

By Senator Fasano

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A bill to be entitled
An act relating to sexual offenses; amending s.
90.404, F.S.; permitting admission of evidence of the
defendant's commission of other crimes of a sexual
nature in a criminal case in which the defendant is
charged with a crime of a sexual nature; defining the
term "crime of a sexual nature"; requiring that any
property or material that constitutes child
pornography and that is used in a criminal proceeding
remain in the care, custody, and control of the law
enforcement agency, state attorney, or court;
permitting access to the materials by the defendant;
amending s. 395.1021, F.S.; requiring a licensed
facility that provides emergency room services to
arrange for the gathering of forensic medical evidence
required for an investigation and prosecution from a
victim who has reported a sexual battery to a law
enforcement agency or who requests that such evidence
be gathered for a possible future report; amending s.
775.15, F.S.; providing that a prosecution for video
voyeurism in violation of specified provisions may be
commenced within 1 year after the victim of video
voyeurism obtains actual knowledge of the existence of
such a recording or the recording is confiscated by a
law enforcement agency, whichever occurs first;
providing that dissemination of a recording before
such knowledge or confiscation does not affect such a
time period; amending ss. 794.056 and 938.085, F.S.;
requiring that an additional court cost or surcharge

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30 be assessed against a defendant who pleads guilty or
31 nolo contendere to, or is found guilty of, regardless
32 of adjudication, certain criminal offenses; providing
33 for proceeds of the additional court cost or surcharge
34 to be deposited into the Rape Crisis Program Trust
35 Fund; amending s. 960.003, F.S.; requiring the court
36 to order a person who has been charged by information
37 or indictment with, or alleged by petition for
38 delinquency to have committed, a specified offense
39 that involves the transmission of body fluids from one
40 person to another, upon request of the victim or the
41 victim's legal guardian, to undergo HIV testing within
42 48 hours after the information, indictment, or
43 petition for delinquency is filed rather than 48 hours
44 after the court order; reenacting s. 20.435(21)(a),
45 F.S., relating to the Rape Crisis Program Trust Fund,
46 to incorporate the amendment made to s. 794.056, F.S.,
47 in a reference thereto; reenacting s. 794.055(3)(b),
48 F.S., relating to access to services for victims of
49 sexual battery, to incorporate the amendment made to
50 s. 938.085, F.S., in a reference thereto; amending s.
51 960.198, F.S.; authorizing relocation assistance
52 awards to victims of sexual violence; amending s.
53 1003.42, F.S.; requiring that public schools provide
54 comprehensive health education that addresses concepts
55 of Internet safety; providing an effective date.

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57 Be It Enacted by the Legislature of the State of Florida:
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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 with a crime of a sexual nature ~~involving child molestation~~, evidence of the defendant's commission of other crimes of a sexual nature, ~~wrongs, or acts of child molestation~~ is admissible, and may be considered for its bearing on any matter to which it is relevant.

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

Section 2. Prohibition on reproduction of child pornography.—

(1) In a criminal proceeding any property or material that constitutes child pornography, as defined in s. 827.071 or s. 847.001, Florida Statutes, must remain in the care, custody, and control of the law enforcement agency, the state attorney, or the court.

(2) Notwithstanding any law or rule of court, a court shall deny, in a criminal proceeding, any request by the defendant to copy, photograph, duplicate, or otherwise reproduce any property or material that constitutes child pornography so long as the state attorney makes the property or material reasonably

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88 available to the defendant.

89 (3) For purposes of this section, property or material is
90 deemed to be reasonably available to the defendant if the state
91 attorney provides ample opportunity at a designated facility for
92 the inspection, viewing, and examination of the property or
93 material that constitutes child pornography by the defendant,
94 his or her attorney, or any individual whom the defendant uses
95 as an expert during the discovery process or at a court
96 proceeding.

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

99 395.1021 Treatment of sexual assault victims.—Any licensed
100 facility which provides emergency room services shall arrange
101 for the rendering of appropriate medical attention and treatment
102 of victims of sexual assault through:

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

109
110 Such licensed facility shall also arrange for the protection of
111 the victim's anonymity while complying with the laws of this
112 state and may encourage the victim to notify law enforcement
113 personnel and to cooperate with them in apprehending the
114 suspect.

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

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117 775.15 Time limitations; general time limitations;
118 exceptions.—

119 (17) Notwithstanding the time periods prescribed in this
120 section, a prosecution for video voyeurism in violation of s.
121 810.145 may be commenced within 1 year after the date on which
122 the victim of video voyeurism obtains actual knowledge of the
123 existence of such a recording or the date on which the recording
124 is confiscated by a law enforcement agency, whichever occurs
125 first. Any dissemination of such a recording before the victim
126 obtains actual knowledge thereof or before its confiscation by a
127 law enforcement agency does not affect any provision of this
128 subsection.

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

131 794.056 Rape Crisis Program Trust Fund.—

132 (1) The Rape Crisis Program Trust Fund is created within
133 the Department of Health for the purpose of providing funds for
134 rape crisis centers in this state. Trust fund moneys shall be
135 used exclusively for the purpose of providing services for
136 victims of sexual assault. Funds credited to the trust fund
137 consist of those funds collected as an additional court
138 assessment in each case in which a defendant pleads guilty or
139 nolo contendere to, or is found guilty of, regardless of
140 adjudication, an offense defined in s. 775.21, s. 784.011, s.
141 784.021, s. 784.03, s. 784.041, s. 784.045, s. 784.048, s.
142 784.07, s. 784.08, s. 784.081, s. 784.082, s. 784.083, s.
143 784.085, s. 787.025, s. 787.06, s. 787.07, ~~or~~ s. 794.011, s.
144 794.05, s. 794.08, s. 796.03, s. 796.035, s. 796.04, s. 796.045,
145 s. 796.05, s. 796.06, s. 796.07(2) (a)-(d) and (i), s. 800.03, s.

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146 810.14, s. 810.145, s. 812.135, s. 817.025, s. 825.102, s.
147 825.1025, s. 827.071, s. 836.10, s. 847.0135(2), s. 847.0137, s.
148 847.0145, or s. 943.0435. Funds credited to the trust fund also
149 shall include revenues provided by law, moneys appropriated by
150 the Legislature, and grants from public or private entities.

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

154 Section 6. Section 938.085, Florida Statutes, is amended to
155 read:

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

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Section 7. Paragraph (a) of subsection (2) of section 960.003, Florida Statutes, is amended to read:

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

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

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

Section 8. 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 9. For the purpose of incorporating the amendment made by this act to section 938.085, Florida Statutes, in a

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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 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;

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(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.—

(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

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262 relationships, measures to prevent and stop dating violence and
263 abuse, and community resources available to victims of dating
264 violence and abuse.

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

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