

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 321 Murder of Law Enforcement Officers

SPONSOR(S): Safety & Security Council; Snyder and others

TIED BILLS: **IDEN./SIM. BILLS:** SB 1064

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Homeland Security & Public Safety</u>	<u>10 Y, 0 N</u>	<u>Cunningham</u>	<u>Kramer</u>
2) <u>Safety & Security Council</u>	<u>15 Y, 0 N, As CS</u>	<u>Cunningham/Davis</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, the Law Enforcement Protection Act provides penalty enhancements for violent offenses committed against law enforcement officers, correctional officers, state attorneys, assistant state attorneys, justices, or judges. These enhancements provide for penalties ranging from 7 years to life in prison dependent upon the offense and other factors evaluated at sentencing for the crimes that are the subject of this bill.

HB 321 creates s. 782.065, F.S., which provides that notwithstanding the Act and other sentencing statutes, a person must be sentenced to life imprisonment without eligibility for release upon findings by the factfinder beyond a reasonable doubt that a person committed the following crimes against a law enforcement officer, part-time law enforcement officer, or auxiliary law enforcement officer engaged in the lawful performance of a legal duty:

- Murder in the first degree in violation of s. 782.04(1), F.S.
- Murder in the second or third degree in violation of s. 782.04(2), (3), or (4), F.S.
- Attempted murder in the first or second degree in violation of s. 782.04(1)(a)1., or (2), F.S.; or
- Attempted felony murder in violation of s. 782.051, F.S.

On January 17, 2008, the Criminal Justice Impact Conference determined that this bill would have an insignificant prison bed impact.

This bill takes effect October 1, 2008.

FULL ANALYSIS

SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Promote Person Responsibility – This bill creates s. 782.065, F.S., which provides minimum mandatory penalties for persons who commit murder in the first, second or third degree, attempt to commit murder in the first or second degree, or attempted felony murder, where the victim of the offense was a law enforcement officer, part-time law enforcement officer, or auxiliary law enforcement officer, engaged in the lawful performance of a legal duty.

B. EFFECT OF PROPOSED CHANGES:

The Law Enforcement Protection Act¹ (Act), when read in conjunction with the Criminal Punishment Code, provides penalty enhancements for violent offenses² committed against law enforcement officers, correctional officers, state attorneys, assistant state attorneys, justices, or judges. The following chart illustrates the permissible sentence ranges for violent offenses committed against law enforcement officers pursuant to the Act's penalty enhancements.

OFFENSE	PENALTY RANGE
1st Degree Murder - s. 782.04(1), F.S.	Life without eligibility for release
2nd Degree Murder	
s. 782.04(2)	53.875 years - life
s. 782.04(3)	50.125 years - life
3rd Degree Murder - s. 782.04(4), F.S.	22.5 years
Attempted 1st Degree Murder - s. 782.04(1)(a)1., F.S.	12.625 years - 30 years
Attempted 2nd Degree Murder - s. 782.04(2), F.S.	9.75 years - 15 years
Attempted Felony Murder	
s. 782.051(1)	12.625 years - life
s. 782.051(2)	9.8125 years - 30 years
s. 782.051(3)	7 - 15 years

Effect of the Bill

HB 321 creates s. 782.065, F.S., which provides minimum mandatory penalties for certain crimes against law enforcement officers. Specifically, the bill provides that notwithstanding the Act and other sentencing statutes³, a person must be sentenced to life imprisonment without eligibility for release upon findings by the factfinder beyond a reasonable doubt that a person committed the following crimes against a law enforcement officer, part-time law enforcement officer, or auxiliary law enforcement officer, as those terms are defined in s. 943.10⁴, F.S., engaged in the lawful performance of a legal duty:

¹ s. 775.0823, F.S.

² The violent offenses include: murder in the first degree, attempted murder in the first degree, attempted felony murder, murder in the second degree, attempted murder in the second degree, murder in the third degree, attempted murder in the third degree, manslaughter during the commission of a crime, kidnapping, aggravated battery, and aggravated assault.

³ Sections 775.082, 782.04, 782.051, F.S., and Chapter 921, F.S.

⁴ Section 943.10, F.S., defines the term "law enforcement officer" as, "any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency." The term "part-time law enforcement officer" is defined as, "any person employed or appointed less than full time, as defined by an employing

- Murder in the first degree in violation of s. 782.04(1), F.S.
- Murder in the second or third degree in violation of s. 782.04(2), (3), or (4), F.S.
- Attempted murder in the first or second degree in violation of s. 782.04(1)(a)1., or (2), F.S.; or
- Attempted felony murder in violation of s. 782.051, F.S.

C. SECTION DIRECTORY:

Section 1. Creates s. 782.065, F.S., relating to murder; law enforcement officer.

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:

See "Fiscal Comments."

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See "Fiscal Comments."

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

On January 17, 2008, the Criminal Justice Impact Conference determined that this bill would have an insignificant prison bed impact. This is due to the low frequency of such offenses and that current convictions for said offenses are already of significant length.

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:

agency, with or without compensation, who is vested with authority to bear arms and make arrests and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state." The term "auxiliary law enforcement officer" is defined as, "any person employed or appointed, with or without compensation, who aids or assists a full-time or part-time law enforcement officer and who, while under the direct supervision of a full-time or part-time law enforcement officer, has the authority to arrest and perform law enforcement functions."

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

This bill, should it become law, will send a clear message and provide a deterrent to those who willingly attempt to murder a law enforcement officer in Florida. It is incumbent upon us as a legislative body to protect, as much as possible, those who protect us.

The chair of the Safety & Security Council chose not to submit any further comments regarding the council substitute.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On February 6, 2008, the Homeland Security & Public Safety Committee adopted a strike-all amendment and reported the bill favorably as amended. The amendment reorganizes the bill and makes technical changes.

On March 12, 2008, the Safety & Security Council reported the bill favorably as a council substitute. This analysis is drafted to the council substitute.