

STORAGE NAME: h0393a.cp
DATE: April 7, 1997

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
CRIME AND PUNISHMENT
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 393
RELATING TO: Public Notice
SPONSOR(S): Rep. Morroni
STATUTE(S) AFFECTED: Chapter 775, Florida Statutes
COMPANION BILL(S): SB 210 (I)

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

- (1) GOVERNMENTAL RULES AND REGULATIONS YEAS 5 NAYS 0
- (2) CRIME AND PUNISHMENT
- (3)
- (4)
- (5)

I. SUMMARY:

Current law requires the Department of Corrections (DOC), the Parole Commission, and the Control Release Authority to provide the anticipated release date and identifying information of inmates scheduled for release to the sheriff of the county in which the inmate plans to reside.

Upon receiving information about released inmates, this bill directs the sheriff or police chief, as appropriate, to "notify the public" of the name, photograph, address and the circumstances of the offense, for those inmates convicted of violent offenses who are expected to be released into their county.

The Department of Corrections reports that there were 5,284 offenders sentenced in 1996 who would have qualified for the notice requirements provided for by the bill. Because the bill is silent on the method in which notification will be implemented, however, the fiscal impact is indeterminate.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

The law currently requires the Department of Corrections to notify the sentencing judge, the prosecuting state attorney, the arresting law enforcement agency, the sheriff and the victim of the offense six months before the release of an inmate. See Section 944.605, F.S.

Another law, similar to this bill, requires public notification of the presence in the community of a released "sexual predator." See Section 775.21. That law specifies that notification will occur by publication of the offender's name, photograph, address and circumstances of the offense in a newspaper or other publication of general circulation, twice, on successive weeks.

B. EFFECT OF PROPOSED CHANGES:

This bill requires the sheriff or chief of police, as appropriate, to "notify the public", as to the presence of a violent offender in the community following notification of their pending release from prison, as required by Section 944.605. A violent offender is defined as an offender who has been convicted of a felony, or an attempt or conspiracy to commit a felony, and one or more of such convictions was for:

- a) Arson
- b) Sexual battery
- c) Robbery
- d) Kidnapping
- e) Aggravated child abuse
- f) Aggravated abuse of an elderly person or disabled adult.
- g) Aggravated assault
- h) Murder
- l) Manslaughter
- j) Aggravated manslaughter of a disabled person or elderly adult
- k) Aggravated manslaughter of a child
- l) Unlaw throwing, placing, or discharging of a destructive device or bomb.
- m) Armed burglary
- n) Aggravated battery, or
- o) Aggravated stalking

Unlike the Sexual Predator notification law, this bill does not specify how the sheriff is to implement notification, only what information the notification shall contain. This bill is, also, different in that it does not protect local law enforcement agencies from civil liability resulting from good faith errors.

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?

NA

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

NA

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

NA

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?

NA

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

NA

4. Individual Freedom:

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

No.

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:

(1) Who evaluates the family's needs?

NA

(2) Who makes the decisions?

NA

(3) Are private alternatives permitted?

NA

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

NA

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

NA

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

NA

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?

NA

(2) service providers?

NA

(3) government employees/agencies?

NA

D. SECTION-BY-SECTION RESEARCH:

Section (1):

This section instructs the sheriff, or chief of police, of the community in which the inmate is to be released, to determine whether the inmate is a violent offender as defined in this section. If the inmate so qualifies, this section instructs the sheriff, or chief of police, to notify the public of:

a) The name;

- b) A description of the violent offender, including a photograph;
- c) The violent offender's intended address of residence; and
- d) The circumstances of the offense.

Section (2):

This section expressly forbids permission to release the name of any victim of the violent offense.

Section (3):

This section defines the term "violent offender" as an offender who has been convicted of a felony, or an attempt or conspiracy to commit a felony, and one or more of such convictions was for the aforementioned violent offenses.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

Local law enforcement agencies will incur all costs associated with establishing their public notification procedures, should they decide to comply.

2. Recurring Effects:

Local law enforcement agencies will incur costs to determine if the offender meets the criteria of a "violent offender", and to disseminate this information to the community, should they decide to comply.

3. Long Run Effects Other Than Normal Growth:

None Known.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

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

None.

D. FISCAL COMMENTS:

The Department of Corrections reports that there were 5,284 offenders sentenced in 1996 who would have qualified for the notice requirements provided for by this bill. Because local law enforcement agencies have the discretion to select the method of public notification, however, compliance could be met by inexpensive methods such as posting a flyer in the courthouse, or by extremely expensive methods such as television advertising.

Recently, FDLE contacted several Florida newspapers to determine the approximate cost of taking out a newspaper advertisement as a means of public notification. According to the FDLE's General Counsel, the cost of running one advertisement once a week for two consecutive weeks in a newspaper of general circulation in the affected area ranged from \$500 to \$3500. FDLE staff further commented that such an advertisement in the Miami Herald would cost approximately \$2800. Multiplying this figure times the potential 5,284 offenders who qualify for the notification process results in an estimated cost of \$2.6 million to \$185 million for newspaper notification.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill is not a mandate as defined by Article VII, Section 18 because it is not defined as fulfilling an important state interest.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the revenue-raising authority of cities or counties.

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

This bill does not reduce the amount of state tax shared with cities and counties.

V. COMMENTS:

Because this bill is not defined as fulfilling an important state interest and does not provide funding, compliance will be deemed discretionary. Moreover, because the bill is silent on the method for notification, presumably, notification could be accomplished by posting a flyer in law enforcement offices or in the courthouse, as existing budgets permit. Significantly, however, local governments will be free to make their own determinations about how much notice is needed in their communities and fund their law enforcement budgets accordingly.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Governmental Rules and Regulations adopted one amendment to the original bill.

Amendment #1 by Representative Ogles provided that a sheriff or chief of police may notify the public of the presence of a violent offender in the community, but they are not required to do so. This provision removes any perceived mandate on local law enforcement agencies.

VII. SIGNATURES:

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