

**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

BILL #:	HB 427	FINAL HOUSE FLOOR ACTION:	
SPONSOR(S):	McBurney and others	74 Y's	37 N's
COMPANION BILLS:	CS/SB 550	GOVERNOR'S ACTION:	Approved

SUMMARY ANALYSIS

HB 427 passed the House on April 1, 2014. The bill was amended by the Senate on April 28, 2014, and subsequently passed the House on May 1, 2014.

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.

The bill reclassifies the degree of a burglary to the next higher degree, if a person who commits the burglary:

- Travels any distance with the intent to commit the burglary in a county in this state other than the person's county of residence; and
- The purpose of the person's travel is to thwart law enforcement attempts to track the items stolen in the burglary.

For purposes of sentencing under ch. 921, F.S., and determining incentive gain-time eligibility under ch. 944, F.S., the bill ranks burglaries that have been reclassified one level above the ranking specified in ss. 921.0022 or 921.0023, F.S.

The bill also defines the terms "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 an educational institution; and
- The county in which the person is employed.

The bill amends s. 903.046(2)(l), F.S., to prohibit those whose burglary offense is subject to reclassification under s. 843.22, F.S., from being released on bail until first appearance to ensure the full participation of the prosecutor and the protection of the public.

The bill may have a negative prison bed impact on the Department of Corrections because it reclassifies a burglary offense to the next higher degree, in certain circumstances. The bill may also have a negative jail bed impact because it prohibits persons whose burglary offense is reclassified 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 was approved by the Governor on June 20, 2014, ch. 2014-201, L.O.F., and will become effective on October 1, 2014.

I. SUBSTANTIVE INFORMATION

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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DATE: June 27, 2014

A. EFFECT OF CHANGES:

Traveling Across County Lines to Commit Burglaries

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 enhance a criminal charge when a person travels to another county with the intent to commit a burglary.

Effect of the Bill

The bill reclassifies the degree of a burglary⁴ to the next higher degree, if a person who commits the burglary:

- Travels any distance with the intent to commit the burglary in a county in this state other than the person's county of residence; and
- The purpose of the person's travel is to thwart law enforcement attempts to track the items stolen in the burglary.

For purposes of sentencing under ch. 921, F.S., and determining incentive gain-time eligibility under ch. 944, F.S., the bill ranks burglaries that have been reclassified one level above the ranking specified in ss. 921.0022 or 921.0023, F.S.

The bill defines "county of residence" to mean 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 an educational institution; and
- The county in which the person is employed.

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

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

¹ *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 May 2, 2014).

² *Id.*

³ *Id.*

⁴ As defined in s. 810.02, F.S., including an attempt, solicitation, or conspiracy to commit such offense.

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.*

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(2)(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(2)(l), F.S., to prohibit those whose burglary offense is subject to reclassification under s. 843.22, F.S., from being released on bail until first appearance to ensure the full participation of the prosecutor and the protection of the public.

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 bill may have a negative prison bed impact on the Department of Corrections because it reclassifies a burglary offense to the next higher degree in certain circumstances.

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 may have a negative jail bed impact because it prohibits persons whose burglary offense is reclassified 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.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

⁷ Section 903.046, F.S.

⁸ *Id.*

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

None.