

STORAGE NAME: h0727.cpcs.doc
DATE: February 18, 2002

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
CRIME PREVENTION, CORRECTIONS & SAFETY
ANALYSIS**

BILL #: HB 727
RELATING TO: Domestic Security
SPONSOR(S): Select Committee on Security, Representative Goodlette, and others
TIED BILL(S):

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

- (1) CRIME PREVENTION, CORRECTIONS & SAFETY
- (2) COUNCIL FOR HEALTHY COMMUNITIES
- (3)
- (4)
- (5)

I. **SUMMARY:**

This bill provides legislative intent with respect to counterterrorism efforts and initial responses to acts of terrorism and directs the Florida Department of Law Enforcement (FDLE) to coordinate such efforts with the Division of Emergency Management and others.

The bill provides a definition of the term "terrorism" for purposes of the Florida Criminal Code.

The bill provides for the executive director of FDLE, or his appointee, to serve as the Chief of Domestic Security Initiatives and sets forth duties and responsibilities of the chief.

The bill establishes Regional Domestic Security Task Forces in each of FDLE's seven operational regions to serve as advisors to the department and the Chief of Domestic Security Initiatives. The bill establishes the goals and objectives of the task forces and provides for equipment, training and funding recommendations by the task forces.

The bill provides for the Florida Domestic Security and Counter-Terrorism Intelligence Center and the Florida Domestic Security and Counter-Terrorism Database to be established within the FDLE to gather, document and analyze criminal intelligence and criminal investigative information related to terrorism. The bill provides certain exemptions for information in the possession of the intelligence center and information obtained by the intelligence center.

This bill is effective upon becoming a law.

Please note that the provisions of this bill were adopted by the Legislature during the 2001 Special Session. [SB 24C, SB 26C] It is anticipated that the cosponsor will offer a strike everything amendment at the upcoming meeting of the Committee on Crime Prevention, Corrections, and Safety on February 21, 2002. See the "Amendments or Committee Substitute Changes" section for more information.

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input 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:

This bill imposes additional requirements on certain state agencies to carry out domestic security responsibilities as provided.

B. PRESENT SITUATION:

Emergency Management

The State Emergency Management Act is set forth under Chapter 252, Florida Statutes and allows the Governor power to declare a state of emergency by executive order or proclamation and to terminate same. After the terrorist attacks on the United States on September 11, 2001, Governor Bush declared a state of emergency and directed the Florida Department of Law Enforcement (FDLE) and the Florida Division of Emergency Management (DEM) to assess Florida's capability to prevent, mitigate and respond to a terrorist attack. Primary recommendations for strengthening Florida's anti-terrorism preparedness were outlined in the report "Assessing Florida's Anti-Terrorism Capabilities." Based on the recommendations in the assessment, the Governor issued Executive Order 01-300 relating to domestic security. Some of those recommendations will be implemented with the passage of this legislation.

Terrorism

Currently under state law, there is no definition for the term "terrorism." Federal law, under Title 18 USC § 2331(5), defines domestic terrorism to mean 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 a government by mass destruction, assassination, or kidnapping; and

(C) occur primarily within the territorial jurisdiction of the United States.

Florida Department of Law Enforcement

FDLE provides investigative and technical assistance to local law enforcement agencies through field investigations of major criminals and their organizations and identifies and investigates

organized, multi-jurisdictional violations of Florida law. As part of its investigative function, the department provides for the collection, analysis, and dissemination of strategic criminal intelligence information. FDLE was directed by Executive Order to establish a dedicated Statewide Domestic Security Intelligence Database for use by all Florida law enforcement officers under appropriate security restrictions.

The Florida Mutual Aid Plan is established under Section 23.1231, F.S., and provides for the coordination of state and local law enforcement responses during natural and manmade disasters and emergencies. The Commissioner of FDLE was authorized by Executive Order to serve as, or appoint another member of the department to serve as, Chief of Florida Domestic Security Initiatives to collect, coordinate, and prioritize recommended domestic security efforts in Florida.

Public Records Law

Florida's public policy regarding access to government records is addressed in Article I, s. 24(a) of the Florida Constitution. Article I, s. 24(c), Florida Constitution, permits the Legislature to provide, by general law, for the exemption of records from the requirements of s. 24. Public records policy and exemptions are addressed in Chapter 119, Florida Statutes, which provides definitions of criminal justice terms including "active" criminal intelligence information and "active" criminal investigative information as follows:

- Criminal intelligence information shall be considered "active" as long as it is related to intelligence gathering conducted with a reasonable, good faith belief that it will lead to detection of ongoing or reasonably anticipated criminal activities.
- Criminal investigative information shall be considered "active" as long as it is related to an ongoing investigation that is continuing with a reasonable, good faith anticipation of securing an arrest or prosecution in the foreseeable future.

Section 119.07(3)(b), F.S. provides that active criminal intelligence information and active criminal investigative information are exempt from the provisions of s. 119.07(1), F.S. and s. 24(a), Article I of the Florida Constitution.

