

# 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: CS/SB 1588

SPONSOR: Criminal Justice Committee and Senator Aronberg and others

SUBJECT: Drug Abuse Prevention and Control

DATE: April 15, 2003

REVISED: \_\_\_\_\_

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

## I. Summary:

Committee Substitute for Senate Bill 1588 amends s. 893.13, F.S., to increase penalties for controlled substance offenses (such offenses include sale, manufacture, and delivery, but do not include purchase or possession) committed, at any time, within 1,000 feet of a park. The CS clarifies that the term “park” includes state, county, and municipal parks.

The CS also provides for enhanced penalties for controlled substance offenses committed, at any time, within 1,000 feet of a community center or a publicly owned recreational facility. The CS defines the term “community center” as a facility operated by a nonprofit community-based organization for the provision of recreational, social, or educational services.

The CS also provides for enhanced penalties for controlled substance offenses committed within 1,000 feet of a public or private college, university, or other postsecondary education institution.

The CS also provides for enhanced penalties for controlled substance offenses committed within 1,000 feet of a public housing facility.

Finally, the CS amends s. 921.0022, F.S., the offense ranking chart of the Criminal Punishment Code, to amend descriptions and rankings of offenses to conform to amendments of the controlled substance offenses amended by the CS.

This CS substantially amends ss. 893.13 and 921.0022, F.S.

## II. Present Situation:

The Legislature's policy is to increase penalties that generally apply to controlled substance offenses when those offenses are committed within a specified distance of certain places. For example, sale of cocaine is generally punished as a second degree felony, s. 893.13(1)(a), F.S. If the cocaine is sold within 200 feet of the real property comprising a college, the sale is a first degree felony; if the sale occurs beyond 200 feet from this property, it is a second degree felony. Distance is measured "as the crow flies, not as the car drives," *Howard v. State*, 591 So.2d 1067 (Fla. 4<sup>th</sup> DCA 1991), i.e., in a straight light line to the property's "nearest boundary line." *State v. Burch*, 545 So.2d 279 (Fla. 4<sup>th</sup> DCA 1989).

Section 893.13(1)(c), F.S., provides that it is unlawful for a person to sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, a controlled substance in, on, or within 1,000 feet of the real property comprising a child care facility as defined in s. 402.302, F.S., or a public or private elementary, middle, or secondary school between the hours of 6 a.m. and 12:00 a.m. For most Schedule I controlled substances and some Schedule II controlled substances, the penalty is a first degree felony with a 3-year mandatory minimum sentence. (This mandatory minimum sentence does not apply to controlled substance offenses within 1,000 feet of a child care facility.) For other Schedule II controlled substances, as well as Schedule III and Schedule IV controlled substances, the penalty is a second degree felony.

Section 893.13(1)(d), F.S., punishes the same acts punished in s. 893.13(1)(c), F.S., if those acts are committed within 200 feet of a public park or within 200 feet of the real property comprising a public or private college, university, or other postsecondary educational institution. This paragraph punishes the offenses the same (in terms of felony degree) as the 1,000-foot provision, except that it does not include the 3-year mandatory minimum term in the 1,000-foot provision for offenses relating to certain controlled substances.

Section 893.13(1)(f), F.S., punishes the same acts punished in s. 893.13(1)(c), F.S., if those acts are committed within 200 feet of a public housing facility. This paragraph punishes the offenses the same (in terms of felony degree) as the 1,000-foot provision, except that it does not include the 3-year mandatory minimum term in the 1,000-foot provision for offenses relating to certain controlled substances.

## III. Effect of Proposed Changes:

Committee Substitute for Senate Bill 1588 amends s. 893.13, F.S., to increase penalties for controlled substance offenses (such offenses include sale, manufacture, and delivery, but do not include purchase or possession) committed, at any time, within 1,000 feet of a park. The CS clarifies that the term "park" includes state, county, and municipal parks. Currently, enhanced penalties are available if a controlled substance offense is committed within 200 feet of a park. For example, sale of cocaine within 200 feet of a park is currently a first degree felony. Sale of cocaine outside this 200-foot radius is a second degree felony. Under the CS, sale of cocaine within 1,000 feet of a park is a first degree felony with a 3-year minimum mandatory term of imprisonment; outside this radius, the sale is a second degree felony.

The CS removes the reference to parks in this 200-foot provision that currently covers parks, as well as public or private colleges, universities, or other postsecondary education institutions, and places the reference in a provision enhancing penalties for committing controlled substance offenses within 1,000 feet of a child care facility as defined in s. 402.302, F.S., or a public or private elementary, middle, or secondary school between the hours of 6 a.m. and 12:00 a.m.

The CS also amends the 1,000-foot provision applicable to child care facilities and designated schools to make it apply to controlled substance offenses committed, at any time, within 1,000 feet of a community center or a publicly owned recreational facility. The CS defines the term “community center” as a facility operated by a nonprofit community-based organization for the provision of recreational, social, or educational services. Currently, controlled substance offenses committed around a community center or a publicly owned recreational facility would not be subject to enhanced penalties. For example, sale of cocaine around a community center is a second degree felony. Under the CS, sale of cocaine within 1,000 feet of the community center is a first degree felony with a 3-year minimum mandatory term of imprisonment; outside this radius, the sale is a second degree felony.

The CS amends the provision that currently provides for enhanced penalties for controlled substance offenses within 200 feet of a public or private college, university, or other postsecondary education institution to increase the radius to 1,000 feet. For example, sale of cocaine within 200 feet of a university is currently a first degree felony. Sale of cocaine outside this 200-foot radius is a second degree felony. Under the CS, sale of cocaine within 1,000 feet of the university is a first degree felony; outside this radius, the sale is a second degree felony.

The CS amends the provision that currently provides for enhanced penalties for controlled substance offenses committed within 200 feet of a public housing facility to increase the radius to 1,000 feet. For example, sale of cocaine within 200 feet of a public housing facility is currently a first degree felony. Sale of cocaine outside this 200-foot radius is a second degree felony. Under the CS, sale of cocaine within 1,000 feet of the public housing facility is a first degree felony; outside this radius, the sale is a second degree felony.

Finally, the CS amends s. 921.0022, F.S., the offense ranking chart of the Criminal Punishment Code, to amend descriptions and rankings of offenses to conform to amendments of the controlled substance offenses amended by the CS.

The CS takes effect July 1, 2003.

#### **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:

An analysis of the bill by the Criminal Justice Impact Conference (CJIC) decided the impact on prison beds was indeterminate.

**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.

---