

**HOUSE OF REPRESENTATIVES ANALYSIS**

**BILL #:** HB 13  
**SPONSOR(S):** Mahon  
**TIED BILLS:**

**RELATING TO:** Assault  
**IDEN./SIM. BILLS:** SB 1372

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| REFERENCE                                       | ACTION | ANALYST       | STAFF DIRECTOR   |
|---|--------|---------------|------------------|
| (1) <u>Criminal Justice (Sub)</u>               | _____  | <u>Kramer</u> | <u>De La Paz</u> |
| (2) <u>Public Safety &amp; Crime Prevention</u> | _____  | _____         | _____            |
| (3) <u>Judiciary</u>                            | _____  | _____         | _____            |
| (4) <u>Public Safety Appropriations (Sub)</u>   | _____  | _____         | _____            |
| (5) <u>Appropriations</u>                       | _____  | _____         | _____            |

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**SUMMARY ANALYSIS**

The bill will allow 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 will take effect upon becoming a law.

## 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:

Assault: 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].
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.

See also, s. 784.011, F.S.

#### Warrantless arrests:

Under current law section 901.15 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 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. As a result, an officer will be able 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 a single physical location where business is conducted or services or operations are performed as well as the area within 100 feet of that location. The bill also mirrors language contained in other warrantless arrest provisions contained in s. 901.15<sup>1</sup> 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:
2. Expenditures:

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
2. Expenditures:

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

D. FISCAL COMMENTS:

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

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. 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.

2. Other

B. RULE-MAKING AUTHORITY:

C. DRAFTING ISSUES OR OTHER COMMENTS:

## IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

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<sup>1</sup> s. 901.15(7), (8) and (15) F.S.