

HOUSE OF REPRESENTATIVES ANALYSIS

BILL #: HB 13 Workplace Assault/Arrest
SPONSOR(S): Mahon, Cantens, and others
TIED BILLS: None **IDEN./SIM. BILLS:** SB 1372

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
(1) Criminal Justice (Sub)	6 Y, 0 N	Kramer	De La Paz
(2) Public Safety & Crime Prevention	16 Y, 1 N	Kramer	De La Paz
(3) Judiciary	17 Y, 0 N w/CS	Billmeier	Havlicak
(4) Public Safety Appropriations (Sub)			
(5) Appropriations			

SUMMARY ANALYSIS

Generally, Florida law requires that a police officer obtain an arrest warrant to arrest someone for a misdemeanor offense unless the offense is committed in the officer's presence. HB 13 will allow an officer to arrest a person for assault without a warrant when there is probable cause to believe that a person has committed an assault upon another person in the workplace of the person assaulted. The assault does not have to occur in the presence of the officer.

This bill will take effect upon becoming a law.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0013a.ju.doc
DATE: March 31, 2003

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain: The bill will allow a law enforcement officer to arrest an offender without a warrant for committing an assault upon another person in the workplace.

B. EFFECT OF PROPOSED CHANGES:

Warrantless Arrests

Under current law, s. 901.15, F.S., specifies categories of offenses for which a law enforcement officer may make an arrest without a warrant. Generally, an officer can make a warrantless arrest for a felony if the officer reasonably believes that a felony has been committed and that the suspect committed the felony. An arrest for the commission of a *misdemeanor* may be made if the offense is committed in the presence of the officer and is made immediately or as part of fresh pursuit. Section 901.15, F.S., also allows an officer to arrest an offender for other specified offenses which, depending on the circumstances of the offense, could be classified as a misdemeanor, even if the offense is committed outside of the presence of the officer including:

1. domestic violence
2. child abuse
3. battery
4. criminal mischief or a graffiti-related offense.
5. assault on a law enforcement officer, firefighter, emergency medical care provider, public transit employees or other officers as specified in s. 784.07

HB 13 adds to this list the offense of assault upon another person, when the assault is committed in the “workplace” of the person assaulted.

Assault

Assault is defined as “an intentional, unlawful threat by word or act to do violence to the person of another, coupled with an apparent ability to do so, and doing some act which creates a well-founded fear in such other person that such violence is imminent.”¹ According to the Florida Standard Jury Instruction, the following elements must be proven in an assault prosecution:

1. [The defendant] intentionally and unlawfully threatened, either by word or act, to do violent to [the victim].

¹ s. 784.011(1), F.S.

2. At the time [the defendant] appeared to have the ability to carry out the threat.
3. The act of [the defendant] created in the mind of [the victim] a well-founded fear that the violence was about to take place.²

HB 13 will permit an officer to arrest a person without a warrant when there is probable cause to believe that a person has committed an assault upon another person in the workplace of the person assaulted. The bill defines the term "workplace" to mean "the actual physical building, including all parking lots or parking garages appertaining thereto, where the person assaulted regularly works or is assigned to work at the time of the assault." The bill also mirrors language contained in other warrantless arrest provisions contained in s. 901.15, F.S.³ by providing that a law enforcement officer who acts in good faith exercises due care in making an arrest under this provision is immune from civil liability that otherwise might result by reason of his or her action.

C. SECTION DIRECTORY:

Section 1: Amends s. 901.15, adding assault committed in the workplace to list of offenses for which a law enforcement officer is permitted to arrest a person without a warrant.

Section 2: Provides effective date.

II. 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:

1. Revenues:

See "Fiscal Comments"

2. Expenditures:

See "Fiscal Comments"

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a direct economic impact on the private sector.

D. FISCAL COMMENTS:

This bill is not expected to have any fiscal impact on state or local government.

III. COMMENTS

² Fla. Std. Jury Instr. (Crim.) Assault

³ See ss. 901.15(7), (8), and (15), F.S.

A. CONSTITUTIONAL ISSUES:

a. Applicability of Municipality/County Mandates Provision

The bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

b. Other

It can be argued that this bill might violate the Fourth Amendment prohibition against unreasonable searches and seizures. However, the United States Supreme Court “has never held that a police officer violates the Fourth Amendment merely by arresting someone without a warrant for a misdemeanor offense which did not occur in the officer’s presence and/or did not involve a breach of the peace.”⁴ In Woods v. City of Chicago, the court rejected a claim that a warrantless arrest for assault committed outside the presence of the officer violated the Fourth Amendment.^{5 6}

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 26, 2003, the Committee on Judiciary considered the bill and adopted an amendment to change the language defining “workplace” to mean “the actual physical building, including all parking lots or parking garages appertaining thereto, where the person assaulted regularly works or is assigned to work at the time of the assault.” The bill was reported favorably with a committee substitute.

⁴ Woods v. City of Chicago, 234 F.3d 979, 992 (7th Cir. 2000).

⁵ See Woods, 234 F.3d at 991-95.

⁶ See also Woods, 234 F.3d at 995 for a list of other federal circuits which have rejected similar claims that the Fourth Amendment prohibits warrantless arrests for misdemeanors committed outside the presence of an officer.