

STORAGE NAME: h1451.cp
DATE: April 11, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
CRIME AND PUNISHMENT
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 1451
RELATING TO: Destructive Devices/Time Limitations
SPONSOR(S): Representatives Sindler, Crist, and others
STATUTE(S) AFFECTED: Section 775.15, F.S.
COMPANION BILL(S): SB 1028

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) CRIME AND PUNISHMENT
- (2) CRIMINAL JUSTICE (APPROPRIATIONS)
- (3)
- (4)
- (5)

I. SUMMARY:

Current law provides time limitations for commencing criminal prosecutions, known as the "statute of limitations." The purpose of the statute of limitations is to protect a person from being indefinitely under the threat of prosecution "which otherwise might be indefinitely delayed until time when defense witnesses might die, disappear, or otherwise become unavailable, judges would change office, or innumerable other time hazards might develop, which could conceivably defeat, or at least hamper, an otherwise good defense" State v. Hickman, 189 So. 2d 254 (Fla. 2d DCA 1966). Presently, the only offenses which are totally exempt from these time limitations are capital felonies, life felonies, or any felony resulting in a death.

Section 775.15, F.S., provides time limitations for the prosecution of criminal offenses. Currently, when a person is charged for a felony "that resulted in injury to any person when such felony arises from the use of a destructive device", as defined in s. 790.001, F.S., the statute of limitations is four years. This bill would change the statute of limitations when a felony arises from the use of a "destructive device" to commence at any time.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Current law provides time limitations for commencing criminal prosecutions, known as the "statute of limitations." The purpose of the statute of limitations is to protect a person from being indefinitely under the threat of prosecution "which otherwise might be indefinitely delayed until time when defense witnesses might die, disappear, or otherwise become unavailable, judges would change office, or innumerable other time hazards might develop, which could conceivably defeat, or at least hamper, an otherwise good defense" State v. Hickman, 189 So. 2d 254 (Fla. 2d DCA 1966). Presently, the only offenses which are totally exempt from these time limitations are capital felonies, life felonies, or any felony resulting in a death.

Section 775.15, F.S., provides time limitations for the prosecution of criminal offenses. Currently, when a person is charged for a felony "that resulted in an injury to any person when such felony arises from the use of a destructive device", as defined in s. 790.001, F.S., the statute of limitations is four years. This bill would change the statute of limitations when a felony arises from the use of a "destructive device" to commence at any time. The phrase "destructive devices" includes bombs, cannons, as well as some unlawfully short shotguns which have a barrel with a bore of one-half inch or more in diameter. Firearms that may be lawfully possessed by civilians would not be included within the meaning of "destructive device." [Section 790.001, F.S.]

B. EFFECT OF PROPOSED CHANGES:

HB 1451 removes any time limitations for prosecution of a felony that results in injury to any person, when such felony arises from the use of a destructive device.

Felonies involving destructive devices include crimes involving the use of a bomb, or guns with a barrel whose bore is greater than one half inch in diameter except for shotguns with barrels that have not been sawed off. [Section 790.161, F.S.] A prosecution for a first degree felony must be commenced within four years after it is committed. Under this bill, the prosecution of this offense may commence at any time as long as the statute of limitations has not expired before this bill takes effect.

According to the Florida Department of Law Enforcement (FDLE) "It is recognized in the law enforcement and forensic communities that cases involving destructive devices such as bombs can often take years to investigate. The UNIBOMBER case was actively investigated for 18 years before an arrest took place. Investigation of last summer's Olympic Park bombing is ongoing and has consumed thousands of hours of activity. The proposed revision to Section 775.15(1), F.S. will permit the arrest and prosecution of all offenses involving the illegal use of a destructive device by allowing the commencement of prosecution for such crimes at any time."

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

Not applicable.

(2) what is the cost of such responsibility at the new level/agency?

Not applicable.

(3) how is the new agency accountable to the people governed?

Not applicable.

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Not applicable.

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

Not applicable.

(1) Who evaluates the family's needs?

Not applicable.

(2) Who makes the decisions?

Not applicable.

(3) Are private alternatives permitted?

Not applicable.

(4) Are families required to participate in a program?

Not applicable.

(5) Are families penalized for not participating in a program?

Not applicable.

b. Does the bill directly affect the legal rights and obligations between family members?

No.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

Not applicable.

(2) service providers?

Not applicable.

(3) government employees/agencies?

Not applicable.

D. SECTION-BY-SECTION RESEARCH:

Section 1: Amends 775.15(1), F.S., relating to time limitations, as described above.

Section 2: Provides that the act take place upon becoming a law, and applies to pending cases the prosecution of which has not been barred prior to that date.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

See fiscal comments.

2. Recurring Effects:

See fiscal comments.

3. Long Run Effects Other Than Normal Growth:

See fiscal comments.

4. Total Revenues and Expenditures:

See fiscal comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

See fiscal comments.

2. Recurring Effects:

See fiscal comments.

3. Long Run Effects Other Than Normal Growth:

See fiscal comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

See fiscal comments.

2. Direct Private Sector Benefits:

See fiscal comments.

3. Effects on Competition, Private Enterprise and Employment Markets:

See fiscal comments.

D. FISCAL COMMENTS:

To the extent that people are arrested for, charged with, and convicted of, the criminal offenses created in this bill, there may be a fiscal impact to state and local governments. Section 921.001(9)(b), F.S., 1994 Supplement, requires the Criminal Justice Estimating Conference (CJEC) to review any legislation that creates or modifies a criminal penalty to determine the bill's impact on the state prison system. According to the CJEC this bill would have no impact on prison beds.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill is exempt from the requirements of Article VII, Section 18, of the Florida Constitution because it is a criminal law.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

COMMITTEE ON CRIME AND PUNISHMENT:

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