

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 427 Traveling Across County Lines to Commit Felony Offenses

SPONSOR(S): McBurney and others

TIED BILLS: **IDEN./SIM. BILLS:** SB 550

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	13 Y, 0 N	Jones	Cunningham
2) Justice Appropriations Subcommittee	13 Y, 0 N	McAuliffe	Lloyd
3) Judiciary Committee	17 Y, 0 N	Jones	Havlicak

SUMMARY ANALYSIS

In recent months, news outlets have reported on a "wave" of South Florida burglaries allegedly committed by individuals who intentionally traveled to a county other than their county of residence to commit the offense. According to law enforcement, traditional law enforcement methods, such as using local pawn shop databases, confidential informants, proactive police patrols, and targeted patrols, become less effective when investigating these types of crimes. Currently, there are no statutes that make it a crime for a person to travel to another county with the intent to commit a crime.

The bill creates s. 843.22, F.S., which makes it a third degree felony for a person who resides in Florida to:

- Travel any distance and cross a Florida county boundary;
- With the intent to commit a felony offense in a Florida county that is not their county of residence.

"County of residence" is defined as the county in which a person resides within this state. Evidence of county of residence may include, but is not limited to:

- The address on the person's driver license or state identification card;
- Records of real property or mobile home ownership;
- Records of a lease agreement for residential property;
- The county in which the person's motor vehicle is registered;
- The county in which the person is enrolled in a school, college, or university; or
- The county in which the person is employed.

"Felony offense" is defined as a felony violation, or an attempt, solicitation, or conspiracy to commit a felony violation, of sexual battery, lewdness, prostitution, stalking, battery, carjacking, home invasion robbery, burglary, arson, robbery, kidnapping, theft, racketeering, or trafficking in a controlled substance.

The bill also prohibits those charged with s. 843.22, F.S. (traveling across county lines with the intent to commit a felony), from being released on bail until first appearance to ensure the full participation of the prosecutor and the protection of the public.

The Criminal Justice Impact Conference met January 30, 2014, and determined the bill will have an insignificant negative impact on state prison beds because the bill creates a new third degree felony offense. The bill may also have a negative jail bed impact because it prohibits persons charged under s. 843.22, F.S., from being released on bail until first appearance. However, since first appearance must occur within 24 hours of arrest, the impact on local jails will likely be insignificant.

The bill is effective October 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Traveling Across County Lines to Commit Felonies

In recent months, news outlets have reported on a “wave” of burglaries that have occurred in South Florida.¹ These burglaries are allegedly committed by individuals who intentionally travel to a county other than their county of residence to commit the offense. William Snyder, Sheriff of Martin County, states that “traditional law enforcement methods,” such as using local pawn shop databases, confidential informants, proactive police patrols, and targeted patrols, “become less effective” with these crimes.² According to Sheriff Snyder, it’s difficult for law enforcement officials to establish a pattern and track criminals when they travel from their home county into neighboring counties to commit crimes.³

Currently, there are no statutes that make it a crime for a person to travel to another county with the intent to commit a crime.

Effect of the Bill

The bill creates s. 843.22, F.S., which makes it a third degree felony⁴ for a person who resides in Florida to:

- Travel any distance and cross a Florida county boundary;
- With the intent to commit a felony offense in a Florida county that is not their county of residence.

The bill provides the following definitions:

- "County of residence" means the county in which a person resides within this state. Evidence of county of residence may include, but is not limited to:
 - The address on the person's driver license or state identification card;
 - Records of real property or mobile home ownership;
 - Records of a lease agreement for residential property;
 - The county in which the person's motor vehicle is registered;
 - The county in which the person is enrolled in a school, college, or university; and
 - The county in which the person is employed.
- "Felony offense" means a felony violation, or an attempt, solicitation, or conspiracy to commit a felony violation, of sexual battery, lewdness, prostitution, stalking, battery, carjacking, home invasion robbery, burglary, arson, robbery, kidnapping, theft, racketeering, or trafficking in a controlled substance.

Bail Determinations

Pretrial release is an alternative to incarceration that allows arrested defendants to be released from jail while they await disposition of their criminal charges.⁵ Generally, pretrial release is granted by releasing a defendant on their own recognizance, by requiring the defendant to post bail, and/or by requiring the defendant to participate in a pretrial release program.⁶

¹ *Lawmakers file bills pushed by Martin County sheriff to combat ‘pillowcase’ burglaries*, Jonathan Mattise, December 23, 2013. <https://www.tcpalm.com/news/2013/dec/23/lawmakers-file-bills-pushed-by-martin-county-to/> (last visited on February 20, 2014); *Sheriff Enlists Legislative Help To Crack Down On Growing Problem: ‘Pillowcase Burglars’*, Sascha Cordner, December 18, 2013. <http://news.wfsu.org/post/sheriff-enlists-legislative-help-crack-down-growing-problem-pillowcase-burglars> (last visited on February 20, 2014).

² *Id.*

³ *Id.*

⁴ A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

⁵ Report No. 10-08, “*Pretrial Release Programs’ Compliance with New Reporting Requirements is Mixed*,” Office of Program Policy Analysis & Government Accountability, January 2010 (on file with the Criminal Justice Subcommittee).

⁶ *Id.*

Bail requires an accused to pay a set sum of money to the sheriff to secure his or her release. If a defendant released on bail fails to appear before the court at the appointed place and time, the bail is forfeited. The purpose of a bail determination in criminal proceedings is to ensure the appearance of the criminal defendant at subsequent proceedings and to protect the community against unreasonable danger.⁷ Courts must consider certain things when determining whether to release a defendant on bail, and what that bail should be (e.g., the nature and circumstances of the offense charged, the weight of the evidence against the defendant, the defendant's family ties, length of residence in the community, employment history, financial resources, mental condition, etc.).⁸

In certain instances, a person is required to be held without bail until his or her first appearance to ensure the full participation of the prosecutor and the protection of the public. Section 903.046(l), F.S., requires this if the crime charged is a violation of ch. 874, F.S.,⁹ or alleged to be subject to enhanced punishment under ch. 874, F.S.

Effect of the Bill

The bill amends s. 903.046(l), F.S., to prohibit those charged with s. 843.22, F.S. (traveling across county lines with the intent to commit a felony), from being released on bail until first appearance to ensure the full participation of the prosecutor and the protection of the public.

B. SECTION DIRECTORY:

Section 1. Creates s. 843.22, F.S., relating to traveling across county lines to commit a felony offense.

Section 2. Amends s. 903.046, F.S., relating to purpose of and criteria for bail determination.

Section 3. Provides an effective date of October 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have any impact on state revenues.

2. Expenditures:

The Criminal Justice Impact Conference met January 30, 2014, and determined the bill will have an insignificant negative impact on state prison beds because the bill creates a new third degree felony offense.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

The bill prohibits persons charged under s. 843.22, F.S., from being released on bail until first appearance, which may have a negative jail bed impact. However, since first appearance must occur within 24 hours of arrest, the impact on local jails will likely be insignificant.

⁷ Section 903.046, F.S.

⁸ *Id.*

⁹ Chapter 874, F.S., relates to criminal gang enforcement and prevention.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The 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:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES