

1 A bill to be entitled
 2 An act relating to sexual misconduct in the
 3 correctional system; amending s. 944.35, F.S.;
 4 providing definitions; prohibiting sexual misconduct
 5 by any volunteer in, or any employee of a contractor
 6 or subcontractor of, the Department of Corrections or
 7 a private correctional facility; providing criminal
 8 penalties; providing applicability; providing an
 9 effective date.

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

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13 Section 1. Paragraph (b) of subsection (3) of section
 14 944.35, Florida Statutes, is amended to read:

15 944.35 Authorized use of force; malicious battery and
 16 sexual misconduct prohibited; reporting required; penalties.—

17 (3)

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

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

21 b. "Private correctional facility" has the same meaning as
 22 in s. 944.710.

23 c.~~b.~~ "Sexual misconduct" means the oral, anal, or female
 24 genital penetration by, or union with, the sexual organ of
 25 another or the anal or female genital penetration of another by

26 any other object, but does not include an act done for a bona
27 fide medical purpose or an internal search conducted in the
28 lawful performance of the employee's duty.

29 d. "Volunteer" means a person registered with the
30 department or a private correctional facility who is engaged in
31 specific voluntary service activities on an ongoing or continual
32 basis.

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

41 3. The consent of the inmate or offender supervised by the
42 department in the community to any act of sexual misconduct may
43 not be raised as a defense to a prosecution under this
44 paragraph.

45 4. This paragraph does not apply to any employee,
46 volunteer, or employee of a contractor or subcontractor of the
47 department or any employee, volunteer, or employee of a
48 contractor or subcontractor of a private correctional facility
49 who is legally married to an inmate or an offender supervised by
50 the department in the community, nor does it apply to any

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51 employee, volunteer, or employee of a contractor or
52 subcontractor who has no knowledge, and would have no reason to
53 believe, that the person with whom the employee, volunteer, or
54 employee of a contractor or subcontractor has engaged in sexual
55 misconduct is an inmate or an offender under community
56 supervision of the department.

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