 fide medical purpose or an internal search conducted in the
22 lawful performance of the employee's duty.

23 d. "Volunteer" means a person registered with the
24 department or a private correctional facility who is engaged in
25 specific voluntary service activities on an ongoing or continual
26 basis.

27 2. Any employee of the department or a private
28 correctional facility ~~as defined in s. 944.710~~ or any volunteer
29 in, or any employee of a contractor or subcontractor of, the
30 department or a private correctional facility who engages in
31 sexual misconduct with an inmate or an offender supervised by
32 the department in the community, without committing the crime of
33 sexual battery, commits a felony of the third degree, punishable
34 as provided in s. 775.082, s. 775.083, or s. 775.084.

35 3. The consent of the inmate or offender supervised by the
36 department in the community to any act of sexual misconduct may
37 not be raised as a defense to a prosecution under this
38 paragraph.

39 4. This paragraph does not apply to any employee,
40 volunteer, or employee of a contractor or subcontractor of the
41 department or any employee, volunteer, or employee of a

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42 contractor or subcontractor of a private correctional facility
43 who is legally married to an inmate or an offender supervised by
44 the department in the community, nor does it apply to any
45 employee, volunteer, or employee of a contractor or
46 subcontractor who has no knowledge, and would have no reason to
47 believe, that the person with whom the employee, volunteer, or
48 employee of a contractor or subcontractor has engaged in sexual
49 misconduct is an inmate or an offender under community
50 supervision of the department.

51 Section 2. This act shall take effect July 1, 2023.

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

55

Remove everything before the enacting clause and insert:

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An act relating to sexual misconduct in the

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correctional system; amending s. 944.35, F.S.;

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prohibiting sexual misconduct by any volunteer in, or

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any employee of a contractor or subcontractor of, the

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Department of Corrections or a private correctional

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facility; providing criminal penalties; providing

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applicability; providing an effective date.