

STORAGE NAME: h0425b.jud

DATE: February 26, 1999

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
JUDICIARY
ANALYSIS**

BILL #: HB 425

RELATING TO: Robbery/Sudden Snatching

SPONSOR(S): Rep. Sanderson

COMPANION BILL(S): SB 722 (I)

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

- (1) CRIME AND PUNISHMENT YEAS 7 NAYS 0
 - (2) JUDICIARY
 - (3) CRIMINAL JUSTICE APPROPRIATIONS
 - (4)
 - (5)
-

I. SUMMARY:

The bill creates a new subset of robbery under s. 812.13, F.S. known as "sudden snatching."

The bill defines "sudden snatching" as taking possession of money or other property from the victim, when the victim was aware of the taking. The bill further provides that in order to satisfy the definition of "sudden snatching," 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.

The bill provides an effective date of October 1, 1999.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Section 812.13, F.S. defines robbery to mean “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 a prison sentence on the person who is convicted.

Florida courts have noted that the only element that distinguishes robbery from theft is the use of force, violence, assault, or “putting in fear” to take the property of another person. The Florida Supreme Court held that if the robbery is by means of force, then the force must be more than the force necessary to simply 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. *Id.* In Robinson, the court determined that for what was then a “sudden snatching” to rise to the level of robbery, the force necessary to take the property of the victim must be sufficient to overcome the victim’s resistance. 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 creates a new subset of robbery under s. 812.13, F.S. known as “sudden snatching.”

The bill defines “sudden snatching” as taking possession of money or other property from the victim, when the victim was aware of the taking. The bill further provides that in order to satisfy the definition of “sudden snatching,” 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 does not require any showing of the use of force, or resistance by the victim as was required by the Supreme Court in Robinson. Under the bill, the mere taking of a camera off the arm of the victim, without resistance, would constitute a robbery.

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.

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?

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?

The bill does not reduce or eliminate any agency program.

- (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?

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?

N/A

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?

N/A

5. Family Empowerment:

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

- (1) Who evaluates the family's needs?

The bill does not purport to provide services to families or children.

- (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?

The bill does not create or change a program providing services to families or children.

- (2) service providers?

N/A

- (3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Sections 812.13, and 921.0022, F.S.

E. SECTION-BY-SECTION ANALYSIS:

Section 1. Creates the offense of robbery by sudden snatching, amending s. 812.13, F.S.

Section 2. Ranks robbery by sudden snatching as a level 5 offense for the purposes of the Florida Punishment Code, amending s. 921.0022, F.S.

Section 3. Provides an effective date of October 1, 1999.

III. FISCAL ANALYSIS & 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:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

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 Criminal Estimating Conference has not yet met to consider the impact of the bill. However, in 1998 the Conference determined that a nearly identical bill would 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:

Since the bill amends a criminal statute, Article VII, Section 18 of the Florida Constitution will not apply.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

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

N/A

V. COMMENTS:

By staff of the Crime and Punishment Committee:

The bill modifies the definition of robbery to include robbery by sudden snatching, however, the penalty for robbery by sudden snatching is less than the penalty for robbery. This discrepancy will require a separate jury instruction for robbery by sudden snatching. It is also unusual to have what is essentially a separate, less serious offense contained within the definition of another offense. Litigation on appeal may be avoided if robbery by sudden snatching were made a separate offense from robbery.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 17, 1999 in the Committee on Crime and Punishment the sponsor of the bill offered an amendment to more clearly exempt robbery by sudden snatching from the enhancement in paragraph (b). The amendment was approved by the committee and is traveling with the bill.

A second amendment was offered by the sponsor in the Committee on Crime and Punishment to require a taking of property from the person of the victim in order to have an offense of robbery by sudden snatching. 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. The amendment was approved by the committee and is traveling with the bill.

The sponsor also offered a third amendment to provide that the victim must be aware of the theft of the property during the course of the taking. Thus if a victim becomes aware that property was taken while the offender was fleeing the scene, there would still be a robbery by sudden snatching even though the victim was not aware of the theft during the exact moment that it occurred. The amendment was approved by the committee and is traveling with the bill.

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VII. SIGNATURES:

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