

IN THE CIRCUIT COURT OF THE
15TH JUDICIAL CIRCUIT IN AND
FOR PALM BEACH COUNTY,
FLORIDA

CASE NO:
502008CA037319XXXXMB AB

B.B.,

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

_____/

**MOTION TO COMPEL PROPER RESPONSES TO PLAINTIFF'S SUPPLEMENTAL
REQUESTS FOR ADMISSION DATED FEBRUARY 4, 2010**

Plaintiff, B.B., by and through undersigned counsel, hereby files this Motion to Compel Defendant, JEFFREY EPSTEIN, to properly respond to Plaintiff's Requests for Admission Dated February 4, 2010, and as grounds therefore states as follows:

1. On February 4, 2010, Plaintiff served Defendant with twelve Requests for Admissions. (Exhibit "A").
2. On March 17, 2010, Defendant responded to each Request identically (Exhibit "A") – in essence acknowledging that Defendant intends to respond to all relevant discovery but at the moment is asserting his U.S. Constitutional privileges.
3. Florida Statute § 775.15 prescribes the statute of limitations for the criminal acts Defendant committed upon Plaintiff. Statute attached hereto as Exhibit "B."
4. Plaintiff is a victim of the second degree felonies prescribed under Florida Statutes §§ 800.04 ("Lewd or lascivious offenses committed upon or in the presence of persons

less than 16 years of age") and 794.011 ("Sexual battery"). Statutes attached hereto as Exhibit "C."

5. The statute of limitation for a second degree felony is three years. However, due to the nature of the crime¹ the statute of limitation did not begin to run until after the Plaintiff turned eighteen years old.

6. The crime occurred before the Plaintiff turned eighteen years old.

7. The Plaintiff turned eighteen years old before March, 2007.

8. Accordingly, the statute of limitations expired before March, 2010. As of today, the Defendant no longer fears criminal prosecution for the crimes he committed upon Plaintiff.

9. In response to Plaintiff's Requests for Admissions, after the statute of limitation ran, Defendant asserted his Constitutional privileges. Defendant's assertion is improper. The statute of limitations expired; Defendant no longer fears criminal prosecution for his acts against Plaintiff.

10. Accordingly, Defendant should no longer be allowed to hide behind his U.S. Constitutional privileges. It is time for Defendant to fulfill his intention and respond to all relevant discovery regarding this lawsuit.

WHEREFORE, Plaintiff requests this honorable Court to require Defendant to properly Respond to Plaintiff's Requests for Admissions dated February 4, 2010.

¹ Fla. Stat. § 775.15(13)(a) "(13)(a) If the victim of a violation of s. 794.011, former s. 794.05, Florida Statutes 1995, s. 800.04, s. 826.04, or s. 847.0135(5) is under the age of 18, the applicable period of limitation, if any, does not begin to run until the victim has reached the age of 18 or the violation is reported to a law enforcement agency or other governmental agency, whichever occurs earlier. Such law enforcement agency or other governmental agency shall promptly report such allegation to the state attorney for the judicial circuit in which the alleged violation occurred. If the offense is a first or second degree felony violation of s. 794.011, and the offense is reported within 72 hours after its commission, the prosecution for such offense may be commenced at any time. This paragraph applies to any such offense except an offense the prosecution of which would have been barred by subsection (2) on or before December 31, 1984."

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by U. S. Mail, postage prepaid, this 8 day of April, 2010 to Jack A. Goldberger, Esq., 250 Australian Avenue, Suite 1400, West Palm Beach, FL 33401; Bruce E. Reinhart, Esq., 250 Australian Avenue South, Suite 1400, West Palm Beach, FL 33401; Robert D. Critton, Jr., Michael J. Pike, 303 Banyan Boulevard, Suite 400, West Palm Beach, FL 33401.

LEOPOLD-KUVIN, [REDACTED]
2925 PGA Boulevard
Suite 200
Palm Beach Gardens, FL 33410

[REDACTED] (facsimile)

By: _____

SPENCER T. KUVIN
Florida Bar No.: 0089737
ADAM J. LANGINO
Florida Bar No.: 0031368

IN THE CIRCUIT COURT OF THE
15TH JUDICIAL CIRCUIT IN AND
FOR PALM BEACH COUNTY,
FLORIDA

B.B.,

CASE NO:
502008CA037319XXXXMB AB

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

**DEFENDANT, JEFFERY EPSTEIN'S RESPONSE TO
PLAINTIFF'S SUPPLEMENTAL REQUEST FOR ADMISSIONS
DATED 2/4/10**

Defendant, JEFFREY EPSTEIN, by and through the undersigned attorneys, and pursuant to F.R.C.P. 1.350, hereby responds to Plaintiff, B.B.'s Request for Admissions, dated February 4, 2010, as follows:

1. Admit that Jeffrey Epstein had a motive to sexually assault the Plaintiff.

Response: In response, Defendant asserts his U.S. constitutional privileges as specified herein. I intend to respond to all relevant discovery regarding this lawsuit, however, my attorneys have counseled me that I cannot provide answers to any discovery relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation and my Fifth Amendment Privilege. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. Defendant asserts his Fifth Amendment privilege against self-incrimination. See *DeLisi v. Bankers Ins. Company*, 436 So.2d 1099 (Fla. 4th DCA 1983); *Malloy v. Hogan*, 84 S.Ct. 1489, 1495 (1964) (the Fifth Amendment's Self-Incrimination Clause applies to the states through the Due Process Clause of the Fourteenth Amendment - "[i]t would be incongruous to have different standards determine the validity of a claim of privilege based on the same feared prosecution, depending on whether the claim was asserted in state or federal court."); 5 *Fed.Prac. & Proc. Civ.* 3d §1280 *Effect of Failure to Deny - Privilege Against Self-Incrimination* ("...court must treat the defendant's claim of privilege as equivalent to a specific denial."). See also 24 *Fla.Jur.2d Evidence* §592. *Defendants in civil actions*. - "... a civil defendant who raises an affirmative defense is not precluded from asserting the privilege [against self-incrimination], because affirmative defenses do not constitute the kind of voluntary



application for affirmative relief" which would prevent a plaintiff bringing a claim seeking affirmative relief from asserting the privilege.

2. Admit that Jeffrey Epstein had the opportunity to sexually assault the Plaintiff.

Response: In response, Defendant asserts his U.S. constitutional privileges as specified herein. I intend to respond to all relevant discovery regarding this lawsuit, however, my attorneys have counseled me that I cannot provide answers to any discovery relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation and my Fifth Amendment Privilege. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. Defendant asserts his Fifth Amendment privilege against self-incrimination. See DeLisi v. Bankers Ins. Company, 436 So.2d 1099 (Fla. 4th DCA 1983); Malloy v. Hogan, 84 S.Ct. 1489, 1495 (1964)(the Fifth Amendment's Self-Incrimination Clause applies to the states through the Due Process Clause of the Fourteenth Amendment - "[i]t would be incongruous to have different standards determine the validity of a claim of privilege based on the same feared prosecution, depending on whether the claim was asserted in state or federal court."); 5 Fed.Prac. & Proc. Civ. 3d §1280 *Effect of Failure to Deny - Privilege Against Self-Incrimination* ("...court must treat the defendant's claim of privilege as equivalent to a specific denial."). See also 24 Fla.Jur.2d Evidence §592. *Defendants in civil actions*. - "... a civil defendant who raises an affirmative defense is not precluded from asserting the privilege [against self-incrimination], because affirmative defenses do not constitute the kind of voluntary application for affirmative relief" which would prevent a plaintiff bringing a claim seeking affirmative relief from asserting the privilege.

3. Admit that Jeffrey Epstein had the opportunity to meet the Plaintiff.

Response: In response, Defendant asserts his U.S. constitutional privileges as specified herein. I intend to respond to all relevant discovery regarding this lawsuit, however, my attorneys have counseled me that I cannot provide answers to any discovery relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation and my Fifth Amendment Privilege. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. Defendant asserts his Fifth Amendment privilege against self-incrimination. See DeLisi v. Bankers Ins. Company, 436 So.2d 1099 (Fla. 4th DCA 1983); Malloy v. Hogan, 84 S.Ct. 1489, 1495 (1964)(the Fifth Amendment's Self-Incrimination Clause applies to the states through the Due Process Clause of the Fourteenth Amendment - "[i]t would be incongruous to have different standards determine the validity of a claim of privilege based on the same feared prosecution, depending on whether the claim was asserted in state or federal court."); 5 Fed.Prac. & Proc. Civ. 3d §1280 *Effect of Failure to Deny - Privilege Against*

Self-Incrimination ("...court must treat the defendant's claim of privilege as equivalent to a specific denial."). See also 24 Fla. Jur. 2d Evidence §592. *Defendants in civil actions*. - "... a civil defendant who raises an affirmative defense is not precluded from asserting the privilege [against self-incrimination], because affirmative defenses do not constitute the kind of voluntary application for affirmative relief" which would prevent a plaintiff bringing a claim seeking affirmative relief from asserting the privilege.

4. Admit that Jeffrey Epstein had the opportunity to have the Plaintiff in his home in the year 2005.

Response: In response, Defendant asserts his U.S. constitutional privileges as specified herein. I intend to respond to all relevant discovery regarding this lawsuit, however, my attorneys have counseled me that I cannot provide answers to any discovery relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation and my Fifth Amendment Privilege. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. Defendant asserts his Fifth Amendment privilege against self-incrimination. See DeLisi v. Bankers Ins. Company, 436 So.2d 1099 (Fla. 4th DCA 1983); Malloy v. Hogan, 84 S.Ct. 1489, 1495 (1964) (the Fifth Amendment's Self-Incrimination Clause applies to the states through the Due Process Clause of the Fourteenth Amendment - "[i]t would be incongruous to have different standards determine the validity of a claim of privilege based on the same feared prosecution, depending on whether the claim was asserted in state or federal court."); 5 Fed. Prac. & Proc. Civ. 3d §1280 *Effect of Failure to Deny - Privilege Against Self-Incrimination* ("...court must treat the defendant's claim of privilege as equivalent to a specific denial."). See also 24 Fla. Jur. 2d Evidence §592. *Defendants in civil actions*. - "... a civil defendant who raises an affirmative defense is not precluded from asserting the privilege [against self-incrimination], because affirmative defenses do not constitute the kind of voluntary application for affirmative relief" which would prevent a plaintiff bringing a claim seeking affirmative relief from asserting the privilege.

4. Admit that Jeffrey Epstein had the intent to sexually assault the Plaintiff.

Response: In response, Defendant asserts his U.S. constitutional privileges as specified herein. I intend to respond to all relevant discovery regarding this lawsuit, however, my attorneys have counseled me that I cannot provide answers to any discovery relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation and my Fifth Amendment Privilege. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. Defendant asserts his Fifth Amendment privilege

against self-incrimination. See DeLisi v. Bankers Ins. Company, 436 So.2d 1099 (Fla. 4th DCA 1983); Malloy v. Hogan, 84 S.Ct. 1489, 1495 (1964) (the Fifth Amendment's Self-Incrimination Clause applies to the states through the Due Process Clause of the Fourteenth Amendment - "[i]t would be incongruous to have different standards determine the validity of a claim of privilege based on the same feared prosecution, depending on whether the claim was asserted in state or federal court."); 5 Fed.Prac. & Proc. Civ. 3d §1280 *Effect of Failure to Deny - Privilege Against Self-Incrimination* ("...court must treat the defendant's claim of privilege as equivalent to a specific denial."). See also 24 Fla.Jur.2d Evidence §592, *Defendants in civil actions*. - "... a civil defendant who raises an affirmative defense is not precluded from asserting the privilege [against self-incrimination], because affirmative defenses do not constitute the kind of voluntary application for affirmative relief" which would prevent a plaintiff bringing a claim seeking affirmative relief from asserting the privilege.

6. Admit that Jeffrey Epstein had a plan in place to sexually assault the Plaintiff.

Response: In response, Defendant asserts his U.S. constitutional privileges as specified herein. I intend to respond to all relevant discovery regarding this lawsuit, however, my attorneys have counseled me that I cannot provide answers to any discovery relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation and my Fifth Amendment Privilege. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. Defendant asserts his Fifth Amendment privilege against self-incrimination. See DeLisi v. Bankers Ins. Company, 436 So.2d 1099 (Fla. 4th DCA 1983); Malloy v. Hogan, 84 S.Ct. 1489, 1495 (1964) (the Fifth Amendment's Self-Incrimination Clause applies to the states through the Due Process Clause of the Fourteenth Amendment - "[i]t would be incongruous to have different standards determine the validity of a claim of privilege based on the same feared prosecution, depending on whether the claim was asserted in state or federal court."); 5 Fed.Prac. & Proc. Civ. 3d §1280 *Effect of Failure to Deny - Privilege Against Self-Incrimination* ("...court must treat the defendant's claim of privilege as equivalent to a specific denial."). See also 24 Fla.Jur.2d Evidence §592, *Defendants in civil actions*. - "... a civil defendant who raises an affirmative defense is not precluded from asserting the privilege [against self-incrimination], because affirmative defenses do not constitute the kind of voluntary application for affirmative relief" which would prevent a plaintiff bringing a claim seeking affirmative relief from asserting the privilege.

7. Admit that Jeffrey Epstein had a plan in place to procure girls under the age of eighteen to come to his home for nude massages in 2005.

Response: In response, Defendant asserts his U.S. constitutional privileges as specified herein. I intend to respond to all relevant discovery regarding this lawsuit, however, my attorneys have counseled me that I cannot provide answers to any discovery relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation and my Fifth Amendment Privilege. Accordingly, I assert my federal

constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. Defendant asserts his Fifth Amendment privilege against self-incrimination. See DeLisi v. Bankers Ins. Company, 436 So.2d 1099 (Fla. 4th DCA 1983); Malloy v. Hogan, 84 S.Ct. 1489, 1495 (1964)(the Fifth Amendment's Self-Incrimination Clause applies to the states through the Due Process Clause of the Fourteenth Amendment - "[i]t would be incongruous to have different standards determine the validity of a claim of privilege based on the same feared prosecution, depending on whether the claim was asserted in state or federal court."); 5 Fed.Prac. & Proc. Civ. 3d §1280 *Effect of Failure to Deny - Privilege Against Self-Incrimination* ("...court must treat the defendant's claim of privilege as equivalent to a specific denial."). See also 24 Fla.Jur.2d Evidence §592. *Defendants in civil actions*. - "... a civil defendant who raises an affirmative defense is not precluded from asserting the privilege [against self-incrimination], because affirmative defenses do not constitute the kind of voluntary application for affirmative relief" which would prevent a plaintiff bringing a claim seeking affirmative relief from asserting the privilege.

8. Admit that Jeffrey Epstein had knowledge that Plaintiff was under the age of eighteen when she came to his home for a nude massage in 2005.

Response: In response, Defendant asserts his U.S. constitutional privileges as specified herein. I intend to respond to all relevant discovery regarding this lawsuit, however, my attorneys have counseled me that I cannot provide answers to any discovery relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation and my Fifth Amendment Privilege. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. Defendant asserts his Fifth Amendment privilege against self-incrimination. See DeLisi v. Bankers Ins. Company, 436 So.2d 1099 (Fla. 4th DCA 1983); Malloy v. Hogan, 84 S.Ct. 1489, 1495 (1964)(the Fifth Amendment's Self-Incrimination Clause applies to the states through the Due Process Clause of the Fourteenth Amendment - "[i]t would be incongruous to have different standards determine the validity of a claim of privilege based on the same feared prosecution, depending on whether the claim was asserted in state or federal court."); 5 Fed.Prac. & Proc. Civ. 3d §1280 *Effect of Failure to Deny - Privilege Against Self-Incrimination* ("...court must treat the defendant's claim of privilege as equivalent to a specific denial."). See also 24 Fla.Jur.2d Evidence §592. *Defendants in civil actions*. - "... a civil defendant who raises an affirmative defense is not precluded from asserting the privilege [against self-incrimination], because affirmative defenses do not constitute the kind of voluntary application for affirmative relief" which would prevent a plaintiff bringing a claim seeking affirmative relief from asserting the privilege.

9. Admit that Jeffrey Epstein did not make a mistake regarding Plaintiff's age at the time she came to his home for a nude massage.

Response: In response, Defendant asserts his U.S. constitutional privileges as specified herein. I intend to respond to all relevant discovery regarding this lawsuit, however, my attorneys have counseled me that I cannot provide answers to any discovery relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation and my Fifth Amendment Privilege. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. Defendant asserts his Fifth Amendment privilege against self-incrimination. See DeLisi v. Bankers Ins. Company, 436 So.2d 1099 (Fla. 4th DCA 1983); Malloy v. Hogan, 84 S.Ct. 1489, 1495 (1964)(the Fifth Amendment's Self-Incrimination Clause applies to the states through the Due Process Clause of the Fourteenth Amendment - "[i]t would be incongruous to have different standards determine the validity of a claim of privilege based on the same feared prosecution, depending on whether the claim was asserted in state or federal court."); 5 Fed.Prac. & Proc. Civ. 3d §1280 *Effect of Failure to Deny - Privilege Against Self-Incrimination* ("...court must treat the defendant's claim of privilege as equivalent to a specific denial."). See also 24 Fla.Jur.2d Evidence §592. *Defendants in civil actions*. - "... a civil defendant who raises an affirmative defense is not precluded from asserting the privilege [against self-incrimination], because affirmative defenses do not constitute the kind of voluntary application for affirmative relief" which would prevent a plaintiff bringing a claim seeking affirmative relief from asserting the privilege.

10. Admit that Jeffrey Epstein did not make a mistake about the age of any of the girls which came to his home in the years 2004, 2005 or 2006 regarding their ages being under eighteen.

Response: In response, Defendant asserts his U.S. constitutional privileges as specified herein. I intend to respond to all relevant discovery regarding this lawsuit, however, my attorneys have counseled me that I cannot provide answers to any discovery relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation and my Fifth Amendment Privilege. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. Defendant asserts his Fifth Amendment privilege against self-incrimination. See DeLisi v. Bankers Ins. Company, 436 So.2d 1099 (Fla. 4th DCA 1983); Malloy v. Hogan, 84 S.Ct. 1489, 1495 (1964)(the Fifth Amendment's Self-Incrimination Clause applies to the states through the Due Process Clause of the Fourteenth Amendment - "[i]t would be incongruous to have different standards determine the validity of a claim of privilege based on the same feared prosecution, depending on whether the claim was asserted in state or federal court."); 5 Fed.Prac. & Proc. Civ. 3d §1280 *Effect of Failure to Deny - Privilege Against Self-Incrimination* ("...court must treat the defendant's claim of privilege as equivalent to a specific denial."). See also 24 Fla.Jur.2d Evidence §592. *Defendants in civil actions*. - "... a civil defendant who raises an affirmative defense is not precluded from asserting the privilege

[against self-incrimination], because affirmative defenses do not constitute the kind of voluntary application for affirmative relief" which would prevent a plaintiff bringing a claim seeking affirmative relief from asserting the privilege.

11. Admit that Jeffrey Epstein had knowledge that all the girls that came to his home for nude massages in 2004, 2005 or 2006 were under the age of eighteen.

Response: In response, Defendant asserts his U.S. constitutional privileges as specified herein. I intend to respond to all relevant discovery regarding this lawsuit, however, my attorneys have counseled me that I cannot provide answers to any discovery relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation and my Fifth Amendment Privilege. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. Defendant asserts his Fifth Amendment privilege against self-incrimination. See DeLisi v. Bankers Ins. Company, 436 So.2d 1099 (Fla. 4th DCA 1983); Malloy v. Hogan, 84 S.Ct. 1489, 1495 (1964) (the Fifth Amendment's Self-Incrimination Clause applies to the states through the Due Process Clause of the Fourteenth Amendment - "[i]t would be incongruous to have different standards determine the validity of a claim of privilege based on the same feared prosecution, depending on whether the claim was asserted in state or federal court."); 5 Fed.Prac. & Proc. Civ. 3d §1280 *Effect of Failure to Deny - Privilege Against Self-Incrimination* ("...court must treat the defendant's claim of privilege as equivalent to a specific denial."). See also 24 Fla.Jur.2d Evidence §592. *Defendants in civil actions*. - "... a civil defendant who raises an affirmative defense is not precluded from asserting the privilege [against self-incrimination], because affirmative defenses do not constitute the kind of voluntary application for affirmative relief" which would prevent a plaintiff bringing a claim seeking affirmative relief from asserting the privilege.

12. Admit that Jeffrey Epstein had knowledge that some the girls that came to his home for nude massages in 2004, 2005 or 2006 were under the age of eighteen.

Response: In response, Defendant asserts his U.S. constitutional privileges as specified herein. I intend to respond to all relevant discovery regarding this lawsuit, however, my attorneys have counseled me that I cannot provide answers to any discovery relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation and my Fifth Amendment Privilege. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. Defendant asserts his Fifth Amendment privilege against self-incrimination. See DeLisi v. Bankers Ins. Company, 436 So.2d 1099 (Fla. 4th DCA 1983); Malloy v. Hogan, 84 S.Ct. 1489, 1495 (1964) (the Fifth Amendment's Self-Incrimination Clause applies to the states through the Due Process Clause of the Fourteenth Amendment - "[i]t

would be incongruous to have different standards determine the validity of a claim of privilege based on the same feared prosecution, depending on whether the claim was asserted in state or federal court."); 5 Fed.Prac. & Proc. Civ. 3d §1280 *Effect of Failure to Deny - Privilege Against Self-Incrimination* ("...court must treat the defendant's claim of privilege as equivalent to a specific denial."). See also 24 Fla.Jur.2d *Evidence* §592. *Defendants in civil actions*. - "... a civil defendant who raises an affirmative defense is not precluded from asserting the privilege [against self-incrimination], because affirmative defenses do not constitute the kind of voluntary application for affirmative relief" which would prevent a plaintiff bringing a claim seeking affirmative relief from asserting the privilege.

WE HEREBY CERTIFY that a true copy of the foregoing was sent by fax and U.S.

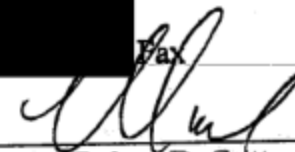
Mail to the following addressees on this 17 day of March, 2010.

Theodore J. Leopold, Esq.
Spencer T. Kuvin, Esq.
Leopold-Kuvin, P.A.
2925 PGA Blvd., Suite 200
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Fax: [REDACTED]
Co-Counsel for Defendant Jeffrey Epstein

BURMAN, CRITTON, LUTTIER & COLEMAN, LLP
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West Palm Beach, FL 33401

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By: 
Robert D. Critton, Jr.
Florida Bar #224162
Michael J. Pike
Florida Bar #617296
(Counsel for Defendant Jeffrey Epstein)

IN THE CIRCUIT COURT OF THE
15TH JUDICIAL CIRCUIT IN AND
FOR PALM BEACH COUNTY,
FLORIDA

B.B.,

Plaintiff,

CASE NO:

502008CA037319XXXXMB AB

vs.

JEFFREY EPSTEIN,

Defendant.

**DEFENDANT, JEFFERY EPSTEIN'S RESPONSE TO
PLAINTIFF'S FIRST REQUEST FOR ADMISSIONS**

Defendant, JEFFREY EPSTEIN, by and through the undersigned attorneys, and pursuant to F.R.C.P. 1.350, hereby responds to Plaintiff, B.B.'s Request for Admissions, as follows:

1. Admit that B.B. suffered emotional trauma as a result of what occurred at Jeffrey Epstein's home.

Response: In response, Defendant asserts his U.S. constitutional privileges as specified herein. I intend to respond to all relevant discovery regarding this lawsuit, however, my attorneys have counseled me that I cannot provide answers to any discovery relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation and my Fifth Amendment Privilege. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. Defendant asserts his Fifth Amendment privilege against self-incrimination. See *DeLisi v. Bankers Ins. Company*, 436 So.2d 1099 (Fla. 4th DCA 1983); *Malloy v. Hogan*, 84 S.Ct. 1489, 1495 (1964) (the Fifth Amendment's Self-Incrimination Clause applies to the states through the Due Process Clause of the Fourteenth Amendment - "[i]t would be incongruous to have different standards determine the validity of a claim of privilege based on the same feared prosecution, depending on whether the claim was asserted in state or federal court."); 5 *Fed.Prac. & Proc. Civ.* 3d §1280 *Effect of Failure to Deny - Privilege Against Self-Incrimination* ("...court must treat the defendant's claim of privilege as equivalent to a specific denial."). See also 24 *Fla.Jur.2d Evidence* §592. *Defendants in civil actions*. - "... a civil defendant who raises an affirmative defense is not precluded from asserting the privilege

[against self-incrimination], because affirmative defenses do not constitute the kind of voluntary application for affirmative relief" which would prevent a plaintiff bringing a claim seeking affirmative relief from asserting the privilege.

However, Epstein's attorneys state that his expert, Dr. Hall, will provide information/testimony that will refute this allegation.

2. Admit that Dr. Mary Littlefield's diagnosis of B.B. with having post traumatic stress disorder as a result of what occurred at Jeffrey Epstein's home is a correct diagnosis.

