

## **CS/SB 444 – Lewd or Lascivious Molestation**

This bill creates s. 800.06, F.S., adding a **1<sup>st</sup> degree misdemeanor** for someone who “intentionally touches a person 16 years of age or older...against his or her will...and...in a lewd or lascivious manner, on the breasts, genitals, genital area, or buttocks, or on the clothing covering them...or...forces a person 16 years of age or older to touch the perpetrator, in a lewd or lascivious manner, on the breasts, genitals, genital area, or buttocks, or on the clothing covering them.” A second or subsequent violation by “a person who has one prior conviction for lewd and lascivious molestation committed upon persons 16 years of age or older” would be an **unranked, 3<sup>rd</sup> felony (Level 1 by default)**.

Per FDLE, in FY 18-19, there were 125 people arrested for the second degree misdemeanors of lewd and lascivious behavior (s. 798.02, F.S.) and unnatural and lascivious act (s. 800.02, F.S.). In FY 19-20, there were 63 people arrested, and in FY 20-21, there were 50 people arrested. It is not known how many of those arrested fit the definition of the conduct described under s. 800.06, F.S. It is possible that this conduct might currently fall under simple battery, a high volume misdemeanor offense that elevates to a Level 1, 3<sup>rd</sup> degree felony if a second or subsequent battery occurs after a prior conviction (168,345 arrests over the last three fiscal years). However, it cannot be determined where these offenses are currently captured, nor how many arrests occur for these acts in a given year.

In FY 18-19, the incarceration rate for a Level 1, 3<sup>rd</sup> degree felony was 9.5%, and in FY 19-20 the incarceration rate was 8.2%. In FY 20-21, the incarceration rate for a Level 1, 3<sup>rd</sup> degree felony was 8.1%.

**CONFERENCE ADOPTED ESTIMATE: Positive Indeterminate**

**Requested by: Senate**