

By Senator Fasano

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1 A bill to be entitled
2 An act relating to sexual offenses; amending s.
3 90.404, F.S.; permitting admission of evidence of the
4 defendant's commission of other crimes of a sexual
5 nature in a criminal case in which the defendant is
6 charged with a crime of a sexual nature; defining the
7 term "crime of a sexual nature"; requiring that any
8 property or material that constitutes child
9 pornography and that is used in a criminal proceeding
10 remain in the care, custody, and control of the law
11 enforcement agency, state attorney, or court;
12 permitting access to the materials by the defendant;
13 amending s. 395.1021, F.S.; requiring a licensed
14 facility that provides emergency room services to
15 arrange for the gathering of forensic medical evidence
16 required for an investigation and prosecution from a
17 victim who has reported a sexual battery to a law
18 enforcement agency or who requests that such evidence
19 be gathered for a possible future report; amending s.
20 775.15, F.S.; providing that a prosecution for video
21 voyeurism in violation of specified provisions may be
22 commenced within 1 year after the victim of video
23 voyeurism obtains actual knowledge of the existence of
24 such a recording or the recording is confiscated by a
25 law enforcement agency, whichever occurs first;
26 providing that dissemination of a recording before
27 such knowledge or confiscation does not affect such a
28 time period; amending ss. 794.056 and 938.085, F.S.;
29 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.

56
57 Be It Enacted by the Legislature of the State of Florida:
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59 Section 1. Paragraph (b) of subsection (2) of section
60 90.404, Florida Statutes, is amended to read:

61 90.404 Character evidence; when admissible.—

62 (2) OTHER CRIMES, WRONGS, OR ACTS.—

63 (b)1. In a criminal case in which the defendant is charged
64 with a crime of a sexual nature ~~involving child molestation,~~
65 evidence of the defendant's commission of other crimes of a
66 sexual nature, ~~wrongs, or acts of child molestation~~ is
67 admissible, and may be considered for its bearing on any matter
68 to which it is relevant.

69 2. For the purposes of this paragraph, the term "crime of a
70 sexual nature" ~~"child molestation"~~ means conduct proscribed by
71 s. 784.048, s. 787.01, s. 787.02, s. 787.025(2)(c), s. 794.011,
72 s. 794.05, s. 796.03, s. 796.035, s. 796.045, s. 800.04, s.
73 825.1025(2)(b), s. 827.071, ~~or~~ s. 847.0135(5), s. 847.0145, or
74 s. 985.701(1) ~~when committed against a person 16 years of age or~~
75 ~~younger.~~

76 Section 2. Prohibition on reproduction of child
77 pornography.—

78 (1) In a criminal proceeding any property or material that
79 constitutes child pornography, as defined in s. 827.071 or s.
80 847.001, Florida Statutes, must remain in the care, custody, and
81 control of the law enforcement agency, the state attorney, or
82 the court.

83 (2) Notwithstanding any law or rule of court, a court shall
84 deny, in a criminal proceeding, any request by the defendant to
85 copy, photograph, duplicate, or otherwise reproduce any property
86 or material that constitutes child pornography so long as the
87 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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175 Section 7. Paragraph (a) of subsection (2) of section
176 960.003, Florida Statutes, is amended to read:

177 960.003 HIV testing for persons charged with or alleged by
178 petition for delinquency to have committed certain offenses;
179 disclosure of results to victims.—

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

182 (a) In any case in which a person has been charged by
183 information or indictment with, or alleged by petition for
184 delinquency to have committed, any offense enumerated in s.
185 775.0877(1) (a)-(n), ~~7~~ which involves the transmission of body
186 fluids from one person to another, upon request of the victim or
187 the victim's legal guardian, or of the parent or legal guardian
188 of the victim if the victim is a minor, the court shall order
189 such person to undergo HIV testing within 48 hours after ~~of~~ the
190 filing of the information, indictment, or petition for
191 delinquency court order.

192 Section 8. For the purpose of incorporating the amendment
193 made by this act to section 794.056, Florida Statutes, in a
194 reference thereto, paragraph (a) of subsection (21) of section
195 20.435, Florida Statutes, is reenacted to read:

196 20.435 Department of Health; trust funds.—The following
197 trust funds shall be administered by the Department of Health:

198 (21) Rape Crisis Program Trust Fund.

199 (a) Funds to be credited to and uses of the trust fund
200 shall be administered in accordance with the provisions of s.
201 794.056.

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

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204 reference thereto, paragraph (b) of subsection (3) of section
205 794.055, Florida Statutes, is reenacted to read:

206 794.055 Access to services for victims of sexual battery.-

207 (3)

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

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

219 960.198 Relocation assistance for victims of domestic
220 violence and sexual violence.-

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

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

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

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

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

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

240 Section 11. Paragraph (n) of subsection (2) of section
241 1003.42, Florida Statutes, is amended to read:

242 1003.42 Required instruction.—

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

250 (n) Comprehensive health education that addresses concepts
251 of community health; consumer health; environmental health;
252 family life, including an awareness of the benefits of sexual
253 abstinence as the expected standard and the consequences of
254 teenage pregnancy; mental and emotional health; injury
255 prevention and safety; Internet safety; nutrition; personal
256 health; prevention and control of disease; and substance use and
257 abuse. The health education curriculum for students in grades 7
258 through 12 shall include a teen dating violence and abuse
259 component that includes, but is not limited to, the definition
260 of dating violence and abuse, the warning signs of dating
261 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.