Response: In response, Defendant asserts his U.S. constitutional privileges as specified herein. I intend to respond to all relevant discovery regarding this lawsuit, however, my attorneys have counseled me that I cannot provide answers to any discovery relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation and my Fifth Amendment Privilege. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. Defendant asserts his Fifth Amendment privilege against self-incrimination. See DeLisi v. Bankers Ins. Company, 436 So.2d 1099 (Fla. 4th DCA 1983); Malloy v. Hogan, 84 S.Ct. 1489, 1495 (1964) (the Fifth Amendment's Self-Incrimination Clause applies to the states through the Due Process Clause of the Fourteenth Amendment - "[i]t would be incongruous to have different standards determine the validity of a claim of privilege based on the same feared prosecution, depending on whether the claim was asserted in state or federal court."); 5 Fed.Prac. & Proc. Civ. 3d §1280 *Effect of Failure to Deny - Privilege Against Self-Incrimination* ("...court must treat the defendant's claim of privilege as equivalent to a specific denial."). See also 24 Fla.Jur.2d Evidence §592. *Defendants in civil actions*. - "... a civil defendant who raises an affirmative defense is not precluded from asserting the privilege [against self-incrimination], because affirmative defenses do not constitute the kind of voluntary application for affirmative relief" which would prevent a plaintiff bringing a claim seeking affirmative relief from asserting the privilege.

However, Epstein's attorneys state that his expert, Dr. Hall, will provide information/testimony that will refute this allegation.

3. Admit from the date of incident at Jeffrey Epstein's home, B.B. has not faked or exaggerated her emotional trauma or symptoms on any occasion.

Response: In response, Defendant asserts his U.S. constitutional privileges as specified herein. I intend to respond to all relevant discovery regarding this lawsuit, however, my attorneys have counseled me that I cannot provide answers to any discovery relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation and my Fifth Amendment Privilege. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would

unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. Defendant asserts his Fifth Amendment privilege against self-incrimination. See DeLisi v. Bankers Ins. Company, 436 So.2d 1099 (Fla. 4th DCA 1983); Malloy v. Hogan, 84 S.Ct. 1489, 1495 (1964) (the Fifth Amendment's Self-Incrimination Clause applies to the states through the Due Process Clause of the Fourteenth Amendment - "[i]t would be incongruous to have different standards determine the validity of a claim of privilege based on the same feared prosecution, depending on whether the claim was asserted in state or federal court."); 5 Fed.Prac. & Proc. Civ. 3d §1280 *Effect of Failure to Deny - Privilege Against Self-Incrimination* ("...court must treat the defendant's claim of privilege as equivalent to a specific denial."). See also 24 Fla.Jur.2d Evidence §592. *Defendants in civil actions*. - "... a civil defendant who raises an affirmative defense is not precluded from asserting the privilege [against self-incrimination], because affirmative defenses do not constitute the kind of voluntary application for affirmative relief" which would prevent a plaintiff bringing a claim seeking affirmative relief from asserting the privilege.

However, Epstein's attorneys state that his expert, Dr. Hall, will provide information/testimony that will refute this allegation.

4. Admit that a 15 year old girl can suffer from emotional trauma as a result of sexual activity with an adult male over 50 years old.

Response: In response, Defendant asserts his U.S. constitutional privileges as specified herein. I intend to respond to all relevant discovery regarding this lawsuit, however, my attorneys have counseled me that I cannot provide answers to any discovery relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation and my Fifth Amendment Privilege. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. Defendant asserts his Fifth Amendment privilege against self-incrimination. See DeLisi v. Bankers Ins. Company, 436 So.2d 1099 (Fla. 4th DCA 1983); Malloy v. Hogan, 84 S.Ct. 1489, 1495 (1964) (the Fifth Amendment's Self-Incrimination Clause applies to the states through the Due Process Clause of the Fourteenth Amendment - "[i]t would be incongruous to have different standards determine the validity of a claim of privilege based on the same feared prosecution, depending on whether the claim was asserted in state or federal court."); 5 Fed.Prac. & Proc. Civ. 3d §1280 *Effect of Failure to Deny - Privilege Against Self-Incrimination* ("...court must treat the defendant's claim of privilege as equivalent to a specific denial."). See also 24 Fla.Jur.2d Evidence §592. *Defendants in civil actions*. - "... a civil defendant who raises an affirmative defense is not precluded from asserting the privilege [against self-incrimination], because affirmative defenses do not constitute the kind of voluntary application for affirmative relief" which would prevent a plaintiff bringing a claim seeking affirmative relief from asserting the privilege.

There are insufficient facts asserted for Epstein's attorneys and experts to admit or deny these allegations.

5. Admit that B.B. is having difficulties with intimacy in her relationships with boys her age as a result of the incident that occurred with Jeffrey Epstein.

Response: In response, Defendant asserts his U.S. constitutional privileges as specified herein. I intend to respond to all relevant discovery regarding this lawsuit, however, my attorneys have counseled me that I cannot provide answers to any discovery relevant to this lawsuit and I must accept this advice or risk losing my Sixth Amendment right to effective representation and my Fifth Amendment Privilege. Accordingly, I assert my federal constitutional rights under the Fifth, Sixth, and Fourteenth Amendments as guaranteed by the United States Constitution. Drawing an adverse inference under these circumstances would unconstitutionally burden my exercise of my constitutional rights, would be unreasonable, and would therefore violate the Constitution. Defendant asserts his Fifth Amendment privilege against self-incrimination. See DeLisi v. Bankers Ins. Company, 436 So.2d 1099 (Fla. 4th DCA 1983); Malloy v. Hogan, 84 S.Ct. 1489, 1495 (1964) (the Fifth Amendment's Self-Incrimination Clause applies to the states through the Due Process Clause of the Fourteenth Amendment - "[i]t would be incongruous to have different standards determine the validity of a claim of privilege based on the same feared prosecution, depending on whether the claim was asserted in state or federal court."); 5 Fed.Prac. & Proc. Civ. 3d §1280 *Effect of Failure to Deny - Privilege Against Self-Incrimination* ("...court must treat the defendant's claim of privilege as equivalent to a specific denial."). See also 24 Fla.Jur.2d Evidence §592. *Defendants in civil actions*. - "... a civil defendant who raises an affirmative defense is not precluded from asserting the privilege [against self-incrimination], because affirmative defenses do not constitute the kind of voluntary application for affirmative relief" which would prevent a plaintiff bringing a claim seeking affirmative relief from asserting the privilege.

There are insufficient facts asserted for Epstein's attorneys and experts to admit or deny these allegations.

WE HEREBY CERTIFY that a true copy of the foregoing was sent by fax and

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Effective: October 1, 2008

West's Florida Statutes Annotated Currentness

Title XLVI. Crimes (Chapters 775-899)

Chapter 775. Definitions; General Penalties; Registration of Criminals (Refs & Annos)

→ 775.15. Time limitations; general time limitations; exceptions

(1) A prosecution for a capital felony, a life felony, or a felony that resulted in a death may be commenced at any time. If the death penalty is held to be unconstitutional by the Florida Supreme Court or the United States Supreme Court, all crimes designated as capital felonies shall be considered life felonies for the purposes of this section, and prosecution for such crimes may be commenced at any time.

(2) Except as otherwise provided in this section, prosecutions for other offenses are subject to the following periods of limitation:

(a) A prosecution for a felony of the first degree must be commenced within 4 years after it is committed.

(b) A prosecution for any other felony must be commenced within 3 years after it is committed.

(c) A prosecution for a misdemeanor of the first degree must be commenced within 2 years after it is committed.

(d) A prosecution for a misdemeanor of the second degree or a noncriminal violation must be commenced within 1 year after it is committed.

(3) An offense is committed either when every element has occurred or, if a legislative purpose to prohibit a continuing course of conduct plainly appears, at the time when the course of conduct or the defendant's complicity therein is terminated. Time starts to run on the day after the offense is committed.

(4)(a) Prosecution on a charge on which the defendant has previously been arrested or served with a summons is commenced by the filing of an indictment, information, or other charging document.

(b) A prosecution on a charge on which the defendant has not previously been arrested or served with a summons is commenced when either an indictment or information is filed, provided the capias, summons, or other process issued on such indictment or information is executed without unreasonable delay. In determining what is reasonable, inability to locate the defendant after diligent search or the defendant's absence from the state shall be considered. The failure to execute process on or extradite a defendant in another state who has been charged



by information or indictment with a crime in this state shall not constitute an unreasonable delay.

(c) If, however, an indictment or information has been filed within the time period prescribed in this section and the indictment or information is dismissed or set aside because of a defect in its content or form after the time period has elapsed, the period for commencing prosecution shall be extended 3 months from the time the indictment or information is dismissed or set aside.

(5) The period of limitation does not run during any time when the defendant is continuously absent from the state or has no reasonably ascertainable place of abode or work within the state. This provision shall not extend the period of limitation otherwise applicable by more than 3 years, but shall not be construed to limit the prosecution of a defendant who has been timely charged by indictment or information or other charging document and who has not been arrested due to his or her absence from this state or has not been extradited for prosecution from another state.

(6) A prosecution for perjury in an official proceeding that relates to the prosecution of a capital felony may be commenced at any time.

(7) A prosecution for a felony that resulted in injury to any person, when such felony arises from the use of a "destructive device," as defined in s. 790.001, may be commenced within 10 years.

(8) A prosecution for a felony violation of chapter 517 or s. 409.920 must be commenced within 5 years after the violation is committed.

(9) A prosecution for a felony violation of chapter 403 must be commenced within 5 years after the date of discovery of the violation.

(10) A prosecution for a felony violation of s. 825.102 or s. 825.103 must be commenced within 5 years after it is committed.

(11) A prosecution for a felony violation of ss. 440.105 and 817.234 must be commenced within 5 years after the violation is committed.

(12) If the period prescribed in subsection (2), subsection (8), subsection (9), subsection (10), or subsection (11) has expired, a prosecution may nevertheless be commenced for:

(a) Any offense, a material element of which is either fraud or a breach of fiduciary obligation, within 1 year after discovery of the offense by an aggrieved party or by a person who has a legal duty to represent an aggrieved party and who is himself or herself not a party to the offense, but in no case shall this provision extend the period of limitation otherwise applicable by more than 3 years.

(b) Any offense based upon misconduct in office by a public officer or employee at any time when the defendant is in public office or employment, within 2 years from the time he or she leaves public office or employment, or during any time permitted by any other part of this section, whichever time is greater.

(13)(a) If the victim of a violation of s. 794.011, former s. 794.05, Florida Statutes 1995, s. 800.04, s. 826.04, or s. 847.0135(5) is under the age of 18, the applicable period of limitation, if any, does not begin to run until the victim has reached the age of 18 or the violation is reported to a law enforcement agency or other governmental agency, whichever occurs earlier. Such law enforcement agency or other governmental agency shall promptly report such allegation to the state attorney for the judicial circuit in which the alleged violation occurred. If the offense is a first or second degree felony violation of s. 794.011, and the offense is reported within 72 hours after its commission, the prosecution for such offense may be commenced at any time. This paragraph applies to any such offense except an offense the prosecution of which would have been barred by subsection (2) on or before December 31, 1984.

(b) If the offense is a first degree felony violation of s. 794.011 and the victim was under 18 years of age at the time the offense was committed, a prosecution of the offense may be commenced at any time. This paragraph applies to any such offense except an offense the prosecution of which would have been barred by subsection (2) on or before October 1, 2003.

(14) A prosecution for a first or second degree felony violation of s. 794.011, if the victim is 18 years of age or older at the time of the offense and the offense is reported to a law enforcement agency within 72 hours after commission of the offense, may be commenced at any time. If the offense is not reported within 72 hours after the commission of the offense, the prosecution must be commenced within the time periods prescribed in subsection (2).

(15)(a) In addition to the time periods prescribed in this section, a prosecution for any of the following offenses may be commenced within 1 year after the date on which the identity of the accused is established, or should have been established by the exercise of due diligence, through the analysis of deoxyribonucleic acid (DNA) evidence, if a sufficient portion of the evidence collected at the time of the original investigation and tested for DNA is preserved and available for testing by the accused:

1. An offense of sexual battery under chapter 794.
2. A lewd or lascivious offense under s. 800.04 or s. 825.1025.

(b) This subsection applies to any offense that is not otherwise barred from prosecution between July 1, 2004, and June 30, 2006.

(16)(a) In addition to the time periods prescribed in this section, a prosecution for any of the following offenses may be commenced at any time after the date on which the identity of the accused is established, or should have been established by the exercise of due diligence, through the analysis of deoxyribonucleic acid (DNA) evidence,

ence, if a sufficient portion of the evidence collected at the time of the original investigation and tested for DNA is preserved and available for testing by the accused:

1. Aggravated battery or any felony battery offense under chapter 784.
2. Kidnapping under s. 787.01 or false imprisonment under s. 787.02.
3. An offense of sexual battery under chapter 794.
4. A lewd or lascivious offense under s. 800.04, s. 825.1025, or s. 847.0135(5).
5. A burglary offense under s. 810.02.
6. A robbery offense under s. 812.13, s. 812.131, or s. 812.135.
7. Carjacking under s. 812.133.
8. Aggravated child abuse under s. 827.03.

(b) This subsection applies to any offense that is not otherwise barred from prosecution on or after July 1, 2006.

CREDIT(S)

Act Feb. 10, 1832, § 78; Rev.St.1892, § 2357; Laws 1901, c. 4915, § 1; Gen.St.1906, §§ 3181, 3182; Rev.Gen.St.1920, §§ 5011, 5012; Comp.Gen.Laws 1927, §§ 7113, 7114; Laws 1935, c. 16962, § 1; Laws 1951, c. 26484, § 10; Fla.St.1969, §§ 932.05, 932.06; Laws 1970, c. 70-339, § 109; Fla.St.1970, Supp. § 915.03; Fla.St.1973, § 932.465; Laws 1974, c. 74-383, § 10; Laws 1976, c. 76-275, § 1; Laws 1977, c. 77-174, § 1; Laws 1978, c. 78-435, § 12; Laws 1984, c. 84-86, § 6; Laws 1984, c. 84-550, § 1; Laws 1985, c. 85-63, § 10; Laws 1989, c. 89-143, § 4; Laws 1990, c. 90-120, § 2; Laws 1991, c. 91-258, § 2. Amended by Laws 1993, c. 93-156, § 16, eff. Oct. 1, 1993; Laws 1995, c. 95-158, § 17, eff. July 1, 1995; Laws 1995, c. 95-418, § 139, eff. July 1, 1995; Laws 1996, c. 96-145, § 1, eff. Oct. 1, 1996; Laws 1996, c. 96-280, § 3, eff. Oct. 1, 1996; Laws 1996, c. 96-322, § 3, eff. Oct. 1, 1996; Laws 1996, c. 96-409, § 4, eff. Oct. 1, 1996; Laws 1997, c. 97-36, § 1, eff. Oct. 1, 1997; Laws 1997, c. 97-90, § 1, eff. July 1, 1997; Laws 1997, c. 97-102, § 1812, eff. July 1, 1997; Laws 1997, c. 97-104, § 1, eff. May 24, 1997; Laws 1998, c. 98-174, § 17, eff. Jan. 1, 1999; Laws 1999, c. 99-201, § 7, eff. Oct. 1, 1999; Laws 1999, c. 99-204, § 5, eff. Oct. 1, 1999; Laws 2000, c. 2000-246, § 3, eff. Oct. 1, 2000; Laws 2001, c. 2001-102, § 1, eff. Oct. 1, 2001; Laws 2002, c. 2002-168, § 1, eff. Oct. 1, 2002; Laws 2003, c. 2003-116, § 1, eff. Oct. 1, 2003; Laws 2004, c. 2004-94, § 1, eff. July 1, 2004; Laws 2005, c. 2005-110, § 1, eff. July 1, 2005; Laws 2006, c. 2006-266, § 1, eff. July 1, 2006; Laws 2008, c. 2008-172, § 15, eff. Oct. 1, 2008.

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Effective: April 29, 2002

West's Florida Statutes Annotated Currentness
 Title XLVI. Crimes (Chapters 775-899)
 Chapter 794. Sexual Battery (Refs & Annos)
 → 794.011. Sexual battery

(1) As used in this chapter:

(a) "Consent" means intelligent, knowing, and voluntary consent and does not include coerced submission. "Consent" shall not be deemed or construed to mean the failure by the alleged victim to offer physical resistance to the offender.

(b) "Mentally defective" means a mental disease or defect which renders a person temporarily or permanently incapable of appraising the nature of his or her conduct.

(c) "Mentally incapacitated" means temporarily incapable of appraising or controlling a person's own conduct due to the influence of a narcotic, anesthetic, or intoxicating substance administered without his or her consent or due to any other act committed upon that person without his or her consent.

(d) "Offender" means a person accused of a sexual offense in violation of a provision of this chapter.

(e) "Physically helpless" means unconscious, asleep, or for any other reason physically unable to communicate unwillingness to an act.

(f) "Retaliation" includes, but is not limited to, threats of future physical punishment, kidnapping, false imprisonment or forcible confinement, or extortion.

(g) "Serious personal injury" means great bodily harm or pain, permanent disability, or permanent disfigurement.

(h) "Sexual battery" means 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; however, sexual battery does not include an act done for a bona fide medical purpose.

(i) "Victim" means a person who has been the object of a sexual offense.



(j) "Physically incapacitated" means bodily impaired or handicapped and substantially limited in ability to resist or flee.

(2)(a) A person 18 years of age or older who commits sexual battery upon, or in an attempt to commit sexual battery injures the sexual organs of, a person less than 12 years of age commits a capital felony, punishable as provided in ss. 775.082 and 921.141.

(b) A person less than 18 years of age who commits sexual battery upon, or in an attempt to commit sexual battery injures the sexual organs of, a person less than 12 years of age commits a life felony, punishable as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115.

(3) A person who commits sexual battery upon a person 12 years of age or older, without that person's consent, and in the process thereof uses or threatens to use a deadly weapon or uses actual physical force likely to cause serious personal injury commits a life felony, punishable as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115.

(4) A person who commits sexual battery upon a person 12 years of age or older without that person's consent, under any of the following circumstances, commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115:

(a) When the victim is physically helpless to resist.

(b) When the offender coerces the victim to submit by threatening to use force or violence likely to cause serious personal injury on the victim, and the victim reasonably believes that the offender has the present ability to execute the threat.

(c) When the offender coerces the victim to submit by threatening to retaliate against the victim, or any other person, and the victim reasonably believes that the offender has the ability to execute the threat in the future.

(d) When the offender, without the prior knowledge or consent of the victim, administers or has knowledge of someone else administering to the victim any narcotic, anesthetic, or other intoxicating substance which mentally or physically incapacitates the victim.

(e) When the victim is mentally defective and the offender has reason to believe this or has actual knowledge of this fact.

(f) When the victim is physically incapacitated.

(g) When the offender is a law enforcement officer, correctional officer, or correctional probation officer as

defined by s. 943.10(1), (2), (3), (6), (7), (8), or (9), who is certified under the provisions of s. 943.1395 or is an elected official exempt from such certification by virtue of s. 943.253, or any other person in a position of control or authority in a probation, community control, controlled release, detention, custodial, or similar setting, and such officer, official, or person is acting in such a manner as to lead the victim to reasonably believe that the offender is in a position of control or authority as an agent or employee of government.

