

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 317 Threats
SPONSOR(S): Public Safety & Domestic Security Policy Committee; Adkins and others
TIED BILLS: IDEN./SIM. BILLS: CS/SB 860

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR. Rows include Public Safety & Domestic Security Policy Committee, Criminal & Civil Justice Appropriations Committee, and Criminal & Civil Justice Policy Council.

SUMMARY ANALYSIS

Section 836.10, F.S., provides that a person commits a second degree felony if the person writes and sends a letter or inscribed communication containing a threat to injure or kill the person to whom the letter or communication is addressed...

The bill adds "electronic communication" to the existing statute. Any threats sent in this manner would be punishable by a second degree felony.

The Criminal Justice Impact Conference met February 23, 2010, and could not determine the prison bed impact of this bill because the number of persons that will make electronic threats of death or injury cannot be quantified.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Section 836.10, F.S., provides that a person commits a second degree felony¹ if the person writes and sends a letter or inscribed communication containing a threat to injure or kill the person to whom the letter or communication is addressed, or a family member of the person to whom the letter or communication is sent. The letter or communication may be signed or sent anonymously.

The statute does not specifically include letters or communications written, composed, or sent by *electronic* means.

Proposed Changes

The bill amends s. 836.10, F.S., to add "electronic communication" to the existing statute. Any threats sent in this manner would be punishable by a second degree felony.

B. SECTION DIRECTORY:

Section 1: Amends s. 836.10, F.S., relating to written threats to kill or do bodily injury; punishment.

Section 2: Provides an effective date of October 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The Criminal Justice Impact Conference met February 23, 2010, and could not determine the prison bed impact of this bill because the number of persons that will make electronic threats of death or

¹ A second degree felony is punishable by up to 15 years imprisonment and a maximum \$10,000 fine. Sections 775.082, 775.083, 775.084, F.S.

injury cannot be quantified. However, there were only six people sentenced to state prison in 2008-09 under the current law.

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:

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.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On February 16, 2010, the Public Safety & Domestic Security Policy Committee adopted a strike-all amendment to the bill. The amendment:

- Removes language from the bill that created a second degree misdemeanor penalty if a person communicated orally, in writing or through the use of electronic means or other means a threat to do physical harm to a person or property of another in the course of committing an act of domestic violence. The domestic violence statute currently provides a penalty for threats made against a person.
- Adds "electronic communication" to the existing statute. Any threats sent in this manner would be punishable by a second degree felony.

The bill was reported favorably as a Committee Substitute. This analysis reflects the Committee Substitute.