

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 555 **Drug Abuse Prevention and Control**
SPONSOR(S): Brandenburg
TIED BILLS: IDEN./SIM. BILLS: SB 1512

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Criminal Justice Committee</u>		Kramer	Kramer
2) <u>Governmental Operations Committee</u>			
3) <u>Justice Appropriations Committee</u>			
4) <u>Justice Council</u>			
5)			

SUMMARY ANALYSIS

HB 555 amends s. 893.13, F.S. to increase the severity of drug offenses which are committed within 1,000 feet of a library. As a result, the offenses of sale, manufacture or delivery of a controlled substance or possession with intent to sell, manufacture or deliver a controlled substance within 1,000 feet of a library will be treated for sentencing purposes in the same manner as if the offense occurred within 1,000 feet of a school, park, recreational facility or community center.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government: The bill increases the severity of certain drug offenses committed within 1,000 feet of a library.

Promote personal responsibility: This bill increases the severity of the sanction for potentially injurious behavior.

B. EFFECT OF PROPOSED CHANGES:

Florida law divides controlled substances into five categories ranging from Schedule I to Schedule V. The scheduling of a controlled substance is relevant to how it can be prescribed and to the severity of the criminal offense for its illicit possession, sale or purchase. A drug in Schedule I has a "high potential for abuse and has no currently accepted medical use in treatment in the United States."¹ A drug in Schedule V has a low potential for abuse relative to the substances in Schedule IV and has a currently accepted medical use in treatment in the United States, and abuse of such compound, mixture or preparation may lead to limited physical or psychological dependence relative to the substances in Schedule IV."²

Currently, section 893.13, F.S., provides penalties for various drug offenses depending on the type and quantity of the controlled substance as well as the location where the offense occurs. The severity of the offenses of sale, manufacture or delivery of a controlled substance or possession with intent to sell, manufacture or deliver a controlled substance are increased if the offense occurs within 1,000 feet of a child care facility, school, park, community center or recreational facility.³ For most Schedule I drugs⁴, and some Schedule II drugs, the severity of the offense is increased from a second degree felony to a first degree felony if it occurs within 1,000 feet of one of the locations listed above. Also, the imposition of a three year mandatory minimum sentence is required.⁵ For other Schedule I and Schedule II drugs as well as Schedule III and Schedule IV drugs⁶, the severity of the offense is increased from a third degree felony to a second degree felony if the offense occurs within 1,000 feet of one of the locations listed above.

HB 555 amends s. 893.13(1)(c), F.S. to treat the sale, manufacture or delivery of a controlled substance or the possession with intent to sell, manufacture or deliver a controlled substance that occurs within 1,000 feet of a library in the same manner as if the offense occurred within 1,000 feet of a child care facility, school, park, community center or recreational facility. For most Schedule I drugs, and some Schedule II drugs, the severity of the offense will be increased from a second degree felony to a first degree felony if the offense occurs within 1,000 feet of one of a library. This will result in the maximum sentence for the offense increasing from fifteen years to thirty years.⁷ Also, the imposition of a three year mandatory minimum sentence will required.⁸ For other Schedule I and Schedule II drugs

¹ s. 893.03(1), F.S. LSD and heroin are examples of Schedule I controlled substances.

² s. 893.03(5), F.S.

³ s. 893.13(1)(c), F.S.

⁴ Includes offenses listed in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b) and (2)(c)4.

⁵ The minimum mandatory sentence does not apply to drug offenses committed within 1,000 feet of a child care facility. s. 893.13(1)(c)1, F.S.

⁶ Includes offenses listed in s. 893.03(1)(c), (2)(c)1, (2)(c)2, (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3) and (4).

⁷ s. 775.082, F.S.

⁸ The bill also makes corresponding changes to the offense severity ranking chart of the Criminal Punishment Code. Currently, the offenses of sale, manufacture or delivery of most schedule I drugs and some schedule II drugs (contained at 893.13(1)(a)1) are ranked in level 5 of the offense severity ranking chart. This bill would rank these offenses in level 7 if the offense occurs within 1,000 feet of a library. These offenses will be ranked in the same manner as if they occurred within 1,000 feet of a school, park, recreational center, day care or community center. Currently the ranking of the offense of sale, manufacture, or delivery of other Schedule I and Schedule

as well as Schedule III and Schedule IV drugs, the severity of the offense will be increased from a third degree felony to a second degree felony if the offense occurs within 1,000 feet of a library. This will result in the maximum sentence for the offense increasing from five years to fifteen years.

C. SECTION DIRECTORY:

Section 1. Amends s. 893.13, F.S. to prohibit sale, manufacture or delivery of controlled substances within 1,000 feet of a library.

Section 2. Amends s. 921.0022, F.S. to make corresponding changes to offense severity ranking chart.

Sections 3 – 10. Reenacts 397.451(4)(b), 435.07(2), 772.12(1)(a), 893.1351, 903.133, 921.187(1)(a), 938.25 and 948.034(1), to incorporate by reference amendment to s. 893.13, F.S.

Section 11. Provides effective date of July 1, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

On February 22, 2005, the Criminal Justice Impact Conference decided that the bill would have an indeterminate but likely minimal prison bed impact on the Department of Corrections. There is no information available as to how many drug offenses are committed within 1,000 feet of a library.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

1. Applicability of Municipality/County Mandates Provision:

II drugs as well as Schedule III and Schedule IV drugs are ranked in level 3 of the offense severity ranking chart. This bill would rank these offenses in level 5 if they occur within 1,000 feet of a library.

The bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The term "library" is not defined in the bill or elsewhere in statute.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES