

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 117 Orders of No Contact

SPONSOR(S): Adams and others

TIED BILLS: **IDEN./SIM. BILLS:** SB 622

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Homeland Security & Public Safety</u>	<u>9 Y, 0 N</u>	<u>Cunningham</u>	<u>Kramer</u>
2) <u>Safety & Security Council</u>	<u>13 Y, 0 N</u>	<u>Cunningham</u>	<u>Havlicak</u>
3) <u>Policy & Budget Council</u>	<u>31 Y, 0 N</u>	<u>Leznoff</u>	<u>Hansen</u>
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

Currently, courts must issue an order prohibiting an offender from having contact with the victim for the duration of the sentence imposed when sentencing offenders who have been convicted of:

- Sexual battery – s. 794.011, F.S.; or
- Lewd and lascivious offenses committed upon or in the presence of persons less than 16 – s. 800.04, F.S.

HB 117 adds to the above list of qualifying crimes by requiring courts to issue a no contact order when sentencing persons convicted of any of the offenses contained in s. 775.084(1)(b)1.a.-o., F.S. These crimes include arson, robbery, kidnapping, aggravated child abuse, aggravated abuse of an elderly person or disabled adult, aggravated assault with a deadly weapon, murder, manslaughter, aggravated manslaughter of an elderly person or disabled adult, aggravated manslaughter of a child, unlawful throwing, placing, or discharging of a destructive device or bomb, armed burglary, aggravated battery, and aggravated stalking.

On January 17, 2008, the Criminal Justice Impact Conference determined the bill to have an insignificant impact on the prison population. This bill takes effect for offenses committed on or after October 1, 2008.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Promote Personal Responsibility – This bill requires courts to issue no contact orders when sentencing persons convicted of certain violent offenses.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Currently, courts must issue an order prohibiting an offender from having contact with the victim for the duration of the sentence imposed when sentencing offenders who have been convicted of:

- Sexual battery – s. 794.011, F.S.; or
- Lewd and lascivious offenses committed upon or in the presence of persons less than 16 – s. 800.04, F.S.

The prohibition includes direct as well as indirect contact and remains in effect for the duration of the sentence imposed. Offenders who violate these orders, commonly referred to as “no contact orders,” commit a 3rd degree felony¹, and any punishment imposed must run consecutive to any former sentence imposed.²

Courts may reconsider a no contact order upon the request of the victim if the request is made after the victim is 18 or older.³ If such a request is made, the court must hold an evidentiary hearing to determine whether a change of circumstances has occurred which warrants a change in the order and whether it is in the best interests of the victim that the order be modified or rescinded.⁴

Effect of the Bill

HB 117 adds to the above list of qualifying crimes by requiring courts to issue a no contact order when sentencing persons convicted of any of the offenses contained in s. 775.084(1)(b)1.a.-o., F.S. These crimes include arson, robbery, kidnapping, aggravated child abuse, aggravated abuse of an elderly person or disabled adult, aggravated assault with a deadly weapon, murder, manslaughter, aggravated manslaughter of an elderly person or disabled adult, aggravated manslaughter of a child, unlawful throwing, placing, or discharging of a destructive device or bomb, armed burglary, aggravated battery, and aggravated stalking.

¹ A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. ss. 775.082, 775.083, and s. 775.084, F.S.

² s. 921.244, F.S.

³ *Id.*

⁴ *Id.*

C. SECTION DIRECTORY:

Section 1. Amends s. 921.244, F.S., relating to order of no contact; penalties.

Section 2. This bill takes effect October 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Insignificant. See "Fiscal Comments."

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

On January 17, 2008, the Criminal Justice Impact Conference determined the bill to have an insignificant impact on the prison population.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This 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:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES