

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 Committee on Appropriations

BILL: CS/SB 550

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Criminal and Civil Justice) and Senator Hukill

SUBJECT: Traveling Across County Lines to Commit a Felony Offense

DATE: April 24, 2014

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Sumner	Cannon	CJ	Favorable
2. Stearns	Yeatman	CA	Favorable
3. Clodfelter	Sadberry	ACJ	Fav/CS
4. Clodfelter	Kynoch	AP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 550 creates section 843.22, Florida Statutes, which makes it a third degree felony for a person to travel any distance with the intent to commit a felony offense in a Florida county that is not their residence. The bill also makes persons who are charged with committing the new offense ineligible for pretrial release without appearing before a judge.

The Criminal Justice Impact Conference found the bill as originally filed would have an insignificant impact on prison bed space. The changes made to the original bill are likely to reduce this fiscal impact. The bill will also have some impact on county jails because a person charged with the new offense cannot be released on pre-trial release without appearing before a judge. In some cases, this will result in a minimum of an overnight stay in jail which would not otherwise occur.

II. Present Situation:

According to Martin County Sheriff William Snyder, there has been a recent phenomenon in Martin County, and most Florida counties, where traveling burglars dubbed "the pillowcase burglars" break into houses near the interstate, stuff the most valuable items into pillowcases and immediately flee to another county. According to Snyder, traditional methods of law enforcement such as using local pawn shop databases, confidential informants, normal proactive

police patrols, or targeted patrols based on time and place of burglary are less effective because of the burglars' speedy departure from the county of the burglary.¹

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.² 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.³

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.⁴ Courts must consider certain things when determining whether to release a defendant on bail and what level bail should be set at (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, and mental condition, etc.).⁵

Sentencing Guidelines

Chapter 921, F.S., contains the Criminal Punishment Code, which provides sentencing criteria to guide the imposition of criminal penalties for the commission of a felony offense. The "offense severity ranking chart," provided in s. 921.0022, F.S., has ten offense levels, ranked from least severe, which are level one offenses, to most severe, which are level ten offenses. In the event that a particular felony does not have a specific sentencing severity level set in s. 921.0022, F.S., its severity level is decided according to the following parameters:

- A felony of the third degree is within offense level one.
- A felony of the second degree is within offense level four.
- A felony of the first degree is within offense level seven.
- A felony of the first degree punishable by life is within offense level nine.
- A life felony is within offense level ten.⁶

III. Effect of Proposed Changes:

Section 1 creates s. 843.22, F.S., which makes it a third degree felony for a person to travel any distance with the intent to commit burglary in a Florida county that is not his or her county of

¹¹ Sascha Cordner, *Sheriff Enlists Legislative Help To Crack Down On Growing Problem: 'Pillowcase Burglars,'* WFSU-FM, Dec. 18, 2013, available at, <http://news.wfsu.org/post/sheriff-enlists-legislative-help-crack-down-growing-problem-pillowcase-burglars>.

² 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 Community Affairs Committee).

³ *Id.*

⁴ Section 903.046, F.S.

⁵ *Id.*

⁶ Section 921.0023, F.S.

residence. An additional element of the offense is that the travel must have been for the purpose of thwarting law enforcement attempts to track items stolen in the burglary.

The bill defines “county of residence” as the county within Florida in which a person resides. Evidence of a person’s county of residence includes, but is not limited to:

- The address on a 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 a person’s motor vehicle is registered;
- The county in which a person is enrolled in an educational institution; and
- The county in which a person is employed.

Section 2 amends s. 903.046(2)(1), F.S., to prohibit those charged with 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 bill makes the crossing of a county line with the intent to commit a felony a factor to be considered by the court when making a bail determination.

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

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.

C. Government Sector Impact:

The Criminal Justice Impact Conference met on January 30, 2014, and determined that SB 550 would 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. Because of the changes made to the original bill, CS/SB 550 is likely to have a smaller fiscal impact.

According to the Department of Corrections (DOC), there will be a \$3,400 fiscal impact on the agency's technology systems due to the need for a new offense code and additional changes to existing codes and tables. The DOC estimates 40 hours of work at \$85.00 an hour. This amount can be absorbed within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill does not allocate an "offense severity level" to the newly created crime for sentencing purposes. Therefore, pursuant to s. 921.0023(1), F.S., the severity level will be level one, which will score 0.7 points as an additional offense on a score sheet.⁷

VIII. Statutes Affected:

This bill substantially amends section 903.046 of the Florida Statutes.

This bill creates section 843.22 of the Florida Statutes.

IX. Additional Information:

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

CS by Appropriations on April 24, 2014:

The committee substitute:

- Limits the definition of the term "felony offense" as used in the bill to include only burglary.
- Adds an element to the new offense requiring that the person's travel must have been for the purpose of thwarting law enforcement efforts to track items stolen in the burglary.

- B. **Amendments:**

None.

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

⁷ Office of the State Courts Administrator, *2014 Judicial Impact Statement – SB 550* (March 13, 2014) (on file with the Senate Committee on Community Affairs).