

HB 7049 – Child Exploitation (Identical SB 1558)

While repealing s. 827.071, F.S., and moving the provisions relating to sexual performance by a child and child pornography into ch. 847, F.S., this bill also defines a variety of terms to include “morphing,” conforming to those in federal law. Amending s. 847.0137, F.S., this expands the definition of both “sexual conduct,” through “simulated” lewd expression of the genitals, and child pornography, through a visual depiction that has been “created, adapted, or modified.” By including this type of conduct and these types of images for violations such as producing, directing, possession, transmission, etc., there is potential for additional offenders to be prosecuted for the felonies currently in place. Furthermore, this bill adds that the possession, control, or intentional viewing of each visual depiction of child pornography is considered a separate offense. Also amending s. 847.0135, F.S., this bill removes the use of “any,” replacing it with “a” and “an” for multiple proscribed acts in order for each act to be a separate offense.

Per DOC, in FY 15-16, there were 689 (adj.) offenders sentenced under s. 827.071, F.S., s. 847.0137, F.S., and s. 847.0135, F.S. Of those sentenced, 444 (adj.) of these offenders were sentenced to prison (mean sentence length=72.4 m, incarceration rate: 64.4% adj.-64.4% unadj.). It is unknown how many more offenders will be included with the addition of “morphing.” Additionally, it is unknown how incarceration rate and sentence length would be affected by creating the possibility for each offender to be charged with multiple offenses, though some could see further penalty increases since the possession of ten or more visual depictions or images (s. 775.0847, F.S.) would reclassify their felonies to the next higher degree.

CONFERENCE ADOPTED ESTIMATE: Positive Significant

Requested by: House