

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 6-C

SPONSOR: Senators Brown-Waite and Smith

SUBJECT: Terrorism

DATE: November 27, 2001 REVISED: _____

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

I. Summary:

Senate Bill 6-C creates s. 775.30, F.S., which defines the term “terrorism” for the purposes of the Florida Criminal Code. The bill also provides that a person charged with an act of terrorism cannot be granted nonmonetary pretrial release at a first appearance hearing.

This bill creates s. 775.30, Florida Statutes.

II. Present Situation:

There is presently no state definition of the term “terrorism.”

Recent federal legislation amends 18 U.S.C s. 2331 to create a definition of “domestic terrorism.” *See e.g.*, Section 802, H.R. 2975, the “USA Act of 2001” (107th Congress). The definition of “domestic terrorism” in 18 U.S.C. s. 2331, as amended by the federal legislation is as follows:

- (5) the term ‘domestic terrorism’ means activities that—
- (A) involve acts dangerous to human life that are a violation of the criminal laws of the United States or of any State;
 - (B) appear to be intended—
 - (i) to intimidate or coerce a civilian population;
 - (ii) to influence the policy of a government by intimidation or coercion; or
 - (iii) to affect the conduct of government by mass destruction, assassination, or kidnapping; and
 - (C) occur primarily within the territorial jurisdiction of the United States.

The definition of “domestic terrorism” is similar, but not identical, to the definition of “act of terrorism” in Title 18 U.S.C. s. 3077:

- (1) “act of terrorism” means an activity that—
- (A) involves a violent act or an act dangerous to human life that is a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; and
 - (B) appears to be intended—
 - (i) to intimidate or coerce a civilian population;
 - (ii) to influence the policy of a government by intimidation or coercion; or
 - (iii) to affect the conduct of a government by assassination or kidnapping . . .

III. Effect of Proposed Changes:

Senate Bill 6-C creates s. 775.30, F.S., which defines the term “terrorism” for the purposes of the Florida Criminal Code. The definition in the bill contains some of the same features of Title 18 U.S.C. s. 2331, as amended by Section 802, H.R. 2975, the “USA Act of 2001” (107th Congress) and Title 18 U.S.C. s. 3077, and some features that are unique to the definition in the bill.

The definition of “terrorism” in the bill is as follows:

775.30 Terrorism; definition.—As used in the Florida Criminal Code, the term “terrorism” means an activity that:

- (1)(a) Involves a violent act or an act dangerous to human life which is a violation of the criminal laws of this state or of the United States; or
- (b) Involves a violation of s. 815.06; and
- (2) Is intended to:
 - (a) Intimidate, injure, or coerce a civilian population;
 - (b) Influence the policy of a government by intimidation or coercion; or
 - (c) Affect the conduct of government through destruction of property, assassination, murder, kidnapping, or aircraft piracy.

Some of the substantial differences between the definition in the bill and the federal definitions are described in the following remarks.

To constitute “terrorism,” the violent act or act dangerous to human life which is a federal criminal violation or Florida crime, the act must also have been *intended* for one of three specified purposes. In the federal sections, it is only necessary that the specified act *appear to be intended* for the specified purposes.

In addition to a violent act (Section 3077) or an act dangerous to human life (Sections 2331 and 3077) which is a criminal violation, the definition in the bill includes a violation of s. 815.06, F.S. (computer crimes). Apparently, this inclusion is to address cyberterrorism.

The specified act is an act of “domestic terrorism” (Section 2331) or an “act of terrorism” (Section 3077) if it appears to be intended to intimidate or coerce a civilian population. In the bill, the specified act is an act of “terrorism” if it is intended to intimidate, *injure*, or coerce a civilian population.

The specified act is also an act of “domestic terrorism” (Section 2331) or an “act of terrorism” (Section 3077) if it appears to be intended to affect the conduct of government by mass destruction (Section 2331), assassination (Sections 2331 and 3077), or kidnapping (*id.*). The definition in the bill does not include “mass destruction”; it includes destruction to property. Further, in addition to including assassination and kidnapping, the bill includes murder and aircraft piracy. Assassination is not a specific crime in Florida (the act would constitute murder), but it is a specific federal crime, and the definition in the bill includes violent acts that are federal crimes. *See* Title 18 U.S.C. s. 351 (Congressional, Cabinet, and Supreme Court assassination, kidnapping, and assault) and 18 U.S.C. s. 1751 (Presidential and Presidential staff assassination, kidnapping, and assault).

Under Section 2311, the relevant act must also “occur primarily within the territorial jurisdiction of the United States.” Section 3077 includes the specified act that “would be a criminal violation if committed within the jurisdiction of the United States or of any State. . . .” The definition in the bill does not include these provisions. It appears that the provision in Section 2311 is there to distinguish the definition of “domestic terrorism” in that section from the definition of “international terrorism” in that section. The provision in Section 3077 is relevant to that section, because Section 3077 appears in Chapter 204 of Part II of Title 18, which relates to rewards for information concerning terrorist acts and espionage. Neither provision is relevant to the state definition.

The bill takes effect upon becoming a law.

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:

None.

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.
