

SB 1196 – Harm to Minors (Identical HB 1129)

This bill creates s. 501.173, F.S., establishing that manufacturers begin filtering content on tablets and smartphones that would be harmful to minors, with the use of a password to disable these filters, and adds a **1st degree misdemeanor** for when a person that is not a parent or legal guardian enables the password to remove the filter on a device in the possession of a minor.

This bill also amends s. 787.025, F.S., increasing the 1st degree misdemeanor to an **unranked, 3rd degree felony (Level 1 by default)** for “a person 18 years of age or older who intentionally lures or entices, or attempts to lure or entice, a child under the age of 12 into a structure, dwelling, or conveyance for other than a lawful purpose.” It also raises the current Level 1, 3rd degree felony to an **unranked, 2nd degree felony (Level 4 by default)** for a person who has already been convicted of this act to commit this act again, and the Level 1, 3rd degree felony to an **unranked, 2nd degree felony (Level 4 by default)** for a person who commits this act who has been previously convicted of a violation of chapter 794, s. 800.04, F.S., or s. 847.0135(5), F.S., or a violation of a similar law of another jurisdiction.

This bill also creates s. 827.12, F.S., adding a **Level 3, 3rd degree felony** for “a person 18 years of age or older...knowingly...” engaging “...in any communication that is part of a pattern of communication or behavior that is...designed to maintain an inappropriate relationship with a minor or another person believed by the person to be a minor...or...harmful to minors as defined in s. 847.001, F.S.” or “a person 18 years of age or older...knowingly...” using “...a computer online service, Internet service, local bulletin board service, or any other means or device capable of electronic data storage or transmission to seduce, solicit, lure, or entice, or attempt to seduce, solicit, lure, or entice, a minor or another person believed by the person to be a minor to share an image or a recorded image depicting nudity of the minor for the sexual excitement of either party.” A **Level 5, 2nd degree felony** is added for committing this act with a minor younger than 12 years of age.

Finally, s. 827.12, F.S. is added to s. 943.0435, F.S. and s. 944.607, F.S., which could expand the pool of potential offenders impacting the sexual offender registration felonies under these statutes.

Per FDLE, in FY 22-23, there were 9 arrests for misdemeanor luring of a child, two misdemeanor guilty/convicted charges, and one adjudication withheld. Per DOC, in FY 22-23, there was one new commitment to prison for luring a child after a prior conviction for this act.

Per DOC, in FY 22-23, there were 520 new commitments to prison for violations of felonies under s. 943.0435, F.S. and s. 944.607, F.S. regarding sexual offender registration violations. It is not known how many additional offenders would be added with the inclusion of s. 827.12, F.S.

Per DOC, in FY 22-23, there were 241 new commitments to prison under current law with statutory language similar to what is used under the newly created s. 827.12, F.S., such as lewd or lascivious exhibition (s. 800.04(7), F.S), transmission of material harmful to minors (s. 847.0138, F.S.), using computer services or devices (s. 847.0135(3)(a), F.S.) or traveling to meet a minor (s. 847.0135(4)(a), F.S.) in order to “seduce, solicit, lure, or entice or attempt to seduce, solicit, lure, or entice a child or another person believed by the person to be a child, to engage in...unlawful sexual conduct,” and intentionally committing any “sexual act that does not involve actual physical or sexual contact with the victim...” (s. 847.0135(5)(c), F.S.). However, given the felony levels/degrees, all of these offenses would have higher incarceration rates than a Level 3, 3rd degree felony (10.6% in FY 22-23). Therefore, it is not known how many additional offenders would be impacted by this addition to statutory language.

In FY 22-23, the incarceration rate for a Level 1, 3rd degree felony was 9.5% and the incarceration rate for a Level 3, 3rd degree felony was 10.6%. The incarceration rate for a Level 4, 2nd degree felony was 27.6% and the incarceration rate for a Level 5, 2nd degree felony was 36.9%.

CONFERENCE ADOPTED ESTIMATE: Positive Indeterminate

Requested by: Senate