

26 | 775.084, or s. 794.0115.

27 | (b) A person 18 years of age or older who commits sexual
28 | battery upon a person 18 years of age or older without that
29 | person's consent, under any of the circumstances listed in
30 | paragraph (e), commits a felony of the first degree, punishable
31 | as provided in s. 775.082, s. 775.083, s. 775.084, or s.
32 | 794.0115.

33 | (c) A person younger than 18 years of age who commits
34 | sexual battery upon a person 12 years of age or older without
35 | that person's consent, under any of the circumstances listed in
36 | paragraph (e), commits a felony of the first degree, punishable
37 | as provided in s. 775.082, s. 775.083, s. 775.084, or s.
38 | 794.0115.

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

46 | 1. Section 787.01(2) or s. 787.02(2) when the violation
47 | involved a victim who was a minor and, in the course of
48 | committing that violation, the defendant committed against the
49 | minor a sexual battery under this chapter or a lewd act under s.
50 | 800.04 or s. 847.0135(5);

- 51 2. Section 787.01(3)(a)2. or 3.;
- 52 3. Section 787.02(3)(a)2. or 3.;
- 53 4. Section 800.04;
- 54 5. Section 825.1025;
- 55 6. Section 847.0135(5); or
- 56 7. This chapter, excluding subsection (10) of this
- 57 section.

58 (e) The following circumstances apply to paragraphs (a) -
59 (d):

- 60 1. The victim is physically helpless to resist.
- 61 2. The offender coerces the victim to submit by
- 62 threatening to use force or violence likely to cause serious
- 63 personal injury on the victim, and the victim reasonably
- 64 believes that the offender has the present ability to execute
- 65 the threat.
- 66 3. The offender coerces the victim to submit by
- 67 threatening to retaliate against the victim, or any other
- 68 person, and the victim reasonably believes that the offender has
- 69 the ability to execute the threat in the future.
- 70 4. The victim is mentally incapacitated, and the offender
- 71 has reason to believe this or has actual knowledge of this fact
- 72 ~~offender, without the prior knowledge or consent of the victim,~~
- 73 ~~administers or has knowledge of someone else administering to~~
- 74 ~~the victim any narcotic, anesthetic, or other intoxicating~~
- 75 ~~substance that mentally or physically incapacitates the victim.~~

76 5. The victim is mentally defective, and the offender has
77 reason to believe this or has actual knowledge of this fact.

78 6. The victim is physically incapacitated.

79 7. The offender is a law enforcement officer, correctional
80 officer, or correctional probation officer as defined in s.
81 943.10(1), (2), (3), (6), (7), (8), or (9), who is certified
82 under s. 943.1395 or is an elected official exempt from such
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
86 setting, and such officer, official, or person is acting in such
87 a manner as to lead the victim to reasonably believe that the
88 offender is in a position of control or authority as an agent or
89 employee of government.

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