



FCASV LEGISLATIVE UPDATE 2011

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Legislation That Passed

- Walk In Their Shoes Act
 - HB 251
- Public Records Exemption for Victims of Video Voyeurism
 - HB 409
- Sexting
 - HB 75



Passed Legislation cont.

- Sexual, Dating and Repeat Violence Injunction Violations
 - SB 240
- Sexual, Dating, Repeat and Domestic Violence Injunctions: Automatic Notification Service
 - HB 563
- Certification of Child Welfare Personnel
 - HB 279



Passed Legislation cont.

- Animal Cruelty
 - HB 125
- Child Visitation
 - SB 504
- Cybercrime Unit
 - HB 5401



HB 251 – Walk In Their Shoes Act

- Fla Stat 90.404
 - Evidence of the defendant's commission of other sexual offenses may be considered if relevant to any matter at trial
 - Adds more crimes to the list of sexual offenses that will require fines to be paid to the rape crisis program trust fund



HB 251 cont.

- Fla. Stat. 92.55
 - Allows children to testify with a service or therapy animal
 - Age, need of the child, rights of all parties involved will be taken into account
 - Only applies of minors 16 years of age and younger



HB 251 cont.

- Fla. Stat. 92.55 cont
 - Prohibition on reproduction of child pornography evidence
 - In a criminal proceeding, evidence containing images of child pornography will remain secure or locked in the care, custody and control of law enforcement, the state attorney or the court
 - Any motion by the defendant to copy or reproduce will be denied by the court
 - State attorney must provide opportunity for reasonable inspection by defendant



HB 251 cont.

- Fla. Stat. 395.1021
 - Forensic exams must be conducted by licensed facilities for reporting and non-reporting victims
 - previously no requirement for non-reporting victims



HB 251 cont.

- Fla. Stat. 775.15
 - Video voyeurism – extends the statute of limitations for video voyeurism prosecution from 1 year from the time the video was produced to 1 year from the time victim and/or law enforcement obtains knowledge of the images.



HB 251 cont.

- Fla. Stat. 794.052
 - Notification of victim's rights and services
 - Law enforcement must now provide victim transportation to certified rape crisis center
 - Law enforcement must allow victim to view final police report and provide a statement to its accuracy



HB 251 cont.

- Fla. Stat. 960.003
 - Hepatitis and HIV testing are now both required w/in 48 hours of an indictment or information
 - If the victim is a minor this testing is available upon request of the parent and shall be done w/in 48 hours of the request
 - A physician may require any necessary follow up exams



HB 251 cont.

- Fla. Stat. 827.071
 - Adds ‘intentionally view’ to child pornography prohibition statute
 - Creates a separate offense of possession, control and intentional viewing



HB 251 cont.

- Budget set aside for non-recurring funds to be used in fiscal year 2011-12 for the purpose of educating children and adults about sexual abuse
- An in-school curriculum will be developed and a 24 hour crisis hotline will be established
- Legislation was effective 7/1/11



HB 409

- Fla. Stat. 119.071 - Public Records Exemption for Victims of Video Voyeurism
 - Any image of a victim of video voyeurism is exempt from all public records requirements
 - Any body part depicted in the image is exempt; the victim's face does not have to be visible
 - Legislation effective 7/1/11



HB 75

- Sexting
 - effective 10/1/11
 - A minor commits the offense of sexting if he or she knowingly uses a computer or other device to transmit images of a sexual nature to another minor
 - If the minor receives the image **and** tries to tell law enforcement or a parent **and** does not solicit or transmit the image to another party, then there is no offense.



HB 75 cont.

- Sexting cont.
 - Prosecution of a minor is not at all prohibited if the image contains nudity + sexual excitement or activity
 - A first offense under this law is noncriminal and will be community and/or a fine; any subsequent offense will be a first degree misdemeanor



SB 240

- Fla. Stat. 784.047 – Sexual Dating and Repeat Violence Injunctions
 - Makes ways to violate identical to violations of domestic violence injunctions
 - New provisions took effect on July 1, 2011



SB 240

- Ways to violate include:
 - calls or contacts the victim
 - refuses to leave the place where the victim and the perpetrator live
 - **goes to or comes within 500 feet of the victim's home, school, job or any other place prohibited by the protection order***



SB 240

- Violations cont.
 - **purposely comes within 100 feet of the victim's vehicle***
 - **refuses to surrender firearms or ammunition if ordered by the court***
 - **defaces or destroys the victim's personal property (including vehicles)***
 - physically harms the victim or threatens to do so

*violations in bold are effective 7/1/11



HB 563

- Fla. Stat. 741.30, 784.046
 - requires the Florida Assoc. of Court Clerks, subject to available funding, to develop an automated process for petitioners to request notification when respondents are served with domestic, repeat, dating or sexual violence injunctions.
 - Notice must be made within 12 hours after law enforcement has served the injunction upon the respondent.
 - The notification must include the date, time, and location that the protective injunction was served.
 - Takes effect July 1, 2011.



HB 279

- Fla. Stat. 402.40, 402.731 – Certification of Child Welfare Personnel
 - Eliminates the child welfare training program at DCF and instead requires individuals providing child welfare services to earn and maintain a professional certification from a Department approved certification entity.



HB 279 cont.

- It is unclear how training will be provided for child welfare personnel after the bill takes effect.
- Because training requirements must be approved in advance by the federal government, this legislation could have an impact on federal funding.
- This bill takes effect October 1, 2011.



HB 125

- Fla. Stat. 828.126 – Animal Cruelty
 - Prohibits knowingly engaging in sexual conduct or contact with an animal.
 - It also prohibits knowingly:
 - Aiding or abetting another in committing the conduct or contact;
 - permitting the acts to be conducted on one's premises;
 - or organizing, promoting, participating as an observer in, or performing services to facilitate the acts for commercial or recreational purposes.



HB 125 cont.

- This legislation came in response to several instances of sexual battery of an animal across the state that could not be prosecuted specifically.
- FCASV has supported this legislation for the past several years because of the research link between animal cruelty and violence against women and children.
- All violations of this statute are first degree misdemeanors.
- This legislation will take effect October 1, 2011.



SB 504

- Fla. Stat. 39.0139 – Child Visitation
 - Increases the proof needed in Florida’s Keeping Children Safe Act to require ‘probable cause’ of sexual abuse by a parent or caregiver in order to create a presumption of detriment to a child and prevent visitation.
 - Previously, the Act, sought by former foster children, created a rebuttable presumption that visitation with a parent or caregiver will be detrimental to the child if the parent or caregiver has been reported to the child abuse hotline for sexual abuse of a child or has been convicted of certain crimes involving children.



SB 504 cont.

- Several court cases have found the Act unconstitutional because the burden of proof of the sexual abuse was too low.
- FCASV initially had concerns about this legislation but did not ultimately oppose it due to the constitutional issues.
- This legislation takes effect July 1, 2011.



HB 5401

- Fla. Stat. 943.0415 – Cybercrime Unit
 - This legislation transferred the cybercrime unit (internet child sexual exploitation investigations) from the Attorney General's office to FDLE.
 - The office may investigate violations of state law pertaining to the sexual exploitation of children which are facilitated by or connected to the use of any device capable of storing electronic data.
 - This legislation takes effect July 1, 2011.



Failed Legislation

- Sex offenders and Predators – HB 1277/SB 1890
- Sexual Exploitation (The Florida Safe Harbor Act) SB 718/HB 145
- Human Trafficking SB 246 /HB 477
- Domestic Violence and Stalking SB 1674 /HB 1213

HB 1277/SB 1890

Sex Offenders and Predators

- This legislation would have expanded the internet identifiers sex offenders were required to provide the Department of Corrections;
- provided slightly expanded circumstances for juveniles to petition to have their names removed from the sex offender registry (i.e. both the victim and the offender were between the ages of 13 and 18);

HB 1277/SB 1890 cont.

- removed the requirement for the court to verbally order specific sex offender probation requirements (made them automatic).
- At various points in the process, the bill also included sexting and child sexual exploitation provisions. FCASV supported the legislation.

SB 718/HB 145

Florida Safe Harbor Act

- The legislation decriminalizes a minor's participation in prostitution and increased the civil penalties for certain violations of the prostitution statute from \$500 to \$5000 with funds going to create safe houses.
- The legislation failed both last year and this year largely because of its fiscal impact. FCASV has supported the legislation but has also recommended a pilot project in the state to address child sexual exploitation/domestic minor sex trafficking and develop best practices.



SB 246 /HB 477

Human Trafficking

- This legislation aimed to address massage parlors operating as fronts for sex trafficking and would have required massage establishments to have certain official documents available including those related to the immigration status of employees.
- The legislation provided criminal penalties for operating a massage establishment for prostitution purposes.

SB 1674/HB 1213

Domestic Violence and Stalking

- This legislation would have created an injunction for protection against stalking and/or cyberstalking and would have also allowed the court to charge a filing fee for repeat violence injunctions.
- FCASV recommended language to address sexual violence issues and other issues related to stalking. The bill was not heard.



QUESTIONS?????