

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>	<u>6 Y, 0 N</u>	<u>Kramer</u>	<u>Kramer</u>
2) <u>Governmental Operations Committee</u>	<u></u>	<u>Luppert</u>	<u>Everhart</u>
3) <u>Justice Appropriations Committee</u>	<u></u>	<u></u>	<u></u>
4) <u>Justice Council</u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

This bill increases the severity of a drug offense committed within 1,000 feet of a library. As a result, selling, manufacturing, or delivering, or possessing 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. Current law provides a ranking, based on the type of controlled substance, which determines the penalty.

The bill will have an indeterminate, but likely minimal, prison bed impact on the Department of Corrections

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:

Background

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 for treatment in the United States.”¹ A drug in Schedule V has a low potential for abuse relative to the substances in Schedule I and has an accepted medical use for treatment in the United States.

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 these offenses is increased if the offense occurs within 1,000 feet of a child care facility, school, park, community center or recreational facility.² For most Schedule I drugs³, 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.⁴ For other Schedule I and Schedule II drugs, as well as Schedule III and Schedule IV drugs⁵, 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.

Effect of Bill

This bill increases the severity of a drug offense committed within 1,000 feet of a library. As a result, the offense of selling, manufacturing, or delivering, or possessing 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. 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 a library. This will result in an increase in the maximum sentence for the offense from fifteen years to thirty years.⁶ Also, the imposition of a three year mandatory minimum sentence will be required.⁷ For other Schedule I and Schedule II drugs, as well as Schedule III and Schedule IV drugs,

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

² s. 893.13(1)(c), F.S.

³ Includes offenses listed in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b) and (2)(c)4.

⁴ 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.

⁵ 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).

⁶ s. 775.082, F.S.

⁷ 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,

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 increase the maximum sentence for the offense 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 the 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 the 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:

day care or community center. Currently the ranking of the offense of sale, manufacture, or delivery of other Schedule I and Schedule 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.

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None.

1. Applicability of Municipality/County Mandates Provision:

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. However, current statute does provide for a definition of "library services".

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.