

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Judiciary Committee

BILL: SB 858
INTRODUCER: Senator Negron and Others
SUBJECT: Knowingly and Willfully Giving False Information to a Law Enforcement Officer
DATE: January 18, 2012 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dugger	Cannon	CJ	Favorable
2.	O'Connor	Cibula	JU	Favorable
3.			BC	
4.				
5.				
6.				

I. Summary:

Senate Bill 858 implements the recommendation of the Senate Select Committee on Protecting Florida’s Children to amend s. 837.055, F.S., which currently makes it a first-degree misdemeanor to knowingly and willfully provide false information to a law enforcement officer during a missing person or felony criminal investigation. Specifically, the bill creates a third-degree felony offense for knowingly and willfully providing false information with the intent to mislead or impede a law enforcement officer in a missing person investigation involving a child 16 years of age or younger, and such child suffers great bodily harm, permanent disability, permanent disfigurement, or death.

This bill substantially amends s. 837.055 of the Florida Statutes.

II. Present Situation

Senate Bill 858 is a consensus product by the Senate Select Committee on Protecting Florida’s Children which was created by President Haridopolos on August 10, 2011, in the wake of the Casey Anthony verdict.¹ The committee was charged with examining the various policy options

¹ Caylee Anthony was almost three years old when last seen alive on June 16th, 2008 at the Anthony residence. She was reported missing by her grandmother on July 15, 2008. Casey Anthony, the mother of Caylee, was indicted on charges of first degree murder, aggravated child abuse, aggravated manslaughter of a child, and providing false information to law enforcement and she pled not guilty. Caylee’s skeletal remains were located in a wooded area near the family residence on December 11, 2008. On July 5, 2011, the jury found Casey Anthony not guilty of murder, aggravated child abuse, and aggravated manslaughter of a child, but guilty of four counts of providing false information to a law enforcement officer. Anthony received a sentence of one year in jail and a \$1,000 fine for each count.

to further advance the protection of children and determine whether changes to current law were needed.

The committee identified the relevant laws on child abuse and providing false information in missing children investigations. The committee examined ch. 827, F.S., relating to the abuse of children, s. 406.12, F.S., relating to the duty to report a death, and s. 837.055, F.S., relating to knowingly giving false information to a law enforcement officer during a missing person investigation. Particular attention was given to ss. 827.03 and 837.055, F.S., and their relationship to the circumstances in the Anthony case.²

Section 827.03, F.S., relates to the abuse, aggravated abuse, and neglect of children. Child abuse is defined as intentionally inflicting physical or mental injury on a child, committing an intentional act reasonably expected to result in physical or mental injury to a child, or actively encouraging the commission of an act resulting in physical or mental injury to a child. It is a third-degree felony offense to knowingly or willfully abuse a child without causing great bodily harm, permanent disability, or permanent disfigurement.³

Aggravated child abuse is defined as committing aggravated battery on a child; willfully torturing, maliciously punishing, or willfully and unlawfully caging a child; or knowingly or willfully abusing a child, thereby causing great bodily harm, permanent disability, or permanent disfigurement. It is a first-degree felony to commit aggravated child abuse.⁴

Neglect is defined as a caregiver's failure or omission to provide a child with care, supervision, and services necessary to maintain the child's physical and mental health that a prudent person would consider essential for the well-being of the child; or a caregiver's failure to make reasonable efforts to protect a child from abuse, neglect, or exploitation by another person.⁵ It is a second-degree felony to willfully or by culpable negligence neglect a child, thereby causing great bodily harm, permanent disability, or permanent disfigurement.⁶ It is a third-degree felony to willfully or by culpable negligence neglect a child without causing any great bodily harm, permanent disability, or permanent disfigurement.⁷

Section 837.055, F.S., criminalizes providing false information to a law enforcement officer during a missing person investigation. The law states that "[w]hoever knowingly and willfully gives false information to a law enforcement officer who is conducting a missing person investigation or a felony criminal investigation with the intent to mislead the officer or impede the investigation commits a misdemeanor of the first degree."⁸

After reviewing these laws and receiving testimony from child abuse officials, law enforcement entities, prosecutors, and defense counsel, the committee recommended the creation of a third-

² See Select Committee on Protecting Florida's Children, <http://www.flsenate.gov/Committees/Show/SPFC> (last visited Jan. 13, 2012).

³ Section 827.03(1), F.S.

⁴ Section 827.03(2), F.S.

⁵ Section 827.03(3)(a), F.S.

⁶ Section 827.03(3)(b), F.S.

⁷ Section 827.03(3)(c), F.S.

⁸ Section 837.055(1), F.S.

degree felony offense for persons who knowingly and willfully provide false information to law enforcement with the intent to mislead or impede a missing child investigation when the child is 16 years of age or younger and suffers great bodily harm or death.

III. Effect of Proposed Changes:

Senate Bill 858 implements the recommendation of the Senate Select Committee on Protecting Florida's Children by amending s. 837.055, F.S., to create a third-degree felony offense for persons who knowingly and willfully provide false information with the intent to mislead or impede a law enforcement officer in a missing person investigation involving a child 16 years of age or younger, and such child suffers great bodily harm, permanent disability, permanent disfigurement, or death. The current first-degree misdemeanor offense will remain applicable in all other missing person or felony criminal investigations, provided the requisite criminal elements for that offense exist.

The bill provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Persons found guilty of the newly created third-degree felony offense will be subject to a potential fine of up to \$5,000⁹ rather than potentially up to \$1,000¹⁰ (currently applicable in a first-degree misdemeanor case). Similarly, such persons will be subject to an increase in potential imprisonment of up to five years in prison for the felony offense,¹¹ rather than potentially up to one year in county jail for the misdemeanor offense.¹²

⁹ Section 775.083(1)(c), F.S.

¹⁰ Section 775.083(1)(d), F.S.

¹¹ Section 775.082(3)(d), F.S.

¹² Section 775.082(4)(a), F.S.

C. Government Sector Impact:

On December 14, 2011, the Criminal Justice Impact Conference determined that the bill will have an insignificant fiscal impact upon the cost of housing prisoners within the Department of Corrections.¹³

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

¹³ Criminal Justice Impact Conference, *2012 Session Bills and Links to Backup Materials*, available at <http://edr.state.fl.us/content/conferences/criminaljusticeimpact/index.cfm> (last visited Jan. 13, 2012).