

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.)

Prepared By: Criminal Justice Committee

BILL: SB 1068

SPONSOR: Senator Rich

SUBJECT: Robbery

DATE: March 16, 2005

REVISED: 03/21/05 03/22/05 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cellon</u>	<u>Cannon</u>	<u>CJ</u>	<u>Fav/2 amendments</u>
2.	_____	_____	<u>JU</u>	_____
3.	_____	_____	<u>JA</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see last section for Summary of Amendments

- Technical amendments were recommended
- Amendments were recommended
- Significant amendments were recommended

I. Summary:

Senate Bill 1068 amends the robbery, robbery by sudden snatching, and carjacking statutes to treat attempt to commit those crimes, where the offender simply fails to actually take property or money, as though the crimes had been completed. The bill also amends the armed robbery statute to incorporate the threat of the use of a weapon or firearm, not just the carrying of a weapon, as a factor in the determination of the level of the felony.

This bill substantially amends the following sections of the Florida Statutes: 812.13, 812.131, and 812.133.

II. Present Situation:

The crimes of robbery, robbery by sudden snatching, and carjacking consist of basically the same elements. These are:

- Taking of money or other property from another person,
- with the intent to either permanently or temporarily deprive the other person (or owner) of the money or property,

- where there is force, violence, assault, putting in fear, or in the case of sudden snatching, at least an awareness on the part of the victim that property is being taken from his or her person.

In essence, these are all theft crimes involving personal confrontation between the offender and the victim.

The robbery-related crimes are classified as follows:

- Robbery or carjacking while armed with a firearm or other deadly weapon – first degree felony punishable by up to life in prison
- Robbery while armed with a weapon or unarmed carjacking – first degree felony punishable by up to 30 years
- Simple robbery (unarmed), robbery by sudden snatching while armed with a firearm or deadly weapon – second degree felony punishable by up to 15 years
- Unarmed robbery by sudden snatching – third degree felony punishable by up to five years

Section 777.04, F.S., provides, in part, that “a person who attempts to commit an offense prohibited by law and in such attempt does any act toward the commission of such offense, but fails in the perpetration or is intercepted or prevented in the execution thereof, commits the offense of criminal attempt...”. s. 777.04 (1), F.S. Attempted crimes are generally treated differently, for sentencing purposes, than completed crimes.

With few exceptions, the attempted crime is ranked one level below where the completed crime appears on the Ranking Chart used to compute minimum sentences. Also, the degree of the attempted crime is classified one level below the completed crime – for instance, if the completed crime would be a second degree felony, the attempted crime becomes a third degree felony.

Theft is defined in s. 812.014, F.S., as follows:

- (1) A person commits theft if he or she knowingly obtains or uses, *or endeavors to obtain or use*, the property of another with intent to, either temporarily or permanently:
 - (a) Deprive the other person of a right to the property or a benefit from the property.
 - (b) Appropriate the property to his or her own use or to the use of any person not entitled to the use of the property.

s. 812.014, F.S.

Because the term *or endeavors to obtain or use* is included within the elements of the crime of theft, the crime of *attempted theft* is subsumed within the crime of theft.

III. Effect of Proposed Changes:

This bill amends the elements of robbery, robbery by sudden snatching, and carjacking to include *endeavoring to take* as an element, comparable to the theft statute. This would effectively do away with the attempted crimes by including the attempt within the main (completed) crime.

Under the provisions of the bill, attempted robbery, attempted robbery by sudden snatching, and attempted carjacking, which are not in reality completed criminal acts for the simple reason that the *offender does not*, for whatever reason, *actually take* property or money from the victim, would be treated as completed crimes.

The bill also amends the elements of armed robbery, where the offender is armed with a weapon, to include *threatening to use* a firearm or a weapon. It also clarifies that the offender did not threaten to use a firearm or a weapon in the commission of simple, strong-arm robbery.

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:

The Office of Economic and Demographic Research analyzed the companion House Bill, HB 953, and estimated the following potential prison bed and fiscal impact:

Fiscal Year	Projected Additional Annual Prison Beds	Total Additional Annual Funds
2005-2006	26	\$2,898,701
2006-2007	42	\$2,204,012
2007-2008	33	\$2,707,104

2008-2009	27	\$3,131,092
2009-2010	22	\$3,383,753
TOTAL	150	\$14,324,662

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

VIII. Summary of Amendments:

Barcode 642754 by Criminal Justice:

Changes the effective date from July 1, 2005, to October 1, 2005, providing continuity within the criminal law.

Barcode 764332 by Criminal Justice:

Deletes subsection (7) in its entirety from s. 812.155, F.S. This would allow for prosecutions in rental-purchase arrangements where there is fraud, trick, or false representation by the lessee.

(WITH TITLE AMENDMENT)

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