

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1919 Relating to Mutual Aid Agreements
SPONSOR(S): Public Safety & Crime Prevention
TIED BILLS: **IDEN./SIM. BILLS:** SB 2488

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Public Safety & Crime Prevention</u>	<u>16 Y, 0 N</u>	<u>Maynard</u>	<u>De La Paz</u>
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

Currently, Florida law allows for mutual aid agreements, which are defined as: 1) voluntary cooperation written agreement between two or more law enforcement agencies, between law enforcement agencies and a school board that employs school safety officers, or a state university that employs university police officers. These agreements permit voluntary cooperation and assistance of a routine law enforcement nature across jurisdictional lines; 2) a requested operational assistance written agreement between two or more law enforcement agencies, between law enforcement agencies and a school board employing school safety officers or state university that employs or appoints university police officers. These agreements are for rendering of assistance in an emergency; and 3) a combination of the previous two agreements. All of these agreements may only be entered into by a sheriff, mayor or chief executive officer of a municipality or county, a school board, or a state university that employs university police officers.

While mutual aid agreements are very important, there are many entities which are not specifically listed and the term "law enforcement agency" is not defined for the purposes of the section. As a result, many entities are not able to negotiate mutual aid agreements. This can be important because courts will review the legality of mutual aid agreements to determine whether evidence seized pursuant to operations across jurisdictional lines should be suppressed.

HB 1919 would provide a broad definition of "law enforcement agency" for the purposes of these agreements to mean "any agency, unit of government, or municipality, or the state or any political subdivision or agency thereof, that has constitutional or statutory authority to employ or appoint persons as law enforcement officers. Moreover, HB 1919 amends s. 23.1225(3), F.S. to remove the specified list of those entities authorized to enter into mutual aid agreements and to authorize a law enforcement agency, upon written agreement by the chief executive officer of such agency, having authority to bind the agency to such agreements.

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:

Currently, Florida law allows for mutual aid agreements, which are defined under s. 23.1225(1)(a), F.S. as: 1) voluntary cooperation written agreement between two or more law enforcement agencies, between law enforcement agencies and a school board that employs school safety officers, or a state university that employs university police officers. These agreements permit voluntary cooperation and assistance of a routine law enforcement nature across jurisdictional lines. The agreement must specify the nature of the law enforcement to be rendered, which agency shall bear liability arising from acts undertaken under the agreement, the procedures for requesting and authorizing assistance, a time limit for the agreement, the amount of any compensation or reimbursement to the assisting agency; 2) a requested operational assistance written agreement between two or more law enforcement agencies, between law enforcement agencies and a school board employing school safety officers or state university that employs or appoints university police officers. These agreements are for rendering of assistance in an emergency. The agreements have similar specification requirements as voluntary cooperation written agreements; and 3) a combination of the previous two agreements. All of these agreements may only be entered into by a sheriff, mayor or chief executive officer of a municipality or county, a school board, or a state university that employs university police officers.

While mutual aid agreements are very important, there are many entities which are not specifically listed and the term “law enforcement agency” is not defined for the purposes of the section and therefore many entities are not able to negotiate mutual aid agreements. State community colleges, Fish, Game, and Wildlife Commission officers, and various other entities which would otherwise possess law enforcement power or responsibility may technically be unable under the statute to enter into such agreements. According to the Florida Department of Law Enforcement, this inability has affected the coordination of a regional domestic security task force in Pensacola. There the agency attempted to enter into a mutual aid agreement with Pensacola Community College, which is located near an airport. Because community colleges are not mentioned in the list of entities in the statute, Pensacola Community College was unable to enter the agreement.

This issue can also be important because courts will review the legality of mutual aid agreements to determine whether evidence seized pursuant to operations across jurisdictional lines should be suppressed. See State v. Watkin, 802 So.2d 1169 (Fla 3rd DCA 2001). (Detective from another jurisdiction was authorized to act within city, where he was investigating felony that occurred within his own jurisdiction, properly notified city upon his receipt of a tip that vehicle used in that felony within city, and informed city of his intent to set up surveillance.) Courts will look to whether an agreement complies with s. 23.1225(1)(a), F.S., to determine legality.

HB 1919 would provide a broad definition of “law enforcement agency” for the purposes of these agreements to mean “any agency, unit of government, or municipality, or the state or any political subdivision or agency thereof, that has constitutional or statutory authority to employ or appoint persons as

law enforcement officers as defined in s. 943.10(1).”¹ Moreover, HB 1919 amends s. 23.1225(3) to remove the list of specified public officials authorized to enter into mutual aid agreements and instead to authorize a law enforcement agency upon written agreement by the chief executive officer of such agency having authority to bind the agency to enter into such agreements.

C. SECTION DIRECTORY:

Section 1. Amends s. 23.1225, F.S., relating to mutual aid agreements.

Section 2. Providing 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 not analyzed this bill.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

¹ Section 943.10(1) defines “law enforcement officer” as “any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.”

2. Other:

B. RULE-MAKING AUTHORITY:

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES