

1 A bill to be entitled
 2 An act relating to sexual battery; amending s.
 3 395.1021, F.S.; requiring certain licensed facilities
 4 to provide to victims of sexual assault information
 5 regarding emergency contraception and its
 6 availability, if requested; providing a definition;
 7 amending s. 794.011, F.S.; redefining the terms
 8 "consent" and "sexual battery"; providing an effective
 9 date.

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

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 13 Section 1. Subsection (1) of section 395.1021, Florida
 14 Statutes, is amended to read:

15 395.1021 Treatment of sexual assault victims.—Any licensed
 16 facility which provides emergency room services shall arrange
 17 for the rendering of appropriate medical attention and treatment
 18 of victims of sexual assault through:

19 (1) ~~Such~~ Gynecological, psychological, and medical
 20 services that may include, but are not limited to, providing to
 21 such victims, verbally and in writing, medically and factually
 22 accurate information regarding emergency contraception,
 23 including its use, efficacy, and availability at the facility,
 24 if requested ~~as are needed by the victim.~~ As used in this
 25 subsection, the term "emergency contraception" means a drug,

26 medicine, oral hormonal compound, mixture, preparation,
 27 instrument, article, or device that is approved by the United
 28 States Food and Drug Administration and prevents a pregnancy
 29 after sexual intercourse. The term does not include a drug,
 30 medicine, oral hormonal compound, mixture, preparation,
 31 instrument, article, or device of any nature which is prescribed
 32 for the purpose of terminating a pregnancy.
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34 Such licensed facility shall also arrange for the protection of
 35 the victim's anonymity while complying with the laws of this
 36 state and may encourage the victim to notify law enforcement
 37 personnel and to cooperate with them in apprehending the
 38 suspect.

39 Section 2. Paragraphs (a) and (h) of subsection (1) of
 40 section 794.011, Florida Statutes, are amended, and subsection
 41 (8) of that section is republished, to read:

42 794.011 Sexual battery.—

43 (1) As used in this chapter:

44 (a) "Consent" means intelligent, knowing, and voluntary
 45 consent and does not include coerced submission. "Consent" may
 46 ~~shall~~ not be deemed or construed to mean the failure by the
 47 alleged victim to offer physical resistance to the offender. A
 48 person may withdraw consent after he or she has given it.

49 (h) "Sexual battery" means oral, anal, or vaginal
 50 penetration by, or union with, the sexual organ of another or

51 the anal or vaginal penetration of another by any other object,
52 or ejaculating on another person or his or her clothing;
53 however, sexual battery does not include an act done for a bona
54 fide medical purpose.

55 (8) Without regard to the willingness or consent of the
56 victim, which is not a defense to prosecution under this
57 subsection, a person who is in a position of familial or
58 custodial authority to a person less than 18 years of age and
59 who:

60 (a) Solicits that person to engage in any act which would
61 constitute sexual battery under paragraph (1)(h) commits a
62 felony of the third degree, punishable as provided in s.
63 775.082, s. 775.083, or s. 775.084.

64 (b) Engages in any act with that person while the person
65 is 12 years of age or older but younger than 18 years of age
66 which constitutes sexual battery under paragraph (1)(h) commits
67 a felony of the first degree, punishable by a term of years not
68 exceeding life or as provided in s. 775.082, s. 775.083, or s.
69 775.084.

70 (c) Engages in any act with that person while the person
71 is less than 12 years of age which constitutes sexual battery
72 under paragraph (1)(h), or in an attempt to commit sexual
73 battery injures the sexual organs of such person commits a
74 capital or life felony, punishable pursuant to subsection (2).

75 Section 3. This act shall take effect October 1, 2020.