

115TH CONGRESS
2D SESSION

S. 3736

To amend Rule 611 of the Federal Rules of Evidence to prohibit cross-examination by the accused of minor victims of sexual assault.

IN THE SENATE OF THE UNITED STATES

DECEMBER 10, 2018

Mr. FLAKE introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend Rule 611 of the Federal Rules of Evidence to prohibit cross-examination by the accused of minor victims of sexual assault.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. CROSS-EXAMINATION OF VICTIMS BY THE AC-**
4 **CUSED.**

5 (a) IN GENERAL.—Rule 611 of the Federal Rules of
6 Evidence is amended by adding at the end the following:

7 “(d) CROSS-EXAMINATION BY PRO SE DEFENDANTS
8 OF MINOR VICTIMS OF SEXUAL ASSAULT.—In a criminal
9 case in which a defendant accused of sexual assault of a
10 minor represents himself or herself pro se, upon applica-

1 tion by the prosecutor, the minor, or the minor's rep-
 2 resentative, cross-examination of the minor—

3 “(1) shall not be conducted by the defendant
 4 unless the court finds that it is necessitated by ex-
 5 ceptional circumstances to protect the constitutional
 6 rights of the defendant; and

7 “(2) shall instead be conducted by an attorney
 8 for the defendant under the supervision of the court.

9 “(e) DEFINITIONS.—In this rule—

10 “(1) the term ‘minor’ means an individual
 11 under the age of 18;

12 “(2) the term ‘sexual assault of a minor’ means
 13 a crime under Federal law involving—

14 “(A) any conduct—

15 “(i) prohibited under section 1591 or
 16 chapter 109A, 110, or 117 of title 18,
 17 United States Code; or

18 “(ii) described in paragraphs (2)
 19 through (5) of Rule 413(d); and

20 “(B) a victim who is a minor; and

21 “(3) the term ‘victim’ means a person directly
 22 and proximately harmed as a result of the commis-
 23 sion of an offense.”.

24 (b) EFFECTIVE DATE.—The amendment made by
 25 subsection (a) shall apply—

1 (1) to any proceeding commenced on or after
2 the date of enactment of this Act; and

3 (2) insofar as is just and practicable, to any
4 proceeding pending on such date of enactment.

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