

HB 431 – Solicitation of Minors to Commit Lewd or Lascivious Acts

This bill amends s. 800.04, F.S., adding a **Level 7, 3rd degree felony** for “a person 24 years of age or older who solicits a person who is 16 or 17 years of age in writing to commit a lewd or lascivious act.”

In FY 18-19, the incarceration rate for a Level 7, 3rd degree felony was 48.2%, and in FY 19-20 the incarceration rate was 42.0%. In FY 20-21, the incarceration rate for a Level 7, 3rd degree felony was 38.3%, and in FY 21-22 the incarceration rate was 44.5%.

S. 847.0135, F.S. has multiple felonies that share similarities with the language added by this bill. A Level 6, 3rd degree felony exists for a person who uses a computer to facilitate sexual conduct of or with a minor, or the visual depiction of such conduct. This does not state an age for the offender, nor does it state an age for the minor, other than the person would be under 18 years of age. A Level 7, 3rd degree felony exists for the solicitation of a child, via a computer service, to commit an unlawful sex act. This also does not provide an age range for the offender or the minor. Finally, there is a Level 5, 2nd degree felony for lewd or lascivious exhibition using a computer, where the offender is 18 years or older, and the minor is less than 16 years old. None of these three felonies fit the specified age ranges, nor does the language under current statute specify different ways an offender might contact a minor through writing, but the number of new commitments for these offenses could provide supplemental information on the potential number of offenders.

Per DOC, in FY 18-19, there were 49 new commitments for the felonies described above, and there were 32 new commitments in FY 19-20. In FY 20-21, there were 18 new commitments, and in FY 21-22, there were 31 new commitments. It is not known how the offender pool might be expanded, or how prison admissions might be impacted by this new language.

CONFERENCE ADOPTED ESTIMATE: Positive Indeterminate

Requested by: House