C. EFFECT OF PROPOSED CHANGES:

Please note that the provisions of this bill were adopted by the Legislature during the 2001 Special Session. See "Amendments or Committee Substitute Changes" section for information on an expected strike all amendment to the bill. The following information relates to the bill as filed:

Section 1: Amends Section 252.311, F.S.; expands the State Emergency Act to include acts of terrorism. Provides findings relating to counterterrorism efforts and responses that require specialized efforts of emergency management, and provides that such efforts should be coordinated by and through the Florida Department of Law Enforcement (FDLE), working closely with the Division of Emergency Management.

Section 2: Creates Section 775.30, F.S.; to define terrorism as an activity that involves a violent act or an act dangerous to human life that is a violation of the criminal laws of Florida or of the U.S. or involves a violation of the Florida Computer Crimes Act and is intended to intimidate, injure, or coerce a civilian population; influence the policy of a government by intimidation or coercion; or affect the conduct of government through the destruction of property, assassination, murder, kidnapping, or aircraft piracy.

Section 3: Adds subsection (14) to section 943.03, F.S.; provides for the executive director of FDLE or his designee to serve as the Chief of Florida Domestic Security Initiatives to direct and coordinate the counterterrorism efforts and terrorism responses of all agencies involved in the preparation against and response to acts of terrorism.

Section 4: Creates s. 943.0311, F.S.; provides for a Chief of Florida Domestic Security Initiatives within the FDLE, provides the duties of the chief, and requires the chief to use the Regional Domestic Security Task Forces to support the department's role in domestic security initiatives. This section provides for the chief to conduct specific security assessments of buildings and facilities and to make recommendations for minimum security standards or security enhancements to the Governor and the Legislature. It provides for the coordination of the department's collection of proposals from public agencies, the private sector and volunteer organizations involved in domestic security assessment preparations. The bill provides for annual reporting on domestic security to the Governor and Legislature by November 1 of each year, and requires that funding priorities be clearly identified in the report.

Section 5: Creates s. 943.0312, F.S.; provides for the creation of Regional Domestic Security Task Forces in FDLE's seven operational regions to address preparation and response efforts for dealing with potential or actual terrorist acts. This section provides for FDLE to provide employee support for each task force, subject to an annual appropriation. The bill designates that each task force will be co-chaired by a regional director of FDLE and a local sheriff or police chief. It also establishes membership of each task force to include representatives from the DEM, the Department of Health, state and local law enforcement, fire and rescue or first responder personnel and others as deemed appropriate.

This section also sets forth the goals of each task force to include: coordination of federal, state and local resources; coordination of the collection and dissemination of investigative and intelligence information; and facilitation of responses to terrorist incidents. It provides for the establishment of training standards for law enforcement officers, fire and emergency personnel, and first responder service personnel. Each task force must work to assure that hate-driven acts against ethnic groups as a result of terrorism are appropriately investigated.

Section 6: Creates s. 943.0321, F.S.; creates a Domestic Security Counterterrorism Intelligence Center and database within the FDLE to gather, document, and analyze intelligence and criminal investigative information about terrorist and extremist groups which will be available to law enforcement agencies and prosecutors. The bill provides for the database to be maintained by FDLE and identifies specific capabilities of the database.

Under the provisions of the bill, information that is exempt from public disclosure under chapter 119, F.S., when in the possession of the intelligence center retains that exemption when revealed to another law enforcement agency or prosecutor, except as otherwise provided by law. The bill further provides for information obtained by the intelligence center from a law enforcement agency or prosecutor which is exempt from public disclosure under state or federal law when in that agency's or prosecutor's possession retains that exemption when revealed to the intelligence center.

Section 7: This act shall take effect upon becoming a law.

D. SECTION-BY-SECTION ANALYSIS:

See "Effect of Proposed Changes."

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

House Bill 1-C, contained the following appropriations for the 2001-2002 Fiscal Year:

- FDLE Regional Anti-Terrorism Task Forces - 30 positions and \$1,799,571 from the General Revenue Fund.
- Terrorist Intelligence Database – 5 positions and \$200,429 from the General Revenue Fund; \$300,000 from the Grants and Donations Trust Fund.
- Responder and Incident Training - \$2,000,000 from the Criminal Justice Standards and Training Trust Fund.
- Critical Infrastructure Security Assessment and Standards - \$500,000 from the Grants and Donations Trust Fund.
- Domestic Preparedness Program/Equipment - \$9,000,000 from the Grants and Donations Trust Fund.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority the counties or municipalities 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:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

It is anticipated that Representative Gelber will offer a strike everything amendment to the bill at the upcoming meeting of the Committee on Crime Prevention, Corrections, and Safety. This amendment will revise the process for coordination and approval of disaster-preparedness plans and requires all state agencies to plan for the potential for extended disruption of current operations and to establish contingencies for alternative operations to provide essential services. The bill requires agencies to coordinate their plans with local emergency management officials and requires the Department of Community Affairs to provide technical assistance and planning guidelines.

VII. SIGNATURES:

COMMITTEE ON CRIME PREVENTION, CORRECTIONS & SAFETY:

Prepared by:

Staff Director:

Lynn Dodson

Trina Kramer