(5) A person who commits sexual battery upon a person 12 years of age or older, without that person's consent, and in the process thereof does not use physical force and violence likely to cause serious personal injury commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115.

(6) The offense described in subsection (5) is included in any sexual battery offense charged under subsection (3) or subsection (4).

(7) A person who is convicted of committing a sexual battery on or after October 1, 1992, is not eligible for basic gain-time under s. 944.275. This subsection may be cited as the "Junny Rios-Martinez, Jr. Act of 1992."

(8) Without regard to the willingness or consent of the victim, which is not a defense to prosecution under this subsection, a person who is in a position of familial or custodial authority to a person less than 18 years of age and who:

(a) Solicits that person to engage in any act which would constitute sexual battery under paragraph (1)(h) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Engages in any act with that person while the person is 12 years of age or older but less than 18 years of age which constitutes sexual battery under paragraph (1)(h) commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Engages in any act with that person while the person is less than 12 years of age which constitutes sexual battery under paragraph (1)(h), or in an attempt to commit sexual battery injures the sexual organs of such person commits a capital or life felony, punishable pursuant to subsection (2).

(9) For prosecution under paragraph (4)(g), acquiescence to a person reasonably believed by the victim to be in a position of authority or control does not constitute consent, and it is not a defense that the perpetrator was not actually in a position of control or authority if the circumstances were such as to lead the victim to reasonably believe that the person was in such a position.

(10) Any person who falsely accuses any person listed in paragraph (4)(g) or other person in a position of control or authority as an agent or employee of government of violating paragraph (4)(g) is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

CREDIT(S)

Laws 1974, c. 74-121, § 2; Laws 1975, c. 75-298, § 17; Laws 1984, c. 84-86, § 1; Laws 1989, c. 89-216, § 1. Amended by Laws 1992, c. 92-135, § 3, eff. April 8, 1992; Laws 1992, c. 92-310, § 1, eff. July 6, 1992; Laws 1993, c. 93-156, § 3, eff. Oct. 1, 1993; Laws 1995, c. 95-348, § 2, eff. July 1, 1995; Laws 1999, c. 99-3, § 99, eff. June 29, 1999; Laws 1999, c. 99-188, § 8, eff. July 1, 1999; Laws 2002, c. 2002-211, § 1, eff. April 29, 2002 .

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West's Florida Statutes Annotated Currentness

Title XLVI. Crimes (Chapters 775-899)

Chapter 800. Lewdness; Indecent Exposure (Refs & Annos)

→ **800.04. Lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age****(1) Definitions.--As used in this section:**

(a) "Sexual activity" 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; however, sexual activity does not include an act done for a bona fide medical purpose.

(b) "Consent" means intelligent, knowing, and voluntary consent, and does not include submission by coercion.

(c) "Coercion" means the use of exploitation, bribes, threats of force, or intimidation to gain cooperation or compliance.

(d) "Victim" means a person upon whom an offense described in this section was committed or attempted or a person who has reported a violation of this section to a law enforcement officer.

(2) Prohibited defenses.--Neither the victim's lack of chastity nor the victim's consent is a defense to the crimes proscribed by this section.

(3) Ignorance or belief of victim's age.--The perpetrator's ignorance of the victim's age, the victim's misrepresentation of his or her age, or the perpetrator's bona fide belief of the victim's age cannot be raised as a defense in a prosecution under this section.

(4) Lewd or lascivious battery.--A person who:

(a) Engages in sexual activity with a person 12 years of age or older but less than 16 years of age; or

(b) Encourages, forces, or entices any person less than 16 years of age to engage in sadomasochistic abuse, sexual bestiality, prostitution, or any other act involving sexual activity

commits lewd or lascivious battery, a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5) Lewd or lascivious molestation.--

(a) A person who intentionally touches in a lewd or lascivious manner the breasts, genitals, genital area, or buttocks, or the clothing covering them, of a person less than 16 years of age, or forces or entices a person under 16 years of age to so touch the perpetrator, commits lewd or lascivious molestation.

(b) An offender 18 years of age or older who commits lewd or lascivious molestation against a victim less than 12 years of age commits a life felony, punishable as provided in s. 775.082(3)(a)4.

(c)1. An offender less than 18 years of age who commits lewd or lascivious molestation against a victim less than 12 years of age; or

2. An offender 18 years of age or older who commits lewd or lascivious molestation against a victim 12 years of age or older but less than 16 years of age

commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) An offender less than 18 years of age who commits lewd or lascivious molestation against a victim 12 years of age or older but less than 16 years of age commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(6) Lewd or lascivious conduct.--

(a) A person who:

1. Intentionally touches a person under 16 years of age in a lewd or lascivious manner; or

2. Solicits a person under 16 years of age to commit a lewd or lascivious act

commits lewd or lascivious conduct.

(b) An offender 18 years of age or older who commits lewd or lascivious conduct commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) An offender less than 18 years of age who commits lewd or lascivious conduct commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(7) Lewd or lascivious exhibition.--**(a) A person who:**

1. Intentionally masturbates;
2. Intentionally exposes the genitals in a lewd or lascivious manner; or
3. Intentionally commits any other sexual act that does not involve actual physical or sexual contact with the victim, including, but not limited to, sadomasochistic abuse, sexual bestiality, or the simulation of any act involving sexual activity

in the presence of a victim who is less than 16 years of age, commits lewd or lascivious exhibition.

(b) An offender 18 years of age or older who commits a lewd or lascivious exhibition commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) An offender less than 18 years of age who commits a lewd or lascivious exhibition commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(8) Exception.--A mother's breastfeeding of her baby does not under any circumstance constitute a violation of this section.

CREDIT(S)

Laws 1943, c. 21974, § 1; Laws 1951, c. 26580, § 1; Laws 1971, c. 71-136, § 780; Laws 1974, c. 74-383, § 66; Laws 1975, c. 75-24, § 1; Laws 1975, c. 75-298, § 40; Laws 1979, c. 79-400, § 291; Laws 1984, c. 84-86, § 5; Laws 1990, c. 90-120, § 1. Amended by Laws 1993, c. 93-4, § 5, eff. March 9, 1993; Laws 1999, c. 99-201, § 6, eff. Oct. 1, 1999; Laws 2000, c. 2000-246, § 1, eff. Oct. 1, 2000; Laws 2005, c. 2005-28, § 5, eff. Sept. 1, 2005; Laws 2008, c. 2008-172, § 3, eff. Oct. 1, 2008; Laws 2008, c. 2008-182, § 3, eff. July 1, 2008.

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