

CS/HB 1391 wpa – Student Safety

Even though the underlying bill still included “a relationship of a romantic nature,” proposed amendment #053991 would remove that language. This analysis is drafted assuming that amendment has been adopted. The bill creates s. 800.101, F.S., defining terms and stating that “an authority figure shall not solicit or engage in sexual conduct or lewd conduct with a student.” The schools defined in the bill do not include facilities dedicated exclusively to the education of adults. A person committing this violation would commit an **unranked, 2nd degree felony (Level 4 by default)**.

S. 775.0862, F.S. contains similar wording, but is used to reclassify felonies for authority figures, and only focuses on offenses for students under 18. Also, it does not mention students 18 years of age or older, which are included in the wording of this bill, expanding the pool of potential offenders. While the offenses outlined in this bill also apply to students under 18 years of age, this bill specifies how that form of sexual conduct would not apply if it is included in s. 775.0862, F.S. and prior statute generally covers these incidents with comparable felonies. Unfortunately, data is not available for these types of relationships.

S. 794.011, F.S. includes offenses committed by custodial authorities. Per DOC, in FY 16-17, 3 (adj.) offenders were sentenced as people in positions of familial or custodial authority who solicited someone less than 18 years of age to engage in any act that would constitute sexual battery, and 2 (adj.) received a prison sentence (mean sentence length=202.5 m, incarceration rate: 66.7% adj.-66.7% unadj.). There were 151 (adj.) sentenced with engaging in these acts with someone 12 or older, but younger than 18 and 135 (adj.) received a prison sentence (mean sentence length=192.0 m, incarceration rate: 89.4% adj.-89.8% unadj.). Seven (adj.) offenders were sentenced with engaging in that act with someone less than 12, or in an attempt to commit the battery, injured the sexual organs and 5 (adj.) received a prison sentence (mean sentence length=187.2 m, incarceration rate: 71.4% adj.-83.3% unadj.). It is unknown how many of these offenders were in a custodial position, rather than a family member.

In FY 16-17, the incarceration rate for a Level 4, 2nd degree felony was 30.9%.

CONFERENCE ADOPTED ESTIMATE: Positive Insignificant

Requested by: House