

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 573 Criminal Justice  
**SPONSOR(S):** Safety & Security Council and Rivera  
**TIED BILLS:** **IDEN./SIM. BILLS:**

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Homeland Security &amp; Public Safety</u>	<u>9 Y, 0 N</u>	<u>Cunningham</u>	<u>Kramer</u>
2) <u>Safety &amp; Security Council</u>	<u>13 Y, 0 N, As CS</u>	<u>Cunningham</u>	<u>Havlicak</u>
3) <u>Policy &amp; Budget Council</u>	<u></u>	<u>Leznoff</u>	<u>Hansen</u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

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### SUMMARY ANALYSIS

Currently, the Office of Statewide Prosecution does not have specific authority to investigate and prosecute all crimes facilitated by or connected to the use of the Internet. Likewise, the statewide grand juries do not have subject matter jurisdiction over such crimes. HB 573 provides the Office of Statewide Prosecution and statewide grand juries jurisdiction over such offenses.

HB 573 also reclassifies specific felony offenses involving the possession, production, or transmission of an image of child pornography or the sexual performance of a child to the next higher degree if an offender possess 10 or more images of any form of child pornography and the content of at least one image contains: a child who is under the age of 5 years, sadomasochistic abuse involving a child, sexual battery involving a child, sexual bestiality involving a child, or any movie involving a child.

Currently, s. 847.0135(3), F.S., provides that any person who knowingly utilizes certain computer services to seduce, solicit, lure, or entice a child or another person believed by the person to be a child to commit certain offenses commits a felony of the third degree. HB 573 amends this subsection by adding "unlawful sexual conduct" to the list of offenses. The bill also adds "parents", "legal guardians", and "custodians" to the list of persons that may not be solicited, lured, or enticed to commit certain illegal acts. The bill further provides that persons who misrepresent their age while violating this subsection commit a second degree felony.

HB 573 creates s. 847.0135(4), F.S., which provides that any person who uses certain computer services to seduce, solicit, lure, or entice a child or a child's parent, legal guardian, or custodian to engage in certain illegal acts and then travels with the purpose of engaging in such acts commits a second degree felony.

HB 573 also amends s. 910.15(1), F.S., to provide that crimes facilitated by a communication through the use of mail, telephone, or newspaper, or by radio, television, Internet, or other means of electronic data communication may be tried in the county in which the dissemination originated, in which the dissemination was made, or in which any act necessary to consummate the offense occurred.

HB 573 requires sexual predators and sexual offenders, as part of the registration process, to provide FDLE any electronic mail address or instant message name prior to using such electronic mail address or instant message name. The bill requires FDLE to establish an online system through which sexual predators and sexual offenders may securely access and update electronic mail address and instant message name information. The bill also authorizes FDLE to provide information relating to electronic mail addresses and instant message names maintained as part of the sexual offender registry to commercial social networking websites.

According to the Criminal Justice Impact Conference, the impact of HB 573 on the prison population is indeterminate. FDLE estimates first year costs to implement HB 573 to be \$329,298 for which they have sufficient revenues in their Operating Trust Fund; however they have indicated the need for the additional budget authority.

**This document does not reflect the intent or official position of the bill sponsor or House of Representatives.**

**STORAGE NAME:** h0573d.PBC.doc  
**DATE:** 2/22/2007

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government – This bill provides the Statewide Grand Jury and the Office of Statewide Prosecution jurisdiction over additional offenses.

Promote Personal Responsibility – This bill reclassifies certain offenses involving child pornography.

#### B. EFFECT OF PROPOSED CHANGES:

##### **Office of Statewide Prosecution and the Statewide Grand Jury**

The Office of Statewide Prosecution (OSP) was created by constitutional amendment passed by the voters in 1986. Article IV, Section 4 of the Florida Constitution, together with s. 16.56, F.S., sets forth the jurisdiction and authority of the OSP.<sup>1</sup>

In order for the Statewide Prosecutor to handle a case, the crime must have occurred in more than one judicial circuit or be part of a conspiracy affecting more than one judicial circuit, and it must be one of the offenses enumerated in the law: bribery; burglary; usury; extortion; gambling; kidnapping; theft; murder; prostitution; perjury; robbery; home-invasion robbery; car-jacking; narcotics violations; antitrust violations; anti-fencing violations; crimes involving fraud and deceit; certain computer crimes; racketeering; and attempts, solicitations, or conspiracies to commit these offenses.<sup>2</sup> Currently, the OSP does not have specific authority to investigate and prosecute all crimes facilitated by or connected to the use of the Internet, or criminal violations of chapter 827, F.S. Similarly, statewide grand juries<sup>3</sup> do not have subject matter jurisdiction over such crimes.<sup>4</sup>

