

Senate Bill No. 226

An act relating to prisons; creating the “Protection Against Sexual Violence in Florida Jails and Prisons Act”; amending s. 944.35, F.S.; requiring the Criminal Justice Standards and Training Commission to develop a course relating to sexual assault identification and prevention as part of the correctional-officer training program; creating s. 951.221, F.S.; prohibiting sexual misconduct by employees of county or municipal detention facilities; providing for termination of employment under certain circumstances; providing penalties; providing an effective date.

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

Section 1. This act may be cited as the “Protection Against Sexual Violence in Florida Jails and Prisons Act.”

Section 2. Paragraph (b) of subsection (3) and subsection (4) of section 944.35, Florida Statutes, are amended, and subsection (5) is added to that section, to read:

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

(3)

(b)1. As used in this paragraph, the term “sexual misconduct” means the oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object, but does not include an act done for a bona fide medical purpose or an internal search conducted in the lawful performance of the employee’s duty.

2. Any employee of the department who engages in sexual misconduct with an inmate or an offender supervised by the department in the community, without committing the crime of sexual battery, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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

4. This paragraph does not apply to any employee of the department who is legally married to an inmate or an offender supervised by the department in the community, nor does it apply to any employee who has no knowledge, and would have no reason to believe, that the person with whom the employee has engaged in sexual misconduct is an inmate or an offender under community supervision of the department.

(4)(a) Any employee required to report pursuant to this section who knowingly or willfully fails to do so, or who knowingly or willfully prevents

another person from doing so, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) Any person who knowingly or willfully submits inaccurate, incomplete, or untruthful information with regard to reports required in this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(c) Any person who knowingly or willfully coerces or threatens any other person with the intent to alter either testimony or a written report regarding an incident where force was used or an incident of sexual misconduct commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

As part of the correctional-officer training program, the Criminal Justice Standards and Training Commission shall develop course materials for inclusion in the appropriate required course specifically designed to explain the parameters of this subsection and to teach sexual assault identification and prevention methods and techniques.

Section 3. Section 951.221, Florida Statutes, is created to read:

951.221 Sexual activity between detention facility employees and inmates; penalties.—

(1) Any employee of a county or municipal detention facility or of a private detention facility under contract with a county commission who engages in sexual misconduct, as defined in s. 944.35(3)(b)1., with an inmate or an offender supervised by the facility without committing the crime of sexual battery commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The consent of an inmate to any act of sexual misconduct may not be raised as a defense to prosecution under this section.

(2) Notwithstanding prosecution, any violation of this section, as determined by the administrator of the facility, constitutes sufficient cause for dismissal of the violator from employment, and such person may not again be employed in any capacity in connection with the correctional system.

Section 4. This act shall take effect October 1, 2001.

Approved by the Governor May 31, 2001.

Filed in Office Secretary of State May 31, 2001.