

STORAGE NAME: h0677z.cp
DATE: June 7, 2000

****AS PASSED BY THE LEGISLATURE****
CHAPTER #: 2000-179, Laws of Florida

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
CRIME & PUNISHMENT
FINAL ANALYSIS**

BILL #: HB 677, 1st Engrossed
RELATING TO: Sexual Predator Prosecution Act
SPONSOR(S): Representative Johnson
TIED BILL(S):

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

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

HB 677 provides 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.

HB 677 also amends current law to require that the custodian of the local jail, rather than the sheriff, must certify information relevant to calculating the amount of time that a prisoner has spent in jail between sentencing and being placed in the custody of the Department of Corrections.

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:

Concurrent or Consecutive Sentences

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."

Credit for Time Served

When a court imposes a sentence of imprisonment, the judge must allow a defendant credit for all of the time he or she spent in the county jail before the sentence was imposed. Sec. 921.161(1), F.S. A prisoner is also entitled to receive credit on his or her sentence for all time spent in jail between sentencing and being placed in custody of the Department of Corrections. When delivering a prisoner to the department, the sheriff must certify to the department in writing:

1. The date the sentence was imposed and the date the prisoner was delivered to the department.
2. The dates of any periods after sentence the prisoner was at liberty on bond.
3. The dates and reasons for any other times the prisoner was at liberty after sentence.

4. The offender-based transaction system number or numbers from the uniform arrest report or reports established pursuant to s. 943.05(2).

Sec. 921.161(2), F.S. However, in some instances, the custodian of a local jail is someone other than the sheriff and the sheriff is therefore unable to certify the required information.

C. EFFECT OF PROPOSED CHANGES:

The bill amends section 921.16 to require that a sentence for sexual battery as defined in chapter 794 or murder as defined in s. 782.04 be imposed consecutively to any other sentence for sexual battery or murder which arose out of a separate criminal episode or transaction.

The bill also amends section 921.161 to require that the custodian of the local jail, rather than the sheriff, must certify the information relevant to calculating the amount of time that a prisoner served between sentencing and being placed in custody of the Department of Corrections.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Provides short title.

Section 2: Amends s. 922.16 relating to when sentences are to be served consecutively and when concurrently.

Section 3: Amends s. 921.161, authorizing the custodian of the local jail to provide certain written certification to the Department of Corrections.

Section 4: 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 comments.

D. FISCAL COMMENTS:

The Criminal Justice Impact Conference reviewed CS/HB 955 on March 29, 2000 and determined the bill will have no significant impact on the prison population. This is due to the fact that persons convicted of highly-ranked sexual battery or murder offenses will serve a lengthy sentence on the primary offense. The consecutive sentence applied for each separate offense would not commence until many years after the inmates' primary term in prison began. Additionally, the majority of defendants convicted of sexual battery or murder also found guilty of a separate offense of sexual battery or murder receive consecutive sentences for each offense under current law.

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:

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:

At the March 22, 2000 meeting, the Committee on Crime & Punishment adopted 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. The amendment was adopted by the committee.

On April 12, 2000, the House of Representatives adopted an amendment to HB 677 which was offered by the sponsor. The amendment amended section 921.161 to provide that the custodian of the local jail, rather than the sheriff is required to certify to the Department of Corrections information relating to the amount of time that a prisoner spent in jail between sentencing and being placed in the custody of the department.

VII. SIGNATURES:

COMMITTEE ON CRIME & PUNISHMENT:

Prepared by:

Trina Kramer

Staff Director:

David De La Paz

AS REVISED BY THE COMMITTEE ON CRIMINAL JUSTICE APPROPRIATIONS:

Prepared by:

Susan M. Mosychuk

Staff Director:

James P. DeBeaugrine

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON CRIME & PUNISHMENT:

Prepared by:

Trina Kramer

Staff Director:

David De La Paz