

STORAGE NAME: h3263a.cp
DATE: April 2, 1998

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

BILL #: HB 3263
RELATING TO: Robbery
SPONSOR(S): Rep. Bronson
COMPANION BILL(S): SB 1784

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

- (1) CRIME AND PUNISHMENT YEAS 7 NAYS 0
 - (2) CRIMINAL JUSTICE APPROPRIATIONS
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

The bill amends the robbery statute to add the phrase sudden snatching as follows:

...when in the course of the taking there is the use of force, a sudden snatching, violence, assault, or putting in fear.

The bill defines "sudden snatching" as follows:

"Sudden snatching" means taking possession of money or other property from the victim, when the victim was aware of the taking. In order to satisfy this definition, it is not necessary to show that:

1. The offender used any amount of force beyond that effort necessary to obtain possession of the money or other property; or
2. There was any resistance offered by the victim to the offender or injury to the victim's person.

The bill makes robbery by sudden snatching a third-degree felony ranked as a level 5 offense in the offense severity ranking chart. The other types of robbery without a weapon will remain second-degree felonies ranked as level six offenses. Thus, the typical purse snatching offense will be a third-degree felony instead of a second-degree misdemeanor of petit theft.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Robbery means the taking of money or other property from the person or custody of another with the intent to steal when in the course of the taking there is the use of force, violence, assault, or putting in fear. If the robbery occurs without a weapon, then it is a second-degree felony that is ranked as a level 6 on the offense severity ranking chart. A level 6 offense, without a prior history gives the judge discretion to decide whether to impose prison.

The Florida courts have noted that the only element that distinguishes robbery from theft is that the property must have been taken from the person or custody of another by means of force, violence assault or putting in fear. The Florida Supreme Court has held that if the robbery is by means of force, then the force must be more than the force necessary to remove the property from the person. Robinson v. State, 692 So.2d 883 (Fla. 1997). Thus, the courts have held that grabbing a camera from the victim's shoulder did not involve force sufficient to elevate the offense from petit theft to robbery; snatching a gold chain from the victim's neck using only slight force necessary to take possession of the chain was theft rather than robbery; and snatching a purse without the use of force or putting in fear constituted theft rather than robbery. Robinson, id. The case law now seems to require that a victim resist the robbery in order to establish the use of force element necessary to prove robbery. Of course, robbery by violence or robbery by putting in fear do not require any resistance by the victim.

B. EFFECT OF PROPOSED CHANGES:

The bill amends the robbery statute to add the phrase sudden snatching as follows:

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typical purse snatching offense will be a third-degree felony instead of a second-degree misdemeanor of petit theft.

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?

N/A

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

N/A

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

N/A

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?

N/A

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

N/A

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

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

N/A

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

N/A

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

N/A

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

N/A

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

N/A

3. Personal Responsibility:

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

N/A

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

N/A

4. Individual Freedom:

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

N/A

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

N/A

5. Family Empowerment:

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

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

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

N/A

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

N/A

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?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Section 812.13, F.S.

E. SECTION-BY-SECTION RESEARCH:

Section 1. Creates the offense of robbery by sudden snatching.

Section 2. Ranks robbery by sudden snatching as a level 5 offense for the purposes of the Florida Punishment Code.

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:

N/A

2. Direct Private Sector Benefits:

N/A

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

N/A

D. FISCAL COMMENTS:

The Criminal Justice Estimating Conference estimates the bill will have an indeterminate to minimal impact on the state's prison population.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

Article VII, Section 18 does not apply to criminal statutes.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

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

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

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

V. COMMENTS:

The state of Georgia has a similar statute providing that the taking of property from the person or immediate presence of another by sudden snatching is robbery. Georgia case law defines robbery by sudden snatching to require force, but only that amount of force "necessary to obtain possession of the property from one, who is off his guard, and where there is no resistance by the owner or injury to his person." Robinson v. State, 692 So.2d 883 (Fla. 1997).

On page 2, line 28, the meaning of the following reference is unclear: "as provided in paragraph (c)." It is anticipated that an amendment will be filed that will more clearly exempt robbery by sudden snatching from the enhancement in paragraph (b).

Another amendment is anticipated that will clarify that robbery by sudden snatching will require a taking of property from the person of the victim. If robbery by sudden snatching were to apply to all property in a victim's custody, then shoplifting could be robbery if the clerk is aware that the property is being taken.

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VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 4, 1998, three amendments were adopted by the Crime and Punishment Committee. The first amendment requires that the taking for a robbery by sudden snatching has to be from the person of the victim. The second amendment clarifies that the enhancement for possession of a non-deadly weapon during the course of a robbery does not apply to robbery by sudden snatching. The third amendment adds a new misdemeanor penalty for the possession or advertisement for sale of equipment designed and used for unauthorized reception of cable communications.

VII. SIGNATURES:

COMMITTEE ON CRIME AND PUNISHMENT:

Prepared by:

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J. Willis Renuart

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