

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 1146

SPONSOR: Senator Constantine

SUBJECT: Robbery

DATE: April 3, 2001

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Cannon</u>	<u>CJ</u>	<u>Favorable</u>
2.	_____	_____	<u>APJ</u>	_____
3.	_____	_____	<u>AP</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Senate Bill 1146 amends the robbery statute to provide that robbery includes a robbery in which a firearm, other deadly weapon, or weapon was or was not used.

This bill substantially amends s. 812.13, F.S.

II. Present Situation:

Section 812.13, F.S., defines robbery as the taking of money or other property that may be the subject of larceny from the person or custody of another, with the intent to either permanently or temporarily deprive the person or the owner of the money or other property, when in the course of taking there is use of force, violence, assault, or putting in fear.

If in the course of committing the robbery, the offender carried a firearm or other deadly weapon, it is a first degree felony punishable up to and including life imprisonment; carried a weapon, it is a first degree felony; carried no firearm, deadly weapon, or weapon, it is a second degree felony.

There has been some confusion and debate about what the Legislature intended to proscribe in the robbery statute by the word "carried." For example, did the Legislature intend an automobile used by an offender to hurt someone to be a weapon? Obviously, an automobile cannot be "carried." Did the Legislature mean the word "carried" to be more liberally interpreted, since a strict reading of the word, as one court has noted, would mean a robbery sentence can be enhanced if the offender wears brass knuckles but not if he runs over his victim. *See Jackson v. State*, 662 So.2d 1369 (Fla. 1st DCA 1995). Did the Legislature intend the word "carried" to indicate that the weapon only consist of what is statutorily defined elsewhere as a weapon or

would anything carried and used as a weapon qualify? *See Jenkins v. State*, 747 So.2d 997, 999-1002 (Fla. 5th DCA 1999) (Harris, J. dissenting). See also *Dale v. State*, 703 So.2d 1045, 1048-49 (Fla. 1997) (Overton, J. dissenting) (“Under the robbery statute, . . . the use of the object is irrelevant; the test is whether the object is *carried*.”).

III. Effect of Proposed Changes:

Senate Bill 1146 amends the robbery statute to provide that robbery includes a robbery in which a firearm or other deadly weapon was used; a weapon was used; or no firearm, deadly weapon, or weapon was used. Since the bill does not define the terms “deadly weapon” or “weapon” in the robbery statute, it appears that the construction of the statute after insertion of the word “used” would be that the Legislature intends to capture any object used as a weapon or deadly weapon, and therefore, the question of whether the object was so used would be a question for the jury.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

An impact analysis was requested from the Criminal Justice Estimating Conference but was not received at the time this analysis was completed.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
