

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 checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input 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:

"Home invasion robbery" is defined in s. 812.135, F.S. as: a robbery where the offender enters a dwelling with the intent to commit a robbery, and does commit the robbery. Currently under Florida Law, any form of home-invasion robbery is a first degree felony. The law makes no distinction between home-invasion robberies where the defendant is armed with a gun or other deadly weapon and where the defendant is unarmed. Also, under the Offense Ranking Chart of the Criminal Punishment Code in s. 921.0022(3)(h), F.S. home-invasion robbery is listed as a level 8 offense.

This is not the case with the offense of robbery as defined in s. 812.13(1), F.S.¹ There are currently three offenses under this subsection, each one carrying greater punishments based on the defendant's possession of weapons or lack thereof during the offense. Under the current scheme, however, a person armed with a knife during a home invasion robbery may face the same punishment that a robber armed with a stun gun on the street would face, since both are first degree felonies.

HB 71 would divide home-invasion robbery into three separate offenses, as is currently the case with robbery. The bill creates three new subsections out of s. 812.135(2), F.S. Subsection (2)(a) makes a home-invasion robbery, where the defendant carries a firearm or other deadly weapon, a first degree felony, punishable by life. Where the robber is armed with a weapon, Subsection (2)(b) punishes the offense as a first degree felony, and where the defendant is unarmed the person also commits a felony of the first degree, under Subsection (2)(c).

HB 71 creates differing offense severity rankings for the new offenses. The various levels of the Offense Severity Ranking Code constitute the lowest permissible sentence that a court may give for a particular case. The ranking level is incorporated into a sentencing scoresheet which weighs various aggravating factors such as the prior record of the offender. The maximum sentence is determined by the degree of the particular offense. Home invasion robbery is currently a first degree felony and a level 8 offense, which means that a person with no prior record would face a minimum of 34.5 months in prison and a maximum of 30 years. HB 71 amends the Offense Severity Ranking Code under s. 921.0022(3), F.S. to include the new offenses. The offense of home invasion robbery while unarmed, Subsection 2(c) of the bill, would remain a level eight offense. Therefore a person with no prior criminal history would face the same minimum prison sentence of 34.5 months and a maximum of 30 years. The offense of home invasion robbery with a weapon, created in subsection 2(b) would be a level 9 offense. This offense would punish a first-time offender with a minimum of 48 months in prison or a maximum of 30 years. The offense of home invasion robbery while carrying a firearm or deadly

¹ "Robbery" is the taking of money or other property which may be the subject of larceny from the person or custody of another, with intent to either permanently or temporarily deprive the person or the owner of the money or other property, when in the course of the taking there is the use of force, violence, assault, or putting in fear. s. 812.13(1), F.S.

weapon, created in Subsection 2(a), would receive an offense severity ranking of level 10. A person with no prior history convicted of this offense would face a minimum prison sentence of 66 months and a maximum period of life.

C. SECTION DIRECTORY:

Section 1. Creates three new subsections in s. 812.135(2), F.S. which divide the offense of home-invasion robbery into three separate offenses.

Section 2. Reenacts s. 943.325(2), F.S. for the purposes of incorporation.

Section 3. Amends the Offense Severity Ranking Chart in s. 921.0022, F.S. to specify the offense of home-invasion robbery categories of the bill.

Section 4. 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 yet determined the fiscal impact of this bill. However, even though the bill would likely increase the length of prison sentences for defendants convicted or pleading to the newly created offenses, home-invasion robbery is already a level 8 offense which carries a significant prison sentence. Because of this relatively high ranking of the offense currently, the fiscal impact of the bill would be based on the increased length of prison terms for those offenses being ranked as level 9 or 10.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill is exempt from the mandates provision because it is a criminal law.

2. Other:

B. RULE-MAKING AUTHORITY:

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES