

1 A bill to be entitled
2 An act relating to sexual offenses; amending s. 90.404,
3 F.S.; permitting admission of evidence of the defendant's
4 commission of other crimes of a sexual nature in a
5 criminal case in which the defendant is charged with a
6 crime of a sexual nature; defining the term "crime of a
7 sexual nature"; requiring certain property or material
8 that is used in a criminal proceeding to remain in the
9 care, custody, and control of the law enforcement agency,
10 the state attorney, or the court; prohibiting the
11 reproduction of such property or material by the defendant
12 when specified criteria are met by the state attorney;
13 permitting access to the materials by the defendant;
14 amending s. 395.1021, F.S.; requiring a licensed facility
15 that provides emergency room services to arrange for the
16 gathering of forensic medical evidence required for
17 investigation and prosecution from a victim who has
18 reported a sexual battery to a law enforcement agency or
19 who requests that such evidence be gathered for a possible
20 future report; amending s. 775.15, F.S.; providing that a
21 prosecution for video voyeurism in violation of specified
22 provisions may be commenced within 1 year after the victim
23 of video voyeurism obtains actual knowledge of the
24 existence of such a recording or the recording is
25 confiscated by a law enforcement agency, whichever occurs
26 first; providing that dissemination of a recording before
27 such knowledge or confiscation does not affect such a time
28 period; amending ss. 794.056 and 938.085, F.S.; requiring

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that an additional court cost or surcharge be assessed against a defendant who pleads guilty or nolo contendere to, or is found guilty of, regardless of adjudication, certain criminal offenses; providing for proceeds of the additional court cost or surcharge to be deposited into the Rape Crisis Program Trust Fund; reenacting s. 20.435(21)(a), F.S., relating to the Rape Crisis Program Trust Fund, to incorporate the amendment made to s. 794.056, F.S., in a reference thereto; reenacting s. 794.055(3)(b), F.S., relating to access to services for victims of sexual battery, to incorporate the amendment made to s. 938.085, F.S., in a reference thereto; amending s. 960.003, F.S.; revising provisions relating to HIV testing of persons alleged to have committed certain offenses; amending s. 960.198, F.S.; authorizing relocation assistance awards to victims of sexual violence; amending s. 1003.42, F.S.; requiring that public schools provide comprehensive health education that addresses concepts of Internet safety; providing an effective date.

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

Section 1. Paragraph (b) of subsection (2) of section 90.404, Florida Statutes, is amended to read:

90.404 Character evidence; when admissible.—

(2) OTHER CRIMES, WRONGS, OR ACTS.—

(b)1. In a criminal case in which the defendant is charged

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57 with a crime of a sexual nature ~~involving child molestation,~~
58 evidence of the defendant's commission of other crimes of a
59 sexual nature, ~~wrongs, or acts of child molestation~~ is
60 admissible, and may be considered for its bearing on any matter
61 to which it is relevant.

62 2. For the purposes of this paragraph, the term "crime of
63 a sexual nature" ~~"child molestation"~~ means conduct proscribed by
64 s. 784.048, s. 787.01, s. 787.02, s. 787.025(2)(c), s. 794.011,
65 s. 794.05, s. 796.03, s. 796.035, s. 796.045, s. 800.04, s.
66 825.1025(2)(b), s. 827.071, or s. 847.0135(5), s. 847.0145, or
67 s. 985.701(1) ~~when committed against a person 16 years of age or~~
68 ~~younger.~~

69 Section 2. Prohibition on reproduction of child
70 pornography.—

71 (1) In a criminal proceeding, any property or material
72 that portrays sexual performance by a child as defined in s.
73 827.071, Florida Statutes, or constitutes child pornography as
74 defined in s. 847.001, Florida Statutes, must remain secured or
75 locked in the care, custody, and control of a law enforcement
76 agency, the state attorney, or the court.

77 (2) Notwithstanding any law or rule of court, a court
78 shall deny, in a criminal proceeding, any request by the
79 defendant to copy, photograph, duplicate, or otherwise reproduce
80 any property or material that portrays sexual performance by a
81 child or constitutes child pornography so long as the state
82 attorney makes the property or material reasonably available to
83 the defendant.

84 (3) For purposes of this section, property or material is

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85 deemed to be reasonably available to the defendant if the state
86 attorney provides ample opportunity at a designated facility for
87 the inspection, viewing, and examination of the property or
88 material that portrays sexual performance by a child or
89 constitutes child pornography by the defendant, his or her
90 attorney, or any individual whom the defendant uses as an expert
91 during the discovery process or at a court proceeding.

92 Section 3. Subsection (2) of section 395.1021, Florida
93 Statutes, is amended to read:

94 395.1021 Treatment of sexual assault victims.—Any licensed
95 facility which provides emergency room services shall arrange
96 for the rendering of appropriate medical attention and treatment
97 of victims of sexual assault through:

98 (2) ~~The administration of medical examinations, tests, and~~
99 ~~analyses required by law enforcement personnel in the gathering~~
100 ~~of forensic medical evidence required for investigation and~~
101 ~~prosecution from a victim who has reported a sexual battery to a~~
102 ~~law enforcement agency or who requests that such evidence be~~
103 ~~gathered for a possible future report.~~

104
105 Such licensed facility shall also arrange for the protection of
106 the victim's anonymity while complying with the laws of this
107 state and may encourage the victim to notify law enforcement
108 personnel and to cooperate with them in apprehending the
109 suspect.

110 Section 4. Subsection (17) is added to section 775.15,
111 Florida Statutes, to read:

112 775.15 Time limitations; general time limitations;

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exceptions.—

(17) Notwithstanding the time periods prescribed in this section, a prosecution for video voyeurism in violation of s. 810.145 may be commenced within 1 year after the date on which the victim of video voyeurism obtains actual knowledge of the existence of such a recording or the date on which the recording is confiscated by a law enforcement agency, whichever occurs first. Any dissemination of such a recording before the victim obtains actual knowledge thereof or before its confiscation by a law enforcement agency does not affect any provision of this subsection.

Section 5. Section 794.056, Florida Statutes, is amended to read:

794.056 Rape Crisis Program Trust Fund.—

(1) The Rape Crisis Program Trust Fund is created within the Department of Health for the purpose of providing funds for rape crisis centers in this state. Trust fund moneys shall be used exclusively for the purpose of providing services for victims of sexual assault. Funds credited to the trust fund consist of those funds collected as an additional court assessment in each case in which a defendant pleads guilty or nolo contendere to, or is found guilty of, regardless of adjudication, an offense defined in s. 775.21, s. 784.011, s. 784.021, s. 784.03, s. 784.041, s. 784.045, s. 784.048, s. 784.07, s. 784.08, s. 784.081, s. 784.082, s. 784.083, s. 784.085, s. 787.025, s. 787.06, s. 787.07, ~~or~~ s. 794.011, s. 794.05, s. 794.08, s. 796.03, s. 796.035, s. 796.04, s. 796.045, s. 796.05, s. 796.06, s. 796.07(2)(a)–(d) and (i), s. 800.03, s.

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141 810.14, s. 810.145, s. 812.135, s. 817.025, s. 825.102, s.
142 825.1025, s. 827.071, s. 836.10, s. 847.0135(2), s. 847.0137, s.
143 847.0145, or s. 943.0435. Funds credited to the trust fund also
144 shall include revenues provided by law, moneys appropriated by
145 the Legislature, and grants from public or private entities.

146 (2) The Department of Health shall establish by rule
147 criteria consistent with the provisions of s. 794.055(3)(a) for
148 distributing moneys from the trust fund to rape crisis centers.

149 Section 6. Section 938.085, Florida Statutes, is amended
150 to read:

151 938.085 Additional cost to fund rape crisis centers.—In
152 addition to any sanction imposed when a person pleads guilty or
153 nolo contendere to, or is found guilty of, regardless of
154 adjudication, a violation of s. 775.21, s. 784.011, s. 784.021,
155 s. 784.03, s. 784.041, s. 784.045, s. 784.048, s. 784.07, s.
156 784.08, s. 784.081, s. 784.082, s. 784.083, s. 784.085, s.
157 787.025, s. 787.06, s. 787.07, ~~or~~ s. 794.011, s. 794.05, s.
158 794.08, s. 796.03, s. 796.035, s. 796.04, s. 796.045, s. 796.05,
159 s. 796.06, s. 796.07(2)(a)-(d) and (i), s. 800.03, s. 810.14, s.
160 810.145, s. 812.135, s. 817.025, s. 825.102, s. 825.1025, s.
161 827.071, s. 836.10, s. 847.0135(2), s. 847.0137, s. 847.0145, or
162 s. 943.0435, the court shall impose a surcharge of \$151. Payment
163 of the surcharge shall be a condition of probation, community
164 control, or any other court-ordered supervision. The sum of \$150
165 of the surcharge shall be deposited into the Rape Crisis Program
166 Trust Fund established within the Department of Health by
167 chapter 2003-140, Laws of Florida. The clerk of the court shall
168 retain \$1 of each surcharge that the clerk of the court collects

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as a service charge of the clerk's office.

Section 7. For the purpose of incorporating the amendment made by this act to section 794.056, Florida Statutes, in a reference thereto, paragraph (a) of subsection (21) of section 20.435, Florida Statutes, is reenacted to read:

20.435 Department of Health; trust funds.—The following trust funds shall be administered by the Department of Health:

(21) Rape Crisis Program Trust Fund.

(a) Funds to be credited to and uses of the trust fund shall be administered in accordance with the provisions of s. 794.056.

Section 8. For the purpose of incorporating the amendment made by this act to section 938.085, Florida Statutes, in a reference thereto, paragraph (b) of subsection (3) of section 794.055, Florida Statutes, is reenacted to read:

794.055 Access to services for victims of sexual battery.—

(3)

(b) Funds received under s. 938.085 shall be used to provide sexual battery recovery services to victims and their families. Funds shall be distributed to rape crisis centers based on an allocation formula that takes into account the population and rural characteristics of each county. No more than 15 percent of the funds shall be used by the statewide nonprofit association for statewide initiatives. No more than 5 percent of the funds may be used by the department for administrative costs.

Section 9. Subsection (2) of section 960.003, Florida Statutes, is amended to read:

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197 960.003 HIV testing for persons charged with or alleged by
198 petition for delinquency to have committed certain offenses;
199 disclosure of results to victims.—

200 (2) TESTING OF PERSON CHARGED WITH OR ALLEGED BY PETITION
201 FOR DELINQUENCY TO HAVE COMMITTED CERTAIN OFFENSES.—

202 (a) In any case in which a person has been charged by
203 information or indictment with or alleged by petition for
204 delinquency to have committed any offense enumerated in s.
205 775.0877(1)(a)-(n), which involves the transmission of body
206 fluids from one person to another, upon request of the victim or
207 the victim's legal guardian, or of the parent or legal guardian
208 of the victim if the victim is a minor, the court shall order
209 such person to undergo HIV testing within 48 hours after ~~of~~ the
210 information or indictment ~~court order~~.

211 (b) However, when a victim of any sexual offense
212 enumerated in s. 775.0877(1)(a)-(n) is under the age of 18 at
213 the time the offense was committed or when a victim of any
214 sexual offense enumerated in s. 775.0877(1)(a)-(n) or s.
215 825.1025 is a disabled adult or elderly person as defined in s.
216 825.1025 regardless of whether the offense involves the
217 transmission of bodily fluids from one person to another, then
218 upon the request of the victim or the victim's legal guardian,
219 or of the parent or legal guardian, the court shall order such
220 person to undergo HIV testing within 48 hours after ~~of~~ the
221 information or indictment ~~court order~~. The testing shall be
222 performed under the direction of the Department of Health in
223 accordance with s. 381.004. The results of an HIV test performed
224 on a defendant or juvenile offender pursuant to this subsection

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shall not be admissible in any criminal or juvenile proceeding arising out of the alleged offense.

Section 10. Section 960.198, Florida Statutes, is amended to read:

960.198 Relocation assistance for victims of domestic violence and sexual violence.—

(1) Notwithstanding the criteria set forth in s. 960.13 for crime victim compensation awards, the department may award a one-time payment of up to \$1,500 on any one claim and a lifetime maximum of \$3,000 to a victim of domestic violence who needs immediate assistance to escape from a domestic violence environment or to a victim of sexual violence.

(2) In order for an award to be granted to a victim for relocation assistance:

(a) There must be proof that a domestic violence or sexual violence offense was committed;

(b) The domestic violence or sexual violence offense must be reported to the proper authorities;

(c) The victim's need for assistance must be certified by a certified domestic violence center or a certified rape crisis center in this state; and

(d) The center certification must assert that the victim is cooperating with law enforcement officials, if applicable, and must include documentation that the victim has developed a safety plan.

Section 11. Paragraph (n) of subsection (2) of section 1003.42, Florida Statutes, is amended to read:

1003.42 Required instruction.—

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(2) Members of the instructional staff of the public schools, subject to the rules of the State Board of Education and the district school board, shall teach efficiently and faithfully, using the books and materials required that meet the highest standards for professionalism and historic accuracy, following the prescribed courses of study, and employing approved methods of instruction, the following:

(n) Comprehensive health education that addresses concepts of community health; consumer health; environmental health; family life, including an awareness of the benefits of sexual abstinence as the expected standard and the consequences of teenage pregnancy; mental and emotional health; injury prevention and safety; Internet safety; nutrition; personal health; prevention and control of disease; and substance use and abuse. The health education curriculum for students in grades 7 through 12 shall include a teen dating violence and abuse component that includes, but is not limited to, the definition of dating violence and abuse, the warning signs of dating violence and abusive behavior, the characteristics of healthy relationships, measures to prevent and stop dating violence and abuse, and community resources available to victims of dating violence and abuse.

The State Board of Education is encouraged to adopt standards and pursue assessment of the requirements of this subsection.

Section 12. This act shall take effect July 1, 2011.