

## **SB 662 – Lewd Adult Battery**

This bill creates s. 784.041, F.S., adding an **unranked, 3<sup>rd</sup> degree felony (Level 1 by default)** for someone who “commits lewd adult battery if the person knowingly and intentionally, without the consent of the victim, touches the breasts, genitals, genital area, or buttocks, or the clothing covering them, of a person 18 years of age or older.” Definitions are also included for consent and coercion.

Per DOC, in FY 18-19, there were 479 new commitments to prison for felony battery and domestic battery by strangulation under s. 784.041, F.S. There were 314 new commitments in FY 19-20 and 277 new commitments in FY 20-21. However, both of these offenses are Level 6, 3<sup>rd</sup> degree felonies.

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. 784.041, 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**