

SB 1750 – Criminal Sexual Conduct

This bill amends multiple statutes. First, it amends s. 775.0847, F.S., regarding reclassifying “a violation of s. 827.071, F.S., s. 847.0135, F.S., s. 847.0137, F.S., or s. 847.0138, F.S. to the next higher degree, increasing the 10 or more images of any form of child pornography regardless of content to 20 or more images, as well as deleting the “and” after this number of images and adding “or” for the list of specific content for these images. Therefore, for the specific content, at least one image must be possessed that contains at least one of the content list, whereas under current statute, it would have to be one of the ten images. The language in the specific content is also amended, removing a child being younger than the age of five and adding that the child is prepubescent. It also deletes from the list of specific content “any motion picture, film, video, or computer-generated motion picture, film, or video involving a child, regardless of length and regardless of whether the motion picture, film, video, or computer-generated motion picture, film, or video contains sound.” Furthermore, for the current reclassification of these offenses, it adds a mandatory minimum sentence for each as follows:

3rd degree felony increased to 2nd degree felony – 5 year mandatory minimum
2nd degree felony increased to 1st degree felony – 15 year mandatory minimum
1st degree felony increased to life felony – 25 year mandatory minimum

Per DOC, in FY 24-25, there were 654 new commitments to prison under the statutes potentially requiring reclassification given the specified criteria. It is not known how many of these were reclassified under current language, nor is it known how many additional offenses would be impacted by the new language, including mandatory minimums. While the increase in the number of images and the deletion of “any motion picture, film, etc.” might decrease specific offenses where this statute would apply, the rest of the changes would lead to an upward shift in the prison population, though the magnitude of the impact is not known.

CONFERENCE ADOPTED ESTIMATE: Positive Indeterminate

It then amends s. 794.0116, F.S., changing specific mandatory minimums for certain sexual offenses committed by those persons previously convicted of a list of prior sexual offenses. S. 800.04(5), F.S., currently a 10 year mandatory minimum sentence, is now a 15 year mandatory minimum sentence. S. 827.071(2), F.S., currently a 20 year mandatory minimum sentence, is now a 25 year mandatory minimum sentence. S. 847.0145, F.S., currently a 20 year mandatory minimum sentence, is now a 25 year mandatory minimum sentence.

Per DOC, in FY 24-25, there were 322 new commitments for the amended offenses. The current mandatory minimums went into effect on October 1, 2025, so the amended increases to the mandatory minimums would not have an impact within the forecast window.

CONFERENCE ADOPTED ESTIMATE: No Impact within Forecast Window

Furthermore, it amends s. 827.071, F.S., defining “child” as follows (new language in bold): **a person whose identity is known and who is younger than 18 years of age, or whose identity is unknown and who appears to be under 18 years of age**. It then increases the current Level 7, 2nd degree felony to a **Level 7, 1st degree felony** for use of a child in a sexual performance, with a mandatory minimum sentence of 15 years. It also adds an **unranked, life felony (Level 10 by default)**, with a minimum sentence of 25 years for aggravated use of a child in a sexual performance, defined as when that child is younger than 12 years old. Additionally, it adds a mandatory minimum sentence of 5 years for the act of promoting a sexual performance by a child, a Level 7, 2nd degree felony. It then increases the current Level 6, 3rd degree to a **Level 6, 2nd degree felony** for “any person to knowingly solicit, possess, control, or intentionally view a photograph, motion picture, exhibition, show, representation, image, data, computer depiction, or other presentation which, in whole or in part, he or she knows to include child pornography.”

Per DOC, in FY 24-25, there were 11 new commitments to prison for sexual performance of a child. Of those, 8 were below a 15 year sentence. It is not known how many new commitments falling under use of a child in a sexual performance would now fall under the life felony for aggravated use of a child in a sexual performance. There were also 29 new commitments for promoting a sexual performance by a child, with 9 of these commitments having a sentence of less than 5 years. There were an additional 8 offenders admitted to supervision that would now be subject to these mandatory minimum sentences, with earlier fiscal years having larger numbers (17 in FY 23-24). Furthermore, there were 316 new commitments to prison for knowingly soliciting, possessing, etc. child pornography. Also, there were 134 offenders sentenced to supervision for this offense. In FY 24-25, the incarceration rate for a Level 6, 3rd degree felony was 26% and the incarceration rate for a Level 6, 2nd degree felony was 39.7%. It is not known how many additional new commitments there would be under the expanded definition for “child.” However, with felony increases and the addition of mandatory minimum sentences, the impact is expected to reach significance.

CONFERENCE ADOPTED ESTIMATE: Positive Significant

It then amends s. 827.072, F.S., increasing the current Level 1, 3rd degree felony to an **unranked, 2nd degree felony (Level 4 by default)** for “a person who intentionally creates generated child pornography,” and adds a mandatory minimum sentence of 5 years.

Per DOC, in FY 24-25, there were no new commitments to prison or supervision for creating generated child pornography.

Per DOC, in FY 24-25, the incarceration rate for a Level 4, 2nd degree felony was 27.4%.

CONFERENCE ADOPTED ESTIMATE: Positive Insignificant

Furthermore, it amends s. 828.126, F.S., regarding sexual activities involving animals, deleting the Level 6, 3rd degree felony for multiple different acts and creating felonies for each specific act. Knowingly engaging in any sexual contact with an animal is increased to a **Level 6, 2nd degree felony**. Knowingly causing, aiding, or abetting another person to engage in any sexual contact with an animal is increased to a **Level 6, 2nd degree felony**. Knowingly permitting any sexual contact with an animal to be conducted on any premises under his or her charge or control remains a Level 6, 3rd degree felony, and a person to knowingly organize, promote, conduct, aid, abet, participate in as an observer, or advertise, offer, solicit, or accept an offer of an animal for the purpose of sexual contact with such animal, or perform any service in the furtherance of an act involving any sexual contact with an animal” remains a Level 6, 3rd degree felony. Also, to knowingly film, distribute, or possess any pornographic image or video of a person and an animal engaged in any of the activities prohibited by this section” remains a Level 6, 3rd degree felony.

Per DOC, in FY 24-25, there were 5 new commitments to prison for sexual activities involving animals. While it is not known which of these would now be Level 6, 2nd degree felonies, the low number of commitments indicate that these statutory changes would not lead to a significant increase in the prison population.

Per DOC, in FY 24-25, the incarceration rate for a Level 6, 2nd degree felony was 39.7%.

CONFERENCE ADOPTED ESTIMATE: Positive Insignificant

It then adds that s. 847.011, F.S., prohibition of certain acts in connection with obscene, lewd, etc., materials “does not apply to a person charged solely under a section relating to child pornography, including, but not limited to, s. 827.071, F.S., s. 827.072, F.S., s. 847.0135, F.S., s. 847.0137, F.S., or s. 847.0138, F.S.

Additionally, it amends s. 847.0137, F.S., defining “access credential,” “cloud storage,” and “link.” Then it states that “a person who knew or reasonably should have known that

he or she was transmitting, distributing, posting, sharing, providing, publishing, or making accessible by any means, including by sending, posting, uploading, or otherwise providing a link, an access credential, or information that grants access to cloud storage that the person knows contains child pornography or generated child pornography, and who knowingly causes another person to view or obtain such images, or otherwise facilitates access to such material commits..." an **unranked, 2nd degree felony (Level 4 by default)** with a mandatory minimum sentence of 5 years. It then adds generated child pornography to the two penalties for someone who knew or reasonably should have known that they were transmitting child pornography, one for someone in this state transmitting to another person in this state or in another jurisdiction and another for someone in any jurisdiction other than this state transmitting to someone in this state, increasing both Level 5, 3rd degree felonies to **Level 5, 2nd degree felonies** with 5 year mandatory minimum sentences. It also adds the following: "a person who, in good faith, provides a link, access credential, or other information to a law enforcement agency, prosecuting authority, or authorized forensic examiner for the purpose of reporting suspected child pornography, cooperating with an investigation, preserving evidence, or seeking lawful removal of content may not be subject to prosecution under this section for that disclosure."

Per DOC, in FY 24-25, there were 7 new commitments to prison for the current Level 5, 3rd degree felonies under this statute. Of those committed, 3 had sentence lengths below the mandatory minimum of 5 years. There were no offenders sentenced to supervision, though there were in prior years (6 in FY 23-24). It is not known how many additional commitments there would be with the inclusion of generated child pornography. It is also not known how many additional new commitments there would be for providing access to cloud storage that contains child pornography or generated child pornography.

CONFERENCE ADOPTED ESTIMATE: Positive Indeterminate

**CONFERENCE ADOPTED ESTIMATE FOR ENTIRE BILL:
Positive Significant**

Requested by: Senate