HB 573 provides the OSP jurisdiction over offenses facilitated by or connected to the use of the Internet. The bill also provides the OSP and statewide grand juries jurisdiction over any violation of chapter 827, F.S., where the crime is facilitated by or connected to the use of the Internet or any device capable of electronic data storage or transmission.

##### **Crimes Related to Possession, Production, or Transmission of Child Pornography**

HB 573 reclassifies felony offenses involving violations of ss. 827.071 (sexual performance by a child), 847.0135 (computer pornography), 847.0137 (transmission of pornography by electronic device or equipment), and 847.0138 (transmission of material harmful to minors by electronic device or equipment), F.S., if the offender possess ten or more images of any form of child pornography and at least one of those images contains one or more of the following:

- A child who is under the age of 5 years.
- Sadoomasochistic abuse involving a child.
- Sexual battery involving a child.
- Sexual bestiality involving a child.
- Any movie involving a child, regardless of length and regardless of whether the movie contains sound.

Specifically, the bill requires that such offenses be reclassified to the next higher degree, and would have the effect of increasing the maximum penalty that could be imposed (e.g. a felony of the third degree, which is punishable by up to 5 years in prison and a fine of \$5,000 or less, would be

<sup>1</sup> <http://myfloridalegal.com/swp>

<sup>2</sup> *Id.*

<sup>3</sup> Whenever the Governor, for good and sufficient reason, deems it to be in the public interest to impanel a statewide grand jury, she or he may petition in writing to the Supreme Court for an order impaneling a statewide grand jury. *See* s. 905.33, F.S.

<sup>4</sup> s. 905.34, F.S.

reclassified to a felony of the second degree, which is punishable by up to 15 years in prison and a fine of \$10,000 or less – a felony of the second degree would be reclassified as a felony of the first degree, which is punishable by up to 30 years and a fine of \$10,000 or less).<sup>5</sup>

HB 573 also requires that a felony offense that is reclassified be ranked one level higher than the ranking under the Criminal Punishment Code of the offense committed (e.g. the offense of transmitting child pornography to another person in this state is currently ranked in Level 5 of the Criminal Punishment Code. However, under the bill's provisions, if the offender possesses 10 or more images of child pornography and at least one image contained a child under the age of 5, the offense would be ranked in Level 6).

### **Section 827.071 – Sexual Performance by a Child**

Section 827.071, F.S., makes it unlawful for a person to use a child in a sexual performance, promote sexual performance by a child, and possess or possess with the intent to promote any photograph, motion picture, exhibition, show, representation, or other presentation which, in whole or in part, includes any sexual conduct by a child. HB 573 creates subsection (6) to provide that prosecution of any person for an offense under s. 827.071, F.S., does not prohibit prosecution of that person in this state for a violation of any law of this state, including a law providing for greater penalties than s. 827.071, F.S., prescribes.

### **Section 847.0135, F.S. - The “Computer Pornography and Child Exploitation Act”**

Currently, s. 847.0135(3), F.S., provides that any person who knowingly utilizes certain computer services to seduce, solicit, lure, or entice a child or another person believed by the person to be a child to commit certain acts commits a felony of the third degree. HB 573 amends this subsection by adding “unlawful sexual conduct” to the list of offenses which a person is prohibited from seducing, soliciting, luring, or enticing a child into engaging in. The bill also prohibits using a computer to solicit, lure or entice a parent, legal guardian or custodian to consent to a child's participation in certain sexual offenses. The bill further provides that persons who misrepresent their age while violating this subsection commit a second degree felony. The bill specifies that each separate instance in which a person utilizes computer services to violate this subsection is a separate offense.

HB 573 creates subsection (4) which provides that any person who uses a computer on-line service, Internet service, local bulletin board service, or any other device capable of electronic data storage or transmission to seduce, solicit, lure, or entice a child or a child's parent, legal guardian, or custodian to engage in certain illegal acts<sup>6</sup> and then travels or attempts to travel (or causes another to travel or attempt to travel) with the purpose of engaging in such acts commits a second degree felony.

