

STORAGE NAME: h0677.cp

DATE: March 17, 2000

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
CRIME & PUNISHMENT
ANALYSIS**

BILL #: HB 677

RELATING TO: Sexual Predator Prosecution Act

SPONSOR(S): Representative Johnson

TIED BILL(S):

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

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

I. SUMMARY:

HB 677 provides that an offender serving a sentence for sexual battery or murder who is found guilty of a separate offense of sexual battery or murder shall serve a consecutive sentence for each separate offense.

Note: It is expected that the sponsor will offer an amendment to clarify that any sentence for sexual battery or murder must be imposed consecutively to any other sentence for sexual battery or murder which arose out of a separate criminal episode.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Section 921.16 provides that when a defendant is convicted of two or more offenses charged in the same indictment or information, the defendant shall serve the sentences concurrently unless the court directs that the sentences be served consecutively. Sentences for offenses not charged in the same indictment or information are to be served consecutively unless the court directs that they be served concurrently.

Any prisoner who escapes or attempts to escape from confinement commits a second degree felony. Section 944.40 specifically provides that the punishment for escape must run consecutive to any former sentence imposed upon the prisoner. See also, Sec. 944.48.

Section 775.021(4) provides in part that “[w]hoever, in the course of one criminal transaction or episode, commits an act or acts which constitute one or more separate criminal offenses, upon conviction and adjudication of guilt, shall be sentenced separately for each criminal offense; and the sentencing judge may order the sentences to be served concurrently or consecutively.”

C. EFFECT OF PROPOSED CHANGES:

The bill amends section 921.16 to provide that an offender serving a sentence for sexual battery or murder who is found guilty of a separate offense of sexual battery or murder shall serve a consecutive sentence for each separate offense.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends s. 922.16 relating to when sentences are to be served consecutively and when concurrently.

Section 2: Provides effective date.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See fiscal comments.

2. Expenditures:

See fiscal comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See fiscal comments.

2. Expenditures:

See fiscal comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See fiscal.

D. FISCAL COMMENTS:

The Criminal Justice Estimating Conference has not met to consider the impact of this bill on the Department of Corrections. To the extent that the bill requires sentences for murder or sexual battery to be imposed consecutively that would have been imposed concurrently, the bill will result in longer prison sentences for some defendants.

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:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

It is expected that the sponsor will offer an amendment to clarify that consecutive sentences must be imposed for each murder or sexual battery arising out of separate criminal episodes.

In deciding whether separate crimes comprise a single criminal episode, the trial court considers whether separate victims are involved, whether the crimes occurred in separate locations, and whether there was a temporal break between the incidents. In Garrison v. State, 654 So.2d 1176 (Fla. 1st DCA 1994), the defendant robbed the store clerk then left the store. The defendant returned to the store, pointed the gun at the clerk and told her that he wanted to kill her. In deciding that the trial court improperly imposed consecutive habitual offender sentences, the First District decided that any temporal break in the incident was too brief to support finding that offenses were not part of same criminal episode.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

COMMITTEE ON CRIME & PUNISHMENT:

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