

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1675 Relating to Facilitating or Furthering a Burglary
SPONSOR(S): Prieguez
TIED BILLS: IDEN./SIM. BILLS: SB 158

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR. Row 1: 1) Criminal Justice (Sub), 7 Y, 0 N, Maynard, De La Paz.

SUMMARY ANALYSIS

Burglary is defined as "[e]ntering a dwelling, a structure, or a conveyance with the intent to commit an offense therein, unless the premises are at the time open to public or the defendant is licensed or invited to enter; or notwithstanding a licensed or invited entry, remaining in a dwelling, structure or conveyance; a. [s]urreptitiously, with the intent to commit an offense therein; b. [a]fter permission to remain therein has been withdrawn, with the intent to commit an offense therein, or c. [t]o commit or attempt a forcible felony as defined in s. 776.08." s. 810.02(1)(b), F.S.. Florida law divides the punishment for burglaries based how they are committed. Burglaries are felonies of the first degree punishable by life if in the course of committing the offense the offender makes an assault or battery upon any person, is or becomes armed within the dwelling, structure or conveyance, with explosives or a dangerous weapon, or enters an occupied or unoccupied dwelling or structure and uses a motor vehicle as an instrumentality other than as a getaway vehicle and causes damage to the dwelling or structure. s. 810.02(2), F.S. If in the course of committing a burglary the offender does not make an assault or battery, or carry a dangerous weapon, and enters an occupied or unoccupied dwelling, occupied structure, or an occupied conveyance, the offender commits a felony of the second degree. s. 810.02(3), F.S. Burglaries are third degree felonies where the offender is unarmed and does not assault or batter another person and enters an unoccupied structure or conveyance. s. 810.02(4), F.S.

HB 1675 creates the offense of damaging a wire or line that transmits or conveys telephone or power to a dwelling, or equipment for the transmission or conveyance of power or telephone for the purpose of facilitating a burglary. The new offense is a third degree felony. The bill makes the offense a Level 2 on the offense severity ranking chart.

## 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 type="checkbox"/> | N/A <input checked="" 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:

#### B. EFFECT OF PROPOSED CHANGES:

Burglary is defined as "[e]ntering a dwelling, a structure, or a conveyance with the intent to commit an offense therein, unless the premises are at the time open to public or the defendant is licensed or invited to enter; or notwithstanding a licensed or invited entry, remaining in a dwelling, structure or conveyance; a. [s]urreptitiously, with the intent to commit an offense therein; b. [a]fter permission to remain therein has been withdrawn, with the intent to commit an offense therein, or c. [t]o commit or attempt a forcible felony as defined in s. 776.08." s. 810.02(1)(b), F.S.. Florida law divides the punishment for burglaries based how they are committed. Burglaries are felonies of the first degree punishable by life if in the course of committing the offense the offender makes an assault or battery upon any person, is or becomes armed within the dwelling, structure or conveyance, with explosives or a dangerous weapon, or enters an occupied or unoccupied dwelling or structure and uses a motor vehicle as an instrumentality other than as a getaway vehicle and causes damage to the dwelling or structure. s. 810.02(2), F.S. If in the course of committing a burglary the offender does not make an assault or battery or carry a dangerous weapon and enters an occupied or unoccupied dwelling, occupied structure, or an occupied conveyance, the offender commits a felony of the second degree. s. 810.02(3), F.S. Burglaries are third degree felonies where the offender is unarmed and does not assault or batter another person and enters an unoccupied structure or conveyance. s. 810.02(4), F.S.

HB 1675 creates the offense of damaging a wire or line that transmits or conveys telephone or power to a dwelling, or equipment for the transmission or conveyance of power or telephone for the purpose of facilitating a burglary. The new offense is a third degree felony. The bill makes the offense a Level 2 on the offense severity ranking chart.

#### C. SECTION DIRECTORY:

Section 1. Creates s. 810.061, F.S., relating to facilitating or furthering a burglary.

Section 2. Reenacts s. 810.02, F.S. for purposes of incorporation.

Section 3. Amends the offense severity ranking chart in s. 922.0022, F.S.

Section 4. Provides an 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:

See Fiscal Comments.

D. FISCAL COMMENTS:

The Criminal Justice Estimating Conference has analyzed the Senate companion to this bill and determine that it will have an insignificant fiscal impact.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

2. Other:

B. RULE-MAKING AUTHORITY:

C. DRAFTING ISSUES OR OTHER COMMENTS:

Florida law also provides for persons participating in a crime to be criminally liable as principals, even if they are not actually or constructively present at the commission of an offense. Under s. 777.011, F.S., “[w]hoever commits any criminal offense against the state, whether felony or misdemeanor, or aids, abets, counsels, hires, or otherwise procures such offense to be committed, and such offense is committed or attempted to be committed, is a principal in the first degree and may be charged, convicted, and punished as such, whether or he or she is not actually or constructively present at the commission of such offense.” A person then who aids or abets a burglary by cutting power or telephone wires or damaging equipment providing telephone or power, even if not actually or constructively present during the burglary, should be punishable the same as the offender who actually enters or remains in a dwelling or structure.

#### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES