

1 A bill to be entitled
2 An act relating to sexual misconduct in the
3 correctional system; amending s. 944.35, F.S.;
4 prohibiting sexual misconduct by any volunteer in, or
5 any employee of a contractor or subcontractor of, the
6 Department of Corrections; providing criminal
7 penalties; providing an effective date.
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9 Be It Enacted by the Legislature of the State of Florida:

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11 Section 1. Paragraph (b) of subsection (3) of section
12 944.35, Florida Statutes, is amended to read:

13 944.35 Authorized use of force; malicious battery and
14 sexual misconduct prohibited; reporting required; penalties.—

15 (3)

16 (b)1. As used in this paragraph, the term:

17 a. "Female genitals" includes the labia minora, labia
18 majora, clitoris, vulva, hymen, and vagina.

19 b. "Sexual misconduct" means the oral, anal, or female
20 genital penetration by, or union with, the sexual organ of
21 another or the anal or female genital penetration of another by
22 any other object, but does not include an act done for a bona
23 fide medical purpose or an internal search conducted in the
24 lawful performance of the employee's duty.

25 2. Any employee of the department or a private

26 | correctional facility as defined in s. 944.710 or any volunteer
27 | in, or any employee of a contractor or subcontractor of, the
28 | department who engages in sexual misconduct with an inmate or an
29 | offender supervised by the department in the community, without
30 | committing the crime of sexual battery, commits a felony of the
31 | third degree, punishable as provided in s. 775.082, s. 775.083,
32 | or s. 775.084.

33 | 3. The consent of the inmate or offender supervised by the
34 | department in the community to any act of sexual misconduct may
35 | not be raised as a defense to a prosecution under this
36 | paragraph.

37 | 4. This paragraph does not apply to any employee of the
38 | department or any employee of a private correctional facility
39 | who is legally married to an inmate or an offender supervised by
40 | the department in the community, nor does it apply to any
41 | employee who has no knowledge, and would have no reason to
42 | believe, that the person with whom the employee has engaged in
43 | sexual misconduct is an inmate or an offender under community
44 | supervision of the department.

45 | Section 2. This act shall take effect July 1, 2023.