1	A bill to be entitled
2	An act relating to sexual battery on a mentally
3	incapacitated person; amending s. 794.011, F.S.;
4	revising the definition of the term "mentally
5	incapacitated"; revising provisions concerning sexual
6	battery upon a person who is mentally incapacitated;
7	providing an effective date.
8	
9	Be It Enacted by the Legislature of the State of Florida:
10	
11	Section 1. Paragraph (c) of subsection (1) and subsection
12	(4) of section 794.011, Florida Statutes, are amended to read:
13	794.011 Sexual battery
14	(1) As used in this chapter:
15	(c) "Mentally incapacitated" means temporarily incapable
16	of appraising or controlling a person's own conduct due to the
17	influence of a narcotic, anesthetic, or intoxicating substance
18	administered without his or her consent or due to any other act
19	committed upon that person without his or her consent.
20	(4)(a) A person 18 years of age or older who commits
21	sexual battery upon a person 12 years of age or older but
22	younger than 18 years of age without that person's consent,
23	under any of the circumstances listed in paragraph (e), commits
24	a felony of the first degree, punishable by a term of years not
25	exceeding life or as provided in s. 775.082, s. 775.083, s.
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26 775.084, or s. 794.0115.

(b) A person 18 years of age or older who commits sexual battery upon a person 18 years of age or older without that person's consent, under any of the circumstances listed in paragraph (e), commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115.

(c) A person younger than 18 years of age who commits sexual battery upon a person 12 years of age or older without that person's consent, under any of the circumstances listed in paragraph (e), commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115.

(d) A person commits a felony of the first degree, punishable by a term of years not exceeding life or as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115 if the person commits sexual battery upon a person 12 years of age or older without that person's consent, under any of the circumstances listed in paragraph (e), and such person was previously convicted of a violation of:

1. Section 787.01(2) or s. 787.02(2) when the violation involved a victim who was a minor and, in the course of committing that violation, the defendant committed against the minor a sexual battery under this chapter or a lewd act under s. 800.04 or s. 847.0135(5);

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51 2. Section 787.01(3)(a)2. or 3.; Section 787.02(3)(a)2. or 3.; 52 3. 53 4. Section 800.04; Section 825.1025; 54 5. Section 847.0135(5); or 55 6. 7. This chapter, excluding subsection (10) of this 56 57 section. The following circumstances apply to paragraphs (a) -58 (e) 59 (d): The victim is physically helpless to resist. 60 1. 61 2. The offender coerces the victim to submit by threatening to use force or violence likely to cause serious 62 personal injury on the victim, and the victim reasonably 63 64 believes that the offender has the present ability to execute 65 the threat. 66 3. The offender coerces the victim to submit by threatening to retaliate against the victim, or any other 67 68 person, and the victim reasonably believes that the offender has 69 the ability to execute the threat in the future. 70 The victim is mentally incapacitated, and the offender 4. has reason to believe this or has actual knowledge of this fact 71 72 offender, without the prior knowledge or consent of the victim, 73 administers or has knowledge of someone else administering to the victim any narcotic, anesthetic, or other intoxicating 74 75 substance that mentally or physically incapacitates the victim. Page 3 of 4

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The victim is mentally defective, and the offender has 76 5. 77 reason to believe this or has actual knowledge of this fact. 78 6. The victim is physically incapacitated. 79 The offender is a law enforcement officer, correctional 7. officer, or correctional probation officer as defined in s. 80 943.10(1), (2), (3), (6), (7), (8), or (9), who is certified 81 under s. 943.1395 or is an elected official exempt from such 82 83 certification by virtue of s. 943.253, or any other person in a 84 position of control or authority in a probation, community 85 control, controlled release, detention, custodial, or similar setting, and such officer, official, or person is acting in such 86 a manner as to lead the victim to reasonably believe that the 87 offender is in a position of control or authority as an agent or 88 89 employee of government.

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Section 2. This act shall take effect October 1, 2022.

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