

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: Education Committee

BILL: SB 488

SPONSOR: Senator Hill

SUBJECT: The use of Tasers on minors

DATE: March 25, 2005

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hermanson</u>	<u>O'Farrell</u>	<u>ED</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>CJ</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill prohibits a person, including a law enforcement officer, from using Taser stun guns or other conductive energy devices on minors at schools with grade levels from prekindergarten through grade 12.

This bill creates unnumbered sections of the Florida Statutes.

This law shall take effect upon becoming a law.

II. Present Situation:

The company Taser International produces different types of a device they call a "TASER,"¹ which they sell to private citizens and law enforcement agencies. Taser International advertises that Tasers are non-lethal weapons that use "Electro-Muscular Disruption (EMD) technology" that will stop "goal-oriented, focused and extremely combative individuals who [are] impervious to non-lethal weapons."

Currently, there are no statutes that specifically regulate the use of Tasers or other similar devices in Florida. According to the Florida Department of Law Enforcement, local law enforcement agencies decide whether to allow officers to carry Tasers. Additionally, according to the Department of Education, the decision of whether to use Tasers on school grounds is a local decision.

¹ TASER is a registered trademark.

School resource officers in at least Clay, Nassau, Putnam and St. John's counties are equipped with Tasers.² Duval County Sheriff's Office recently purchased 1,800 Tasers for its officers, including school resource officers, to carry. However, last month the Jacksonville Sheriff suspended the use of Tasers until a more detailed policy and training program is created.³

III. Effect of Proposed Changes:

This bill prohibits a person, including but not limited to a law enforcement officer, from using a Taser or other conductive energy devices on a minor who is in a school that includes any grade level from prekindergarten through grade 12 or who is on the grounds of such a school.

It is unclear whether the bill is seeking to prevent Tasers from being used on minors who are enrolled in a school that includes any grade level from prekindergarten through grade 12, or whether the wording "in a school" means minors who are inside a school building. If "in a school" means that Tasers cannot be used on minors within a school building, then that language may be superfluous because "school grounds" covers school buildings. However, if the language means that Tasers cannot be used on minors enrolled in prekindergarten through grade 12, regardless of whether the minor is on school grounds, a person contemplating using a Taser during a disturbance would first have to determine whether the minor is enrolled in school. This is problematic because in a conflict where a law enforcement officer needs to use a Taser on a minor, he will not necessarily know whether the minor is enrolled in school.

This bill also applies to private schools. The bill's provisions would also affect federal officers or agents.

Additionally, the bill does not address liability issues that will arise if a Taser is used on a minor.

"Conductive energy device," the term Taser International uses to refer to its product, is not currently defined in the Florida statutes. This term is ambiguous, and it may be advisable to amend the language. A United States Department of Defense study on the effectiveness and risks of products like Tasers refers to the device as an "Electromuscular Incapacitation Device" (EMI device).⁴ Taser International also created the term "Electromuscular disruption" (EMD) to describe the intended effect of its products. Therefore, because of ambiguity associated with the term "conductive energy device," the bill's language could be changed to "electromuscular incapacitation devices" or "electromuscular disruption devices."

This bill will take effect upon becoming a law.

² *Tasers Going into Duval Schools; On-campus officers will carry the stun guns in middle and high schools*, Nin-Hai Tseng, THE FLORIDA TIMES-UNION, January 7, 2005.

³ *Sheriff Freezes Use of Tasers*, Tia Mitchell, THE FLORIDA TIMES-UNION, February 23, 2005.

⁴ United States Department of Defense/Human Effects Center of Excellence, *Human Effectiveness and Risk Characterization of Electromuscular Incapacitation Devices*, October 18, 2004.

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:

This law applies to the private sector, including private persons and private schools. This law potentially creates an independent fiscal impact on private schools and private persons because of exposure for liability.

C. Government Sector Impact:

This law potentially creates an independent fiscal impact for law enforcement officers and school districts because of exposure for liability.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

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