

By the Committee on Criminal Justice; and Senators Campbell
and Crist

307-1989-02

1 A bill to be entitled
2 An act relating to terrorism; amending ss.
3 790.163, 790.164, F.S.; requiring restitution
4 to any person injured as a direct or indirect
5 result of making a false report of a bomb or
6 explosive, or making a false report of a
7 bombing or arson against state-owned property,
8 if such report is an act of terrorism or is
9 reclassified as facilitating or furthering an
10 act of terrorism; amending s. 790.165, F.S.;
11 requiring restitution to any person injured as
12 a direct or indirect result of planting a hoax
13 bomb if such offense is an act of terrorism or
14 is reclassified as facilitating or furthering
15 an act of terrorism; amending s. 790.166, F.S.;
16 requiring restitution to any person injured as
17 a direct or indirect result of the use or
18 threatened use of a hoax weapon of mass
19 destruction if such use or threatened use is an
20 act of terrorism or is reclassified as
21 facilitating or furthering an act of terrorism;
22 providing that a law enforcement agency or
23 other emergency services agency responding to
24 an incident caused by or resulting from the use
25 or threatened use of a hoax weapon of mass
26 destruction has a cause of action for treble
27 damages and costs against the offender;
28 reenacting ss. 775.30, 775.31, F.S., relating
29 to provisions defining the term "terrorism" and
30 the reclassification of the offense of
31

1 facilitating or furthering terrorism; providing
2 an effective date.

3
4 Be It Enacted by the Legislature of the State of Florida:

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6 Section 1. Section 790.163, Florida Statutes, is
7 amended to read:

8 790.163 False report about planting bomb or explosive;
9 penalty.--

10 (1) It is unlawful for any person to make a false
11 report, with intent to deceive, mislead, or otherwise
12 misinform any person, concerning the placing or planting of
13 any bomb, dynamite, or other deadly explosive; and any person
14 convicted thereof ~~commits is guilty of~~ a felony of the second
15 degree, punishable as provided in s. 775.082, s. 775.083, or
16 s. 775.084.

17 (2) The court shall order a defendant who commits a
18 violation of this section which is an act of terrorism as that
19 term is defined in s. 775.30, or which is reclassified under
20 s. 775.31 as facilitating or furthering an act of terrorism,
21 to pay restitution to any person who is injured as a direct or
22 indirect result of the violation. For purposes of construing
23 this subsection, a person includes, but is not limited to, an
24 individual; a corporation, partnership, or association, or an
25 officer, agent, or employee of a corporation, partnership, or
26 association; the state, any agency or institution of the
27 state, or any political subdivision of the state, or an
28 officer, agent, or employee of the state, any agency or
29 institution of the state, or any political subdivision of the
30 state; or any agency, department, or instrumentality of the
31 United States, or an officer, agent, or employee of the United

1 States. The court shall make the payment of restitution a
2 condition of any probation granted to the defendant. An order
3 of restitution for such violation shall have priority over the
4 imposition of any civil penalty for the violation. Restitution
5 must include actual costs and damages incurred by any person
6 as a result of the violation. The court may not impose
7 restitution in lieu of a fine or sentence that may be imposed.
8 The court retains jurisdiction to enforce its order to pay
9 finances or restitution under this subsection.

10 Section 2. Section 790.164, Florida Statutes, is
11 amended to read:

12 790.164 False reports of bombing or arson against
13 state-owned property; penalty; reward.--

14 (1) It is unlawful for any person to make a false
15 report, with intent to deceive, mislead, or otherwise
16 misinform any person, concerning the placing or planting of
17 any bomb, dynamite, or other deadly explosive, or concerning
18 any act of arson or other violence to property owned by the
19 state or any political subdivision. Any person violating the
20 provisions of this subsection is guilty of a felony of the
21 second degree, punishable as provided in s. 775.082, s.
22 775.083, or s. 775.084.

23 (2)(a) There shall be a \$5,000 reward for the giving
24 of information to any law enforcement agency in the state,
25 which information leads to the arrest and conviction of any
26 person violating the provisions of this section. Any person
27 claiming such reward shall apply to the law enforcement agency
28 developing the case and be paid by the Department of Law
29 Enforcement from the deficiency fund.

30 (b) There shall be only one reward given for each
31 case, regardless of how many persons are arrested and

1 convicted in connection with the case and regardless of how
2 many persons submit claims for the reward.

3 (c) The Department of Law Enforcement shall establish
4 procedures to be used by all reward applicants, and the
5 circuit judge in whose jurisdiction the action occurs shall
6 review all such applications and make final determination as
7 to those applicants entitled to receive an award.

8 (3) The court shall order a defendant who commits a
9 violation of this section which is an act of terrorism as that
10 term is defined in s. 775.30, or which is reclassified under
11 s. 775.31 as facilitating or furthering an act of terrorism,
12 to pay restitution to any person who is injured as a direct or
13 indirect result of the violation. For purposes of construing
14 this subsection, a person includes, but is not limited to, an
15 individual; a corporation, partnership, or association, or an
16 officer, agent, or employee of a corporation, partnership, or
17 association; the state, any agency or institution of the
18 state, or any political subdivision of the state, or an
19 officer, agent, or employee of the state, any agency or
20 institution of the state, or any political subdivision of the
21 state; or any agency, department, or instrumentality of the
22 United States, or an officer, agent, or employee of the United
23 States. The court shall make the payment of restitution a
24 condition of any probation granted to the defendant. An order
25 of restitution for such violation shall have priority over the
26 imposition of any civil penalty for the violation. Restitution
27 must include actual costs and damages incurred by any person
28 as a result of the violation. The court may not impose
29 restitution in lieu of a fine or sentence that may be imposed.
30 The court retains jurisdiction to enforce its order to pay
31 finances or restitution under this subsection.

1 Section 3. Section 790.165, Florida Statutes, is
2 amended to read:

3 790.165 Planting of "hoax bomb" prohibited;
4 penalties.--

5 (1) For the purposes of this section, "hoax bomb"
6 means any device or object that by its design, construction,
7 content, or characteristics appears to be, or to contain, or
8 is represented to be or to contain, a destructive device or
9 explosive as defined in this chapter, but is, in fact, an
10 inoperative facsimile or imitation of such a destructive
11 device or explosive, or contains no destructive device or
12 explosive as was represented.

13 (2) Any person who manufactures, possesses, sells, or
14 delivers a hoax bomb or mails or sends a hoax bomb to another
15 person commits a felony of the third degree, punishable as
16 provided in s. 775.082, s. 775.083, or s. 775.084.

17 (3) Any person who, while committing or attempting to
18 commit any felony, possesses, displays, or threatens to use
19 any hoax bomb commits a felony of the second degree,
20 punishable as provided in s. 775.082, s. 775.083, or s.
21 775.084. Notwithstanding the provisions of s. 948.01,
22 adjudication of guilt or imposition of sentence shall not be
23 suspended, deferred, or withheld. However, the state attorney
24 or defense attorney may move the sentencing court to reduce or
25 suspend the sentence of any person who is convicted of a
26 violation of this section and who provides substantial
27 assistance in the identification, arrest, or conviction of any
28 of his or her accomplices, accessories, coconspirators, or
29 principals.

30 (4) The provisions of subsection (2) shall not apply
31 to any law enforcement officer, firefighter, person, or

1 corporation licensed pursuant to chapter 493, or member of the
2 armed forces of the United States while engaged in training or
3 other lawful activity within the scope of his or her
4 employment, or to any person properly authorized to test a
5 security system, or to any security personnel, while operating
6 within the scope of their employment, including, but not
7 limited to, security personnel in airports and other
8 controlled access areas, or to any member of a theatrical
9 company or production utilizing a hoax bomb as property during
10 the course of a rehearsal or performance.

11 (5) The court shall order a defendant who commits a
12 violation of this section which is an act of terrorism as that
13 term is defined in s. 775.30, or which is reclassified under
14 s. 775.31 as facilitating or furthering an act of terrorism,
15 to pay restitution to any person who is injured as a direct or
16 indirect result of the violation. For purposes of construing
17 this subsection, a person includes, but is not limited to, an
18 individual; a corporation, partnership, or association, or an
19 officer, agent, or employee of a corporation, partnership, or
20 association; the state, any agency or institution of the
21 state, or any political subdivision of the state, or an
22 officer, agent, or employee of the state, any agency or
23 institution of the state, or any political subdivision of the
24 state; or any agency, department, or instrumentality of the
25 United States, or an officer, agent, or employee of the United
26 States. The court shall make the payment of restitution a
27 condition of any probation granted to the defendant. An order
28 of restitution for such violation shall have priority over the
29 imposition of any civil penalty for the violation. Restitution
30 must include actual costs and damages incurred by any person
31 as a result of the violation. The court may not impose

1 restitution in lieu of a fine or sentence that may be imposed.
2 The court retains jurisdiction to enforce its order to pay
3 finest or restitution under this subsection.

4 Section 4. Section 790.166, Florida Statutes, is
5 amended to read:

6 790.166 Manufacture, possession, sale, delivery,
7 display, use, or attempted or threatened use of a weapon of
8 mass destruction or hoax weapon of mass destruction
9 prohibited; definitions; penalties.--

10 (1) As used in this section, the term:

11 (a) "Weapon of mass destruction" means:

12 1. Any device or object that is designed or intended
13 to cause death or serious bodily injury through the release,
14 dissemination, or impact of toxic or poisonous chemicals, or
15 their precursors;

16 2. Any device or object involving a disease organism;
17 or

18 3. Any device or object that is designed to release
19 radiation or radioactivity at a level dangerous to human life.

20 (b) "Hoax weapon of mass destruction" means any device
21 or object that by its design, construction, content, or
22 characteristics appears to be or to contain, or is represented
23 to be, constitute, or contain, a weapon of mass destruction as
24 defined in this section, but which is, in fact, an inoperative
25 facsimile, imitation, counterfeit, or representation of a
26 weapon of mass destruction which does not meet the definition
27 of a weapon of mass destruction or which does not actually
28 contain or constitute a weapon, biological agent, toxin,
29 vector, or delivery system prohibited by this section.

30 (c) "Biological agent" means any microorganism, virus,
31 infectious substance, or biological product that may be

1 engineered through biotechnology, or any naturally occurring
2 or bioengineered component of any such microorganism, virus,
3 infectious substance, or biological product, capable of
4 causing:

5 1. Death, disease, or other biological malfunction in
6 a human, an animal, a plant, or other living organism;

7 2. Deterioration of food, water, equipment, supplies,
8 or material of any kind; or

9 3. Deleterious alteration of the environment.

10 (d) "Toxin" means the toxic material of plants,
11 animals, microorganisms, viruses, fungi, or infectious
12 substances, or a recombinant molecule, whatever its origin or
13 method of reproduction, including:

14 1. Any poisonous substance or biological product that
15 may be engineered through biotechnology produced by a living
16 organism; or

17 2. Any poisonous isomer or biological product,
18 homolog, or derivative of such substance.

19 (e) "Delivery system" means:

20 1. Any apparatus, equipment, device, or means of
21 delivery specifically designed to deliver or disseminate a
22 biological agent, toxin, or vector; or

23 2. Any vector.

24 (f) "Vector" means a living organism or molecule,
25 including a recombinant molecule or biological product that
26 may be engineered through biotechnology, capable of carrying a
27 biological agent or toxin to a host.

28 (2) A person who, without lawful authority,
29 manufactures, possesses, sells, delivers, displays, uses,
30 threatens to use, attempts to use, or conspires to use, or who
31 makes readily accessible to others a weapon of mass

1 destruction, including any biological agent, toxin, vector, or
2 delivery system as those terms are defined in this section,
3 commits a felony of the first degree, punishable by
4 imprisonment for a term of years not exceeding life or as
5 provided in s. 775.082, s. 775.083, or s. 775.084, and if
6 death results, commits a capital felony, punishable as
7 provided in s. 775.082.

8 (3) Any person who, without lawful authority,
9 manufactures, possesses, sells, delivers, displays, uses,
10 threatens to use, attempts to use, or conspires to use, or who
11 makes readily accessible to others, a hoax weapon of mass
12 destruction with the intent to deceive or otherwise mislead
13 another person into believing that the hoax weapon of mass
14 destruction will cause terror, bodily harm, or property damage
15 commits a felony of the second degree, punishable as provided
16 in s. 775.082, s. 775.083, or s. 775.084.

17 (4) This section does not apply to any member or
18 employee of the Armed Forces of the United States, a federal
19 or state governmental agency, or a private entity who is
20 otherwise engaged in lawful activity within the scope of his
21 or her employment, if such person is otherwise duly authorized
22 or licensed to manufacture, possess, sell, deliver, display,
23 or otherwise engage in activity relative to this section and
24 if such person is in compliance with applicable federal and
25 state law.

26 (5) The court shall order a defendant who commits a
27 violation of this section which involves a hoax weapon of mass
28 destruction and which is an act of terrorism as that term is
29 defined in s. 775.30, or which is reclassified under s. 775.31
30 as facilitating or furthering an act of terrorism, to pay
31 restitution to any person who is injured as a direct or

1 indirect result of the violation. For purposes of construing
2 this subsection, a person includes, but is not limited to, an
3 individual; a corporation, partnership, or association, or an
4 officer, agent, or employee of a corporation, partnership, or
5 association; the state, any agency or institution of the
6 state, or any political subdivision of the state, or an
7 officer, agent, or employee of the state, any agency or
8 institution of the state, or any political subdivision of the
9 state; or any agency, department, or instrumentality of the
10 United States, or an officer, agent, or employee of the United
11 States. The court shall make the payment of restitution a
12 condition of any probation granted to the defendant. An order
13 of restitution for such violation shall have priority over the
14 imposition of any civil penalty for the violation. Restitution
15 must include actual costs and damages incurred by any person
16 as a result of the violation. The court may not impose
17 restitution in lieu of a fine or sentence that may be imposed.
18 The court retains jurisdiction to enforce its order to pay
19 finest or restitution under this subsection.

20 (6) A law enforcement agency or other emergency
21 services agency that responds to an incident caused by or
22 resulting from a violation of this section which involves a
23 hoax weapon of mass destruction and which is an act of
24 terrorism as that term is defined in s. 775.30, or which is
25 reclassified under s. 775.31 as facilitating or furthering an
26 act of terrorism, has a civil cause of action against the
27 violin for treble damages and for any costs incurred by the
28 agency in responding to such incident. For purposes of
29 construing this subsection, an emergency services agency
30 includes, but is not limited to, a lawfully established
31 federal, state, or local public agency that is responsible for

1 preventing and detecting crime and for enforcing penal,
2 traffic, regulatory, game, immigration, postal, customs, or
3 controlled-substance laws; any agency or entity providing fire
4 services or emergency medical treatment and support; any
5 agency or entity providing transportation, communications,
6 public works, or engineering services; or any agency or entity
7 providing building-code inspections, planning assistance,
8 information assistance, mass care, resource support, health
9 and medical services, or search and rescue services.

