

## **CS/HB 365 – Pornography**

Under current law, someone in this state who knew or reasonably should have known that he or she was transmitting child pornography to someone in this state or another jurisdiction commits an unranked, 3<sup>rd</sup> degree felony. Someone in another jurisdiction outside of this state who was transmitting it to someone in this state also commits an unranked, 3<sup>rd</sup> degree felony. This bill amends s. 847.0137, F.S., making each act of sending or delivering child pornography a separate offense. Also, by reenacting s. 775.0847, F.S., which authorizes that a violation shall be reclassified to the next higher degree for possessing ten or more images, some offenders may be subject to an increase in all violations to 2<sup>nd</sup> degree felonies. The committee substitute clarifies that transmission of child pornography also includes the use of file-sharing programs, which might increase the number of offenders charged under these statutes.

Per DOC, in FY 14-15, there were 5 (adj.) offenders sentenced under s. 847.0137(2), F.S., for transmitting child pornography to someone in this state or another jurisdiction, and none sentenced under s. 847.0137(3), F.S., for transmitting child pornography into this state from a jurisdiction outside of the state. One of these offenders was sentenced to prison (mean sentence length=24.0 m, incarceration rate: 20.0% adj.-25.0% unadj.). The number of acts is unknown among these offenders, but this bill would increase their average sentence length with each act, with a potentially greater increase at ten or more acts. Furthermore, it is unknown how many more offenders might be charged by extending the definition of transmission of child pornography to file-sharing programs.

**CONFERENCE ADOPTED ESTIMATE: Positive Indeterminate**

**Requested by: House**