

HB 317 – Sentencing for Sexual Offenses (Identical SB 1264)

Creates s. 794.10, F.S., stating that an offender that commits a sexual battery violation, excluding s. 794.011(10), F.S. or s. 800.04, F.S., “may not be granted probation, community control, parole, conditional release, control release, or any other form of early release, nor shall the execution or imposition of sentence be suspended, if:

(1) The victim of the offense was prevented from resisting the offense by any intoxicating or anesthetic substance, or any controlled substance; or

(2) The victim was unconscious or asleep at the time of the offense, and this condition was known, or reasonably should have been known, to the offender at the time of the offense.”

Under current law, s. 794.011(4), F.S. lists several circumstances where consent cannot be given, including the victim being “physically helpless to resist,” and the offender “administers or has knowledge of someone else administering to the victim any narcotic, anesthetic, or other intoxicating substance that mentally or physically incapacitates the victim.” Per DOC, since the expansion of this statute, only 6 prison admissions occurred during FY 15-16, with no probation admissions. However, FY 15-16 data also exists for those convicted under this statute prior to its expansion (October, 2014), with 14 prison admissions and 13 supervision admissions when the victim was physically helpless, drugged, or mentally defective.

Given increased restrictions on sexual offenders in recent statutes, the only area where this law could impact prison beds is in the area of probation. As older data showed, prior to October, 2014, FY 15-16 supervision admissions under s. 794.011(4), F.S. were 13, while there are no FY 15-16 supervision admissions for after that date. Therefore, the volume of offenders affected by this statute should be low.

CONFERENCE ADOPTED ESTIMATE: Positive Insignificant

Requested by: House