

# 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.)

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Prepared By: Justice Appropriations Committee

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BILL: SB 1512

SPONSOR: Senators Aronberg and Miller

SUBJECT: Drug Abuse Prevention and Control

DATE: April 7, 2005

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

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

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## I. Summary:

Senate Bill 1512 amends s. 893.13(1)(c), F.S., to increase criminal penalties for the sale, delivery, manufacture, or possession with intent to sell controlled substances within 1000 feet of a library. It also amends the Criminal Punishment Code Ranking Chart to reflect the new enhanced penalties for the newly-created law violation.

This bill substantially amends s. 893.13 and 921.0022, F.S., and reenacts the following sections of the Florida Statutes for the purpose of incorporating the amendments: 397.451(4)(b), 435.07(2), 772.12(2)(a), 893.1351, 903.133, 921.187(1)(a), 938.25, and 948.034(1).

## 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 1000 feet of the real property comprising a state, county, or municipal park, the sale is a first degree felony punishable by a 3 year minimum mandatory sentence; if the sale occurs beyond 1000 feet from this property, it is a second degree felony. s. 893.13(1)(c)1., F.S.

Distance is measured "as the crow flies, not as the car drives," *Howard v. State*, 591 So.2d 1067 (Fla. 4th DCA 1991), i.e., in a straight light line to the property's "nearest boundary line." *State v. Burch*, 545 So.2d 279 (Fla. 4th DCA 1989).

In addition to the penalty enhancement for sale, delivery, manufacture or possession with intent to sell, deliver or manufacture controlled substances within 1000 feet of certain parks, s. 893.13(1)(c), F.S., also enhances the penalties for violations in, on, or within 1000 feet of the following locations:

- the real property comprising a child care facility, as defined in s. 402.302, F.S., so long as the facility is posted with a sign visible to the public identifying it as a licensed child care facility;
- a public or private elementary, middle, or secondary school between the hours of 6 a.m. and 12 midnight;
- a community center, defined as a facility operated by a nonprofit community-based organization for the provision of recreational, social, or educational services to the public; and
- a publicly owned recreational facility.

For most Schedule I controlled substances and some Schedule II controlled substances, the penalty for a violation of s. 893.13(1)(c), F.S., 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.

### **III. Effect of Proposed Changes:**

Senate Bill 1512 includes libraries among those locations specified in s. 893.13 (1)(c), F.S., where the penalties for certain drug offenses are enhanced. It amends the Criminal Punishment Code Ranking Chart to reflect this amendment and reenacts other provisions of law for the purpose of incorporating the amendment by reference.

### **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 Criminal Justice Impact Conference considered this bill on February 22, 2005, and found that the impact on prison beds was indeterminate to minimum.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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

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## **VIII. Summary of Amendments:**

None.

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