

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 Budget Subcommittee on Criminal and Civil Justice Appropriations

BILL: CS/SB 876

INTRODUCER: Criminal Justice Committee and Senator Benacquisto

SUBJECT: Robbery by Sudden Snatching

DATE: February 21, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Cannon</u>	<u>CJ</u>	Fav/CS
2.	<u>Sneed</u>	<u>Sadberry</u>	<u>BJA</u>	Pre-meeting
3.	_____	_____	<u>BC</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

Section 812.131, F.S., punishes the offense of robbery by sudden snatching. Recently, the Florida First District Court of Appeal reviewed a case in which the defendant was charged with robbery by sudden snatching after he took the victim's purse. At the time of the taking, the victim was sitting on a park bench and her purse was next to her, touching her right hip. The defendant snatched the purse and ran away. The court held that the defendant could not be charged with robbery by sudden snatching because the statute required that the property be taken from the victim's person, not taken from the victim's reach, proximity, or control. Several other courts have reached the same conclusion when presented with similar facts.

The bill specifies that this offense also includes the taking of money or other property from the victim's immediate reach or control.

This bill substantially amends section 812.131, Florida Statutes.

II. Present Situation:

Section 812.131, F.S., provides that it is a third degree felony¹ to commit robbery by sudden snatching if, in the course of committing a robbery by sudden snatching,² the offender did not carry a firearm or deadly weapon. The offense is a second degree felony³ if, in the course of committing a robbery by sudden snatching, the offender carried a firearm or deadly weapon.

The statute defines the term “robbery by sudden snatching” as the taking of money or other property from the victim’s person, with intent to permanently or temporarily deprive the victim or the owner of the money or other property, when, in the course of the taking,⁴ the victim was or became aware of the taking. In order to satisfy this definition, it is not necessary to show that:

- The offender used any amount of force beyond that effort necessary to obtain possession of the money or other property; or
- There was any resistance offered by the victim to the offender or that there was injury to the victim’s person.

Cases Regarding the Scope of Robbery by Sudden Snatching

Recently, Florida’s First District Court of Appeal reviewed a case where the defendant was charged with robbery by sudden snatching after he took a victim’s purse.⁵ At the time of the taking, the victim was sitting on a park bench and her purse was next to her, touching her right hip. The defendant snatched the purse and ran away. The court held that the defendant could not be charged with robbery by sudden snatching because the statute required that the property be taken from the victim’s person, not taken from the victim’s reach, proximity, or control. Several other courts have reached the same conclusion when presented with similar facts.⁶

It appears that acts which the courts’ rulings indicate are outside the scope of s. 812.131, F.S., are being prosecuted as “simple theft.”⁷ The bill analysis for CS/HB 425 (1999 Legislative Session), when the offense of robbery by sudden snatching was created, indicated that the typical

¹ The maximum prison sanction that may imposed for a third degree felony is 5 years in state prison. s. 775.082, F.S. The maximum fine that may be imposed is \$5,000. s. 775.083, F.S. Additionally, repeat offender sanctions may be imposed pursuant to s. 775.084, if the offender qualifies under one of the repeat offender categories in that statute. This offense is ranked in Level 5 of the offense severity ranking chart of the Criminal Punishment Code. s. 921.0022, F.S.

² The statute specifies that an act shall be deemed “in the course of committing a robbery by sudden snatching” if the act occurs in an attempt to commit robbery by sudden snatching or in fleeing after the attempt or commission.

³ The maximum prison sanction that may imposed for a second degree felony is 15 years in state prison. s. 775.082, F.S. The maximum fine that may be imposed is \$10,000. s. 775.083, F.S. Additionally, repeat offender sanctions may be imposed pursuant to s. 775.084, F.S., if the offender qualifies under one of the repeat offender categories in that statute. This offense is ranked in Level 7 of the offense severity ranking chart of the Criminal Punishment Code. s. 921.0022, F.S.

⁴ The statute specifies that an act shall be deemed “in the course of taking” if the act occurs prior to, contemporaneous with, or subsequent to the taking of the property and if such act and the act of taking constitute a continuous series of acts or events.

⁵ *Wess v. State*, 67 So.3d 1133 (Fla. 1st DCA 2011).

⁶ *See e.g., State v. Floyd*, 872 So.2d 445 (Fla. 2d DCA 2004) and *Brown v. State*, 848 So.2d 361 (Fla. 4th DCA 2003).

⁷ E-mail from William Cervone, State Attorney, Eighth Judicial Circuit, to staff of the House Criminal Justice Subcommittee, dated November 9, 2011 (on file with the Senate Committee on Criminal Justice).

purse snatching offense (prior to passage of the legislation creating the offense) was prosecuted as second degree misdemeanor petit theft.⁸

III. Effect of Proposed Changes:

The bill amends s. 812.131, F.S., to specify that the offense of robbery by sudden snatching also includes the taking of money or other property from the victim's immediate reach or control.

This change to the definition of "robbery by sudden snatching" would allow prosecutors to charge robbery by sudden snatching when the robbery involves the taking of money or other property from the victim's immediate reach or control, which it is currently precluded from doing as a result of court cases holding that indicate that the acts are not within the scope of s. 812.131, F.S.

Information provided to legislative staff indicates that "cases now prosecuted as simple theft could become sudden snatching robbery[.]"⁹ Therefore, there is the potential that some acts currently charged as a misdemeanor theft (petit theft) could be charged as a felony (sudden snatching robbery).

The act takes effect 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:

None.

⁸ HB 429 – Robbery by Sudden Snatching, document prepared by the Office of Economic and Demographic Research, Florida Legislature, on November 8, 2011 (on file with the Senate Committee on Criminal Justice).

⁹ See footnote 7.

C. Government Sector Impact:

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation estimated that the original bill would have an indeterminate prison bed impact.

Additionally, the bill could have a workload impact on state attorneys. Information received by legislative staff indicates that “cases now prosecuted as simple theft could become sudden snatching robbery, and carry greater penalty exposure, thus increasing workload if more defendants insisted on a trial.”¹⁰ However, the number of such cases cannot be estimated at this time.

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.)

CS by Criminal Justice on February 16, 2012:

Specifies that the offense of robbery by sudden snatching also includes the taking of money or other property from the victim’s immediate reach or control.

- B. **Amendments:**

None.

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

¹⁰ See footnote 7.