HB 573 amends subsection (6), relating to the state's criminal jurisdiction, to add the phrase, “a child's guardian,” to be consistent with the bill's other amendments.

HB 573 creates subsection (7) to provide that prosecution of a person for an offense under s. 847.0135, F.S., does not prohibit prosecution of that person in this state for a violation of any law of this state, including a law providing for greater penalties than s. 847.0135, F.S., prescribes.

### **Section 910.15, F.S. - Theft and Fraudulent Practices Concerning Communication Systems**

Chapter 910, F.S., addresses jurisdiction and venue issues regarding crimes related to theft and fraudulent practices concerning communication systems. HB 573 renames this section as “Crimes facilitated by communication systems,” and amends the section to provide that crimes facilitated by a communication through the use of mail, telephone, or newspaper, or by radio, television, Internet, or

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<sup>5</sup> See ss. 775.082 and 775.083, F.S.

<sup>6</sup> Acts described in ch. 794, 800, or 827, F.S., or other unlawful sexual conduct.

other means of electronic data communication may be tried in the county in which the dissemination originated, in which the dissemination was made, or in which any act necessary to consummate the offense occurred.

### **Section 922.0022 - The Criminal Punishment Code**

HB 573 adds the offense of “traveling to meet a minor to commit an unlawful sex act” to Level 7 of the Offense Severity Ranking Chart.

## **E-Mail Registration of Sexual Predators and Sexual Offenders**

### Sexual Predators

#### *Initial Registration:*

Section 775.21, F.S., provides that sexual predators<sup>7</sup> are subject to registration requirements. Specifically, sexual predators must register with the Department of Law Enforcement (FDLE) by providing their name, social security number, age, race, sex, date of birth, height, weight, hair and eye color, photograph, address of legal residence and address of any current temporary residence, date and place of any employment, date and place of any conviction, fingerprints, and a brief description of the crime or crimes committed.<sup>8</sup>

The manner in which a sexual predator registers with FDLE depends on the sexual predator's custody/supervision status. If the sexual predator is in the custody or control of the Department of Corrections (DOC), under the supervision of the DOC, or is in the custody of a private correctional facility, the DOC must register the sexual predator and forward the registration information to FDLE.<sup>9</sup> If the sexual predator is in the custody of a local jail, the custodian of the local jail must register the sexual predator and forward the registration information to FDLE.<sup>10</sup> If the sexual predator is under federal supervision, the federal agency responsible for supervising the sexual predator may forward FDLE any information regarding the sexual predator which is consistent with the information provided by the DOC under this section.<sup>11</sup>

Sexual predators who establish or maintain a residence in this state and who are not in the custody or control of the DOC, not under the supervision of the DOC, or who are not in the custody of a private

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<sup>7</sup> Section 775.21, F.S., states that a person shall be designated a “sexual predator” if he or she has been convicted of:

1. A capital, life, or first-degree felony violation, or any attempt thereof, of one of the following offenses:
  - a. kidnapping or false imprisonment<sup>1</sup> where the victim is a minor and the defendant is not the victim's parent;
  - b. sexual battery;
  - c. lewd or lascivious offenses;
  - d. selling or buying a minors for child pornography; or
  - e. a violation of a similar law of another jurisdiction.
2. Any felony violation of one of the following offenses where the offender has previously been convicted of or found to have committed, or has pled nolo contendere or guilty to, regardless of adjudication one of the following offenses:
  - a. kidnapping, false imprisonment or luring or enticing a child where the victim is a minor and the defendant is not the victim's parent,
  - b. sexual battery;
  - c. procuring a person under the age of 18 for prostitution;
  - d. lewd or lascivious offenses;
  - e. lewd or lascivious battery on an elderly person;
  - f. promoting sexual performance by a child;
  - g. selling or buying a minors for child pornography; or
  - h. a violation of a similar law of another jurisdiction.

<sup>8</sup> s. 775.21(6), F.S. (2006)

<sup>9</sup> s. 775.21(6)(b), F.S. (2006)

<sup>10</sup> s. 775.21(6)(c), F.S. (2006)

<sup>11</sup> s. 775.21(6)(d), F.S. (2006)

correctional facility, must initially register in person at the sheriff's office in the county of residence within 48 hours after establishing permanent or temporary residence.<sup>12</sup>

*Re-Registration:*

In addition to the initial registration requirements, sexual predators must report in person to the sheriff's office in the county in which he or she resides twice a year to *re-register*.<sup>13</sup> Re-registration includes any changes to a sexual predator's name, social security number, age, race, sex, date of birth, height, weight, hair and eye color, address of any permanent residence and address of any current temporary residence, date and place of any employment, vehicle make, model, color, and license tag number, fingerprints, and photograph.<sup>14</sup>

A sexual predator's failure to comply with any of the above registration requirements is a third degree felony.<sup>15</sup>

Sexual Offenders

*Initial Registration:*

Sexual offenders<sup>16</sup> are also subject to registration requirements. Section 943.0435, F.S., states that sexual offenders must report in person at the sheriff's office in the county in which the offender establishes or maintains a permanent or temporary residence within 48 hours after establishing permanent or temporary residence or within 48 hours after being released from the custody, control, or supervision of the DOC.<sup>17</sup> Sexual offenders must provide the sheriff with their name, date of birth, social security number, race, sex, height, weight, hair and eye color, tattoos or other identifying marks, occupation and place of employment, address of permanent or legal residence or address of any current temporary residence, date and place of any conviction, photograph, fingerprints, and a brief description of the crime or crimes committed.<sup>18</sup>

If the sexual offender is not incarcerated but is under the supervision of the DOC, the DOC must register the sexual offender and forward the registration information to FDLE.<sup>19</sup>

*Re-registration:*

In addition to the initial registration requirements, sexual offenders must report in person to the sheriff's office in the county in which he or she resides twice a year to *re-register*.<sup>20</sup> Re-registration includes any

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<sup>12</sup> s. 775.21(6)(e), F.S. (2006)

<sup>13</sup> Once during the month of the sexual predator's birthday and once during the sixth month following the sexual predator's birth month. s. 775.21(8), F.S. (2006)

<sup>14</sup> *Id.*

<sup>15</sup> s. 775.21(10), F.S. (2006)

<sup>16</sup> Section 943.0435, F.S., defines a sexual offender as a person who has been convicted of one of the following offenses and has been released on or after October 1, 1997 from the sanction imposed for the offense:

1. kidnapping, false imprisonment or luring or enticing a child where the victim is a minor and the defendant is not the victim's parent;
2. sexual battery;
3. procuring a person under the age of 18 for prostitution;
4. lewd or lascivious offenses;
5. lewd or lascivious battery on an elderly person;
6. promoting sexual performance by a child;
7. selling or buying a minors for child pornography;
8. selling or showing obscenity to a minor;
9. using a computer to solicit sexual conduct of or with
10. transmitting child pornography;
11. transmitting material harmful to minors;
12. violating of a similar law of another jurisdiction.

<sup>17</sup> s. 943.0435(2), F.S. (2006)

<sup>18</sup> *Id.*

<sup>19</sup> s. 944.607, F.S. (2006)

changes to a sexual offender's name, social security number, age, race, sex, date of birth, height, weight, hair and eye color, address of any permanent residence and address of any current temporary residence, date and place of any employment, vehicle make, model, color, and license tag number, fingerprints, and photograph.<sup>21</sup>

A sexual offender's failure to comply with any of the above registration requirements is a third degree felony.<sup>22</sup>

### Registration Responsibilities of the DOC and Local Jails

Currently, the DOC must provide FDLE information regarding any sexual offender who is being released after serving a period of incarceration for any offense. Such information includes the sexual offender's name, any change in the offender's name, the correctional facility from which the sexual offender is released, social security number, race, sex, date of birth, height, weight, hair and eye color, date and county of sentence and each crime for which the offender was sentenced, fingerprints, digitized photograph, date of release, and the sexual offender's intended residence, if known.<sup>23</sup> If the sexual offender was in the custody of a local jail, the custodian of the local jail must notify FDLE of the sexual offender's release and provide FDLE the above information.

### Effect of the Bill

HB 573 requires sexual predators and sexual offenders to provide FDLE, during the initial registration and the re-registration process, any electronic mail address or instant message name prior to using such electronic mail address or instant message name. The bill requires FDLE to establish an online system through which sexual predators and sexual offenders may securely access and update electronic mail address and instant message name information.

The provisions of the bill also require the DOC to provide the FDLE with electronic mail address and instant message name information of sexual offenders who are being released after serving a period of incarceration.

