

STORAGE NAME: h0977.cp
DATE: February 25, 2000

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

BILL #: HB 977
RELATING TO: Police Communications/Interception
SPONSOR(S): Representative Ball
TIED BILL(S): None

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

- (1) CRIME AND PUNISHMENT
 - (2) JUDICIARY
 - (3) CRIMINAL JUSTICE APPROPRIATIONS
 - (4)
 - (5)
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I. SUMMARY:

Currently, there is no provision which prohibits the possession or use of police scanners or similar devices to facilitate the commission of a crime, or to avoid detection or apprehension in the commission of a crime.

HB 977 creates s. 843.167 which makes it unlawful for any person to intercept a police radio communication by use of a scanner or other means, in order to either assist in the commission of a crime, or to escape from or avoid detection, arrest, or prosecution in connection with the commission of a crime. The bill also provides that any person who possessed or used a scanner or similar device during the commission of a crime, is presumed to have violated the bill's prohibition on interception of police radio communications.

For perpetrators of crimes who violate the provisions of the act, HB 977 increases the penalties for the crime or crimes committed by one degree.

In addition, the bill makes it a first degree misdemeanor for any person to divulge the existence or contents of a police radio communication to anyone the person knows is a suspect in the commission of a crime, with the intent to help the suspect avoid detection or prosecution for the crime.

On February 16, 2000, the Criminal Justice Impact Conference found the fiscal impact of this bill to be indeterminate.

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:

Currently, it is unlawful to install a police scanner or other similar device in a motor vehicle or business establishment.¹ An exception to this general prohibition is provided for emergency vehicles or crime watch vehicles and places established for governmental purposes. [s 843.16]

There is no provision, however, which prohibits the possession or use of police scanners or similar devices to facilitate the commission of a crime, or to avoid detection or apprehension in the commission of a crime.

Section 934.03(2), does contain a provision which provides "It is unlawful to intercept **any communication** for the purpose of committing any criminal act." (Emphasis added). However, under this provision "police radio communications" are not included within the term "any communication" as it applies to chapter 934.²

¹ Section 843.16(1) provides in part: No person, firm, or corporation shall install in any motor vehicle or business establishment, except an emergency vehicle or crime watch vehicle as herein defined or a place established by municipal, county, state, or federal authority for governmental purposes, any frequency modulation radio receiving equipment so adjusted or tuned as to receive messages or signals on frequencies assigned by the Federal Communications Commission to police or law enforcement officers of any city or county of the state or to the state or any of its agencies.

² The term "any communication" in chapter 934 applies to "wire communication", "oral communication", and "electronic communication" as those terms are defined in s. 934.02.

C. EFFECT OF PROPOSED CHANGES:

HB 977 creates s. 843.167 which makes it unlawful for any person to intercept a police radio communication by use of a scanner or other means, in order to either assist in the commission of a crime or to escape from or avoid detection, arrest, or prosecution in connection with the commission of a crime. The bill also provides that any person who possessed or used a scanner or similar device during the commission of a crime, is presumed to have violated the bill's prohibition on interception of police radio communications.

For perpetrators of crimes who violate the provisions of the act, HB 977 enhances the penalties for the crime or crimes committed as follows:

1. A misdemeanor of the second degree shall be punished as a misdemeanor of the first degree.
2. A misdemeanor of the first degree shall be punished as a felony of the third degree.
3. A felony of the third degree shall be punished as a felony of the second degree.
4. A felony of the second degree shall be punished as a felony of the first degree.
5. A felony of the first degree shall be punished as a life felony.

In addition, the bill makes it a first degree misdemeanor for any person to divulge the existence or contents of a police radio communication to anyone the person knows is a suspect in the commission of a crime, with the intent to help the suspect avoid detection or prosecution for the crime.

D. SECTION-BY-SECTION ANALYSIS:

See Effect of Proposed Changes.

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:

STORAGE NAME: h0977.cp

DATE: February 25, 2000

PAGE 4

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

N/A

D. FISCAL COMMENTS:

On February 16, 2000, the Criminal Justice Impact Conference found the fiscal impact of this bill to be indeterminate.

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

STORAGE NAME: h0977.cp

DATE: February 25, 2000

PAGE 5

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON CRIME AND PUNISHMENT:

Prepared by:

Staff Director:

David M. De La Paz

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