

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 321 Murder of Law Enforcement Officers

SPONSOR(S): 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></u>	<u>Cunningham</u>	<u>Havlicak</u>
3) <u>Policy & Budget Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

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.

HB 321 creates s. 782.065, F.S., which provides that a person who commits or attempts to commit murder in the first, second, or third 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 shall, if the death sentence is not imposed, be sentenced to a minimum mandatory term of imprisonment for life without eligibility for release.

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 or attempt to commit murder in the first, second, or third 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	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	22.5 years
Attempted 1st Degree Murder	12.625 years - 30 years
Attempted 2nd Degree Murder	
s. 782.04(2)	9.75 years - 15 years
s. 782.04(3)	7.5 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, a person who commits or attempts to commit murder in the first, second, or third degree, or attempted felony murder, where the victim of the offense was a law enforcement officer (LEO), part-time LEO, or auxiliary LEO, engaged in the lawful performance of a legal duty shall, if the death sentence is not imposed, be sentenced to a minimum mandatory term of imprisonment for life without eligibility for release. Thus, the penalty for every crime listed in the above chart would be life without eligibility for release.

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.

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.

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.

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

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.

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.