The bill defines "electronic mail address" as having the same meaning as provided in s. 668.602, F.S.<sup>24</sup> The bill defines "instant message name" as "an identifier that allows a person to communicate in real-time with another person using the Internet.

### **Commercial Social Networking Websites**

HB 573 provides legislative intent language regarding the collection and distribution of electronic mail address and instant message name information of sexual predators and sexual offenders. Specifically, the bill states that the collection and distribution of such information should be done in a manner to maximize public safety benefits while minimizing and avoiding any use of such information for illegal purposes.

HB 573 creates s. 943.0437, F.S., authorizing FDLE to provide information relating to electronic mail addresses and instant message names maintained as part of the sexual offender registry to commercial social networking websites. The bill defines "commercial social networking websites" as "commercially operated Internet websites that allow users to create web pages or profiles that provide

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<sup>20</sup> Once during the month of the sexual offender's birthday and once during the sixth month following the sexual predator's birth month. s. 943.0435(14), F.S. (2006)

<sup>21</sup> *Id.*

<sup>22</sup> s. 943.0435, F.S. (2006)

<sup>23</sup> s. 944.606, F.S. (2006)

<sup>24</sup> Section 6686.02, F.S. defines "electronic mail address" as a destination, commonly expressed as a string of characters, to which electronic mail may be sent or delivered.

information about themselves and are available publicly or to other users and that offers a mechanism for communication with other users, such as a forum, chat room, electronic mail or instant messenger.”

The bill authorizes commercial social networking websites to use the information provided by FDLE to compare registered users and screen potential users of commercial social networking websites. The bill also provides that the statute is not to be construed to impose civil liability on a commercial social networking website for certain actions.

C. SECTION DIRECTORY:

**Section 1.** Names the bill the “Cybercrimes Against Children Act of 2007.”

**Section 2.** Amends s. 16.56, F.S., expanding the jurisdiction of the Office of Statewide Prosecution.

**Section 3.** Amends s. 775.0847, F.S., providing definitions and reclassifying certain offenses related to child pornography.

**Section 4.** Amends s. 827.071, F.S., creating a provisions relating to state criminal jurisdiction.

**Section 5.** Amends s. 847.0135, F.S., revising prohibitions on the use of computer services to facilitate sexual conduct to include electronic storage devices, additional persons, and additional conduct; authorizing separate charges for each use of computer services in which certain conduct occurs; prohibiting traveling to meet minors for certain purposes; providing criminal penalties.

**Section 6.** Amends s. 905.34, F.S., expanding the jurisdiction of the Statewide Grand Jury.

**Section 7.** Amends s. 910.15, F.S., revising provisions relating to offenses facilitated by communications systems.

**Section 8.** Amends s. 921.0022, F.S., adding the offense of “traveling to meet a minor to commit an unlawful sex act” to Level 7 of the Offense Severity Ranking Chart.

**Section 9.** Amends s. 775.21, F.S., providing definitions and requiring sexual predators to provide certain information during the registration process.

**Section 10.** Amends s. 943.0435, F.S, providing definitions and requiring sexual offenders to provide certain information during the registration process.

**Section 11.** Amends s. 944.606, F.S., providing definitions and requiring the DOC to provide certain information to specified entities.

**Section 12.** Amends s. 944.607, F.S., providing definitions and requiring sexual offenders under the supervision of the DOC to provide certain information during the registration process.

**Section 13.** Providing legislative intent regarding the collection and distribution of electronic mail address and instant message name information.

**Section 14.** Creates s. 943.0437, F.S., providing definitions and authorizing FDLE to provide information relating to electronic mail addresses and instant message names maintained as part of the sexual offender registry to commercial social networking websites.

**Section 15.** This bill takes effect October 1, 2007.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See "Fiscal Comments."

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

According to the Office of the Attorney General/Department of Legal Affairs, the agency does not anticipate the need for additional resources to implement this bill. However, it should be noted that in a related issue in the Department's Fiscal Year 2007-08 Legislative Budget Request, funding is requested for 50 full-time positions, OPS clerical support, and related expenses to enable the agency's recently created Child Predator CyberCrime Unit<sup>25</sup> to investigate criminal activity relating to the victimization of children on the Internet.

The Criminal Justice Impact Conference met on February 16, 2007, and determined that this bill would have an indeterminate prison bed impact. The bill requires the reclassification of the felony degree of offenses involving child pornography in certain situations. This could have an impact on inmate population in the state prison system. However, no information is available to indicate the frequency with which images of child pornography involve the elements which would lead to the reclassification of the offense.

FDLE estimates the first year costs of including sexual offenders' e-mail addresses and instant message names in the sexual offender registry will be \$329,298 (of which \$83,439 is recurring) and will require two full-time employees. FDLE states that these costs can be absorbed within existing Operating Trust Fund revenues, but will require additional budget authority.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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<sup>25</sup> The CyberCrime Unit was created as a pilot project in FY 2005-06 with a staff of four full-time equivalent positions. In the 2006 Legislative Session, the Unit was established in s. 16.61, Florida Statutes.



Not applicable because this bill does not appear to: require the counties or cities to spend funds or take action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

The bill sponsor submitted the following statement regarding the bill as originally filed:

HB 573 addresses the growing problem of online child predators by creating new penalties for traveling to meet a child for the purpose of sexual exploitation, enhancing penalties for possession and distribution of certain types of images of children being sexually abused, and clarifying that the Office of Statewide Prosecution has jurisdiction over these offenses.

The chair of the Safety & Security Council chose not to submit any further comments regarding the council substitute.

#### **IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES**

On February 7, 2007, the Homeland Security & Public Safety Committee adopted two amendments and reported the bill favorably as amended.

##### **Amendment One:**

- Renames the bill the "Cybercrimes Against Children Act of 2007."
- Defines the terms "child pornography" and "sexual conduct" in a manner consistent with s. 847.001, F.S.
- Specifies that violations of ss. 827.071 (sexual performance by a child), 847.0135 (computer pornography), 847.0137 (transmission of pornography), and 847.0138 (transmission of material harmful to minors), F.S., are to be reclassified to the next higher felony degree if an offender possesses 10 or more images of any form of child pornography and at least one image contains a child who is younger than 5, or contains sadomasochistic abuse, sexual battery, sexual bestiality, or any movie, involving a child.
- Deletes Section 3 of the bill (relating to registration of convicted felons).
- Clarifies language that makes it a crime for a person to solicit, lure, or entice a parent, legal guardian or custodian of a child to participate in certain unlawful acts.
- Amends s. 905.34, F.S., to expand the list of offenses that the statewide grand jury has subject-matter jurisdiction over.
- Corrects technical bill drafting errors.
- Adds the offense of "Traveling to meet a minor to commit an unlawful sex act" to Level 7 of the Criminal Punishment Code offense severity ranking chart.

##### **Amendment Two:**

Amends ss. 775.21, 943.0435, 9444.606, and 944.607, F.S. to:

- Define the terms "electronic mail address" and "instant message name."

- Require sexual predators and sexual offenders to register any electronic mail address and any instant message name the sexual predator or offender uses or intends to use during the initial registration process.
- Require sexual predators and offenders to, within 48 hours of initial registration, register any electronic mail address and any instant message name the sexual predator or offender uses or intends to use at a DHSMV driver license office.
- Require sexual predators and offenders to report to a driver's license office within 48 hours if their electronic mail address or instant message name changes.
- Require sexual predators and offenders to include any changes to electronic mail addresses and instant message names during the re-registration process.
- Provide penalties for failing to register or re-register electronic mail address or instant message name information.

Creates s. 943.0437, F.S., entitled "Commercial social networking websites," which:

- Defines the term "commercial social networking website."
- Permits FDLE to provide information relating to electronic mail addresses and instant message names maintained as part of the sexual offender registry to commercial social networking websites (or their designees) and permits such websites to use such information for the purpose of comparing registered users and screening potential users.
- Provides that the statute is not to be construed to impose civil liability on a commercial social networking website for certain actions.

On February 21, 2007, the Safety and Security Council adopted a substitute amendment for amendment 2. The substitute amendment:

- Requires sexual predators and sexual offenders to provide FDLE, during the initial registration and the re-registration process, any electronic mail address or instant message name prior to using such electronic mail address or instant message name.
- Requires FDLE to establish an online system through which sexual predators and sexual offenders may securely access and update electronic mail address and instant message name information.
- Defines the term "instant message name."
- Provides legislative intent language regarding the collection and distribution of electronic mail address and instant message name information of sexual predators and sexual offenders.

This analysis is drafted to the council substitute for HB 573.