

## CS/SB 1604 – Digital Voyeurism (Identical CS/HB 1389)

This bill amends s. 810.145, F.S., defining terms, replacing “video” with “digital,” updating the statute to include a “visual image **or visual recording**,” and adding new penalties for the offense of digital voyeurism, including a **1<sup>st</sup> degree misdemeanor** for a person under 19 years of age and a **Level 3, 3<sup>rd</sup> degree felony** for a person 19 years of age or older (previously a Level 1, 3<sup>rd</sup> degree felony). This bill also increases the current Level 1, 3<sup>rd</sup> degree felony to a **Level 4, 3<sup>rd</sup> degree felony** for intentionally disseminating such images or recording, and also includes those younger than 19 years of age (originally a 1<sup>st</sup> degree misdemeanor). The Level 1, 3<sup>rd</sup> degree felony is increased to a **Level 5, 3<sup>rd</sup> degree felony** for selling such images or recordings, and it also includes those younger than 19 years of age (originally a 1<sup>st</sup> degree misdemeanor). It also increases the current Level 4, 2<sup>nd</sup> degree felony to a **Level 5, 2<sup>nd</sup> degree felony** for “a person who violates this section and who has previously been convicted of or adjudicated delinquent for any violation of this section. Furthermore, it is stated that “each instance of the viewing, broadcasting, recording, disseminating, distributing, or transferring of an image or recording...is a separate offense for which a separate penalty is authorized.” This also includes those younger than 19 years of age (originally a 1<sup>st</sup> degree misdemeanor). It also adds that “if a person who is 19 years of age or older commits a violation of this section and is a family or household member of the victim or holds a position of authority or trust with the victim, the court shall reclassify the felony to the next higher degree,” with a 3<sup>rd</sup> degree felony reclassified to a 2<sup>nd</sup> degree felony and a 2<sup>nd</sup> degree felony reclassified to a 1<sup>st</sup> degree felony. Finally, it increases the current Level 4, 2<sup>nd</sup> degree felony to a **Level 5, 2<sup>nd</sup> degree felony** when the offense occurs when the person is 18 years or older and responsible for the welfare of a child younger than 16 and commits the offense against that child, employed at various schools and commits it against a student, or 24 years of age or older and committed against a child younger than 16.

Per FDLE, in FY 22-23, there were 22 arrests for misdemeanor offenses under s. 810.145, F.S., two guilty/convicted charges, and 5 adjudications withheld. It is not known what specific offenses were committed, nor is it known how many times these acts were committed. Without this information, it cannot be determined under the new language how many of these offenders under 19 years of age would continue to be 1<sup>st</sup> degree misdemeanor violators, and how many would now be charged with felonies.

Per DOC, in FY 22-23, there were 4 admissions to supervision for those under 19 years of age who committed misdemeanor video voyeurism. For those 19 years of age or over, there was one person admitted to prison and 31 admissions to supervision (incarceration rate: 3.1%). It is not known how many of these admissions to prison or supervision were for the act of video voyeurism, intentional dissemination, or commercial video voyeurism. For a second or subsequent offense, which applies to both age groups, there were 3 admissions to prison and 21 admissions to supervision (incarceration rate: 12.5%). It is not known how many times these acts were committed.

Per DOC, in FY 22-23, there were 10 admissions to prison and 4 admissions to supervision for those 18 years or older responsible for a child's welfare, employed at various types of schools, or 24 years of age or older (incarceration rate: 71.4%). It is not known how many times these acts were committed.

Finally, it is not known how many of the offenders above would fit the criteria of being a family or household member.

In FY 22-23, the incarceration rate for a Level 3, 3<sup>rd</sup> degree felony was 10.6%, while it was 20.5% for a Level 4, 3<sup>rd</sup> degree felony and 18.1% for a Level 5, 3<sup>rd</sup> degree felony. It was 36.9% for a Level 5, 2<sup>nd</sup> degree felony.

**CONFERENCE ADOPTED ESTIMATE: Positive Indeterminate**

**Requested by: House**