10 Section 5. Section 775.30, Florida Statutes, as
11 created by section 1 of chapter 2001-356, Laws of Florida,
12 section 5 of chapter 2001-365, Laws of Florida, and section 1
13 of chapter 2001-366, Laws of Florida, is reenacted to read:

14 775.30 Terrorism; definition.--As used in the Florida
15 Criminal Code, the term "terrorism" means an activity that:

16 (1)(a) Involves a violent act or an act dangerous to
17 human life which is a violation of the criminal laws of this
18 state or of the United States; or

19 (b) Involves a violation of s. 815.06; and

20 (2) Is intended to:

21 (a) Intimidate, injure, or coerce a civilian
22 population;

23 (b) Influence the policy of a government by
24 intimidation or coercion; or

25 (c) Affect the conduct of government through
26 destruction of property, assassination, murder, kidnapping, or
27 aircraft piracy.

28 Section 6. Section 775.31, Florida Statutes, as
29 created by section 1 of chapter 2001-357, Laws of Florida, is
30 reenacted to read:

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1 775.31 Facilitating or furthering terrorism; felony or
2 misdemeanor reclassification.--

3 (1) If a person is convicted of committing a felony or
4 misdemeanor that facilitated or furthered any act of
5 terrorism, the court shall reclassify the felony or
6 misdemeanor to the next higher degree as provided in this
7 section. The reclassification shall be made in the following
8 manner:

9 (a) In the case of a misdemeanor of the second degree,
10 the offense is reclassified as a misdemeanor of the first
11 degree.

12 (b) In the case of a misdemeanor of the first degree,
13 the offense is reclassified as a felony of the third degree.

14 (c) In the case of a felony of the third degree, the
15 offense is reclassified as a felony of the second degree.

16 (d) In the case of a felony of the second degree, the
17 offense is reclassified as a felony of the first degree.

18 (e) In the case of a felony of the first degree or a
19 felony of the first degree punishable by a term of
20 imprisonment not exceeding life, the offense is reclassified
21 as a life felony.

22 (2) For purposes of sentencing under chapter 921, the
23 following offense severity ranking levels apply:

24 (a) An offense that is a misdemeanor of the first
25 degree and that is reclassified under this section as a felony
26 of the third degree is ranked in level 2 of the offense
27 severity ranking chart.

28 (b) A felony offense that is reclassified under this
29 section is ranked one level above the ranking specified in s.
30 921.0022 or s. 921.0023 for the offense committed.

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1 (3) As used in this section, the term "terrorism"
2 means an activity that:
3 (a)1. Involves a violent act or an act dangerous to
4 human life which is a violation of the criminal laws of this
5 state or of the United States; or
6 2. Involves a violation of s. 815.06; and
7 (b) Is intended to:
8 1. Intimidate, injure, or coerce a civilian
9 population;
10 2. Influence the policy of a government by
11 intimidation or coercion; or
12 3. Affect the conduct of government through
13 destruction of property, assassination, murder, kidnapping, or
14 aircraft piracy.
15 Section 7. This act shall take effect July 1, 2002.
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 1184

- Provides that the court shall order a defendant to pay restitution to any person injured directly or indirectly from the defendant falsely reporting a bomb or planting a hoax bomb or hoax weapon of mass destruction, if the offense is an act of terrorism or has been reclassified because it facilitated or furthered an act of terrorism. Restitution is for all costs and damages incurred by a person as a result of the violation. A non-inclusive list of who is a "person" for purposes of recovery is provided. Payment of restitution must be made a condition of any probation. The restitution order has priority over any civil penalty. Restitution cannot be imposed in lieu of a fine or sentence. The court retains jurisdiction to enforce its restitution order.
- Provides that a law enforcement agency or other emergency services agency that responds to an incident caused by or resulting from a hoax weapon of mass destruction violation that is an act of terrorism or that is reclassified because it facilitated or furthered an act of terrorism has a cause of action against the violator for treble damages and for any costs incurred by the agency in responding to the incident. A non-inclusive list of those agencies or entities constituting an "emergency services agency" is provided.