STORAGE NAME: 86-0731 HB

Date: April 4, 1986
Revised:
Final:

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HOUSE OF REPRESENTATIVES
COMMITTEE ON CRIMINAL JUSTICE
STAFF ANALYSIS

BILL #: HB 731

RELATING TO: Computer Pornography

SPONSOR(S): Watt, Hanson and Hill

EFFECTIVE DATE: 10/01/86

COMPANION BILL(S): None

OTHER COMMITTEES OF REFERENCE: (1) Appropriations

(2)

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I. SUMMARY:

A. Present Situation:

Generally, chapter 847, F.S., prohibits the sale or distribution of obscene material. Section 847.012 prohibits the sale of harmful materials to persons under 18 years of age. Section 847.0125 prohibits the retail display of materials harmful to minors. Section 847.013 prohibits exposing minors to harmful motion pictures or other depictions involving sexual conduct, sexual excitement or sadomasochistic abuse.

The actual use of a minor in a sexual performance is prohibited by s. 827.071, F.S.. A person is guilty of promoting a sexual performance by a child when, knowing the character and content thereof, he produces, directs, or promotes any performance which includes sexual conduct by a child, and is punishable as a second degree felony [s. 827.071(3)]. It is also a second degree felony for any person to possess with the intent to promote any motion picture or other representation which includes sexual conduct of a child [s. 827.071(4)]. Any person who knowingly possesses any motion picture or representation which, in whole or in part, he knows to include sexual conduct by a child is guilty of a third degree felony [s. 827.071(5)]. "Sexual conduct" is defined under 827.071 as actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, sadomasochistic abuse or the lewd exhibition of the genitals.

B. Effect of Proposed Changes:

HB 731 creates the "Computer Pornography and Child Exploitation Act of 1986" to prohibit the transmission of computer pornography involving minors. Newly created s. 847.0135 defines "computer"

as an electronic, magnetic, optical, electrochemical, or other high-speed data processing device performing logical, arithometic, or storage functions, which includes any data storage facility or communications facility directly related to or operating in conjunction with such device.

Under s. 847.0135(3)(a), a person is guilty of a first degree misdemeanor if he knowingly enters into or transmits by means of computer any notice, statement, or advertisement of any minor's name, telephone number, place of residence, physical characteristics, or identifying information for the purpose of encouraging, offering, or soliciting sexually explicit conduct, or the visual depiction of such conduct, of or with any minor. This person is guilty only if he knows or has reason to know that such notice, statement, advertisement, or descriptive or identifying information will be or has been transported within or outside of the state.

Section 847.0135(3)(b) would prohibit any person from knowingly entering into or transmitting by means of a computer any notice, statement or advertisement to buy, sell, receive, exchange, or disseminate any visual depiction if the depiction involves the use of a minor engaging in sexually explicit conduct and the violator knows or has reason to know that such notice, statement or advertisement will be or has been transported within or outside of the state. A violation of this paragraph is a second degree misdemeanor.

II. ECONOMIC IMPACT:

A. Public:

None

B. Government:

None

III. STATE COMPREHENSIVE PLAN IMPACT:

The bill supports the overall goals of Policy Statements (2), Children and (7) Public Safety by reducing the number of children at risk of harm through preventive actions. Crime prevention efforts under HB 731 are enhanced to protect the individual personal safety of children.

IV. COMMENTS:

The intent of this bill is to prevent computer "hackers" from transmitting demographic and other information on children for the purpose of encouraging sexual conduct with a child. However, the term "sexually explicit conduct" has not been defined herein, nor is the term defined elsewhere in the Florida Statutes.

V. AMENDMENTS:

VI. PREPARED BY: _____
Marie Mattox-Shelfer
Legislative Analyst

VII. STAFF DIRECTOR: _____
J. Thomas Wright

STORAGE NAME: 86-0731 CS/HB

Date: April 4, 1986
Revised: April 18, 1986
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