

Committee on Criminal Justice

CS/HB 437 — Protection of Minors

by Criminal Justice Subcommittee and Rep. Eisnagle and others (CS/CS/SB 964 by Children, Families, and Elder Affairs Committee; Criminal Justice Committee; and Senators Benacquisto, Gaetz, Lynn, Hays, and Altman)

This bill creates the “Protect Our Children Act” relating to laws that prohibit video voyeurism and possession of child pornography. With respect to child pornography, s. 827.071(5), F.S., is amended to allow charging of a separate offense for each child included in a photograph, motion picture, exhibition, show, representation, image, data, computer depiction, or other presentation that shows sexual conduct by a child. Under the current statute, intentional viewing of a single video can only be charged as one offense no matter how many children are depicted in the video.

With respect to video voyeurism, the bill:

- Amends s. 810.145(1)(c), F.S., to specifically include “the interior of a residential dwelling” in the definition of a “place and time when a person has a reasonable expectation of privacy.”
- Amends s. 810.145(8)(a), F.S., which includes three video voyeurism offenses that are third degree felonies either because the offender holds a position of authority in relation to a child or student or the relative ages of the offender and the victim. These offenses are raised to second degree felonies under the bill, increasing the maximum sentence from five years to fifteen years in prison and the maximum fine from \$5,000 to \$10,000.
- Amends s. 921.0022(3)(f), F.S., to rank a violation of s. 810.145(b), F.S., on the Offense Severity Ranking Chart for sentencing purposes. In order to be convicted under s. 810.145(8)(b), F.S., a person must commit one of the offenses against a child or a student that are described in s. 810.145(8)(a), F.S., and also have a previous conviction of any form of video voyeurism. As a second degree felony, this offense is considered to be ranked at Level 4 and scores 22 sentencing points. The increased sentencing points make it more likely that the offender will be sentenced to a term of imprisonment if he or she has prior convictions for any offense.
- Amends s. 943.0435(1), F.S., to require a person convicted of video voyeurism against a child or student in violation of s. 810.145(8)(a), F.S., to register as a sexual offender.
- Amends s. 775.21(4), F.S., to require a person who is convicted of video voyeurism under s. 810.145(8)(b), F.S., to be designated as a sexual predator if the person also has a prior conviction of a qualifying sexual offense other than video voyeurism.
- In order to be consistent with the amendments to s. 943.0435(1), F.S., and s. 775.21(4), F.S., the bill adds persons convicted of violating s. 810.145(8), F.S., to the list of offenders for whom notification of release must be made to the county sheriff under s. 944.606, F.S., and to the Florida Department of Law Enforcement under s. 944.607, F.S.

If approved by the Governor, these provisions take effect October 1, 2012.

Vote: Senate 39-0; House 116-0