

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 Criminal Justice

BILL: SB 1182

INTRODUCER: Senator Latvala

SUBJECT: Terroristic Threats

DATE: March 27, 2015

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Sumner	Cannon	CJ	Pre-meeting
2. _____	_____	ACJ	_____
3. _____	_____	AP	_____

I. Summary:

The bill creates an act relating to terroristic threats. The bill provides that a person commits the crime of terroristic threats if he or she communicates, directly or indirectly, a threat to do a violent act dangerous to human life with the intent to terrorize, intimidate, injure, or coerce a person or group; cause the evacuation of a building, place of assembly or facility of public transportation; or cause serious public inconvenience or terror.

Persons violating this provision commit a third degree felony. Persons commit a second degree felony if occupants of the building, place of assembly, or facility of public transportation are diverted from their normal or customary operations; if the threat is against a law enforcement officer or immediate family member; or state attorney or assistant state attorney.

The bill provides that in addition to any restitution ordered, persons violating this section may be ordered to pay restitution in an amount equal to the cost of the evacuation. A judgment of restitution does not preclude persons from recovering in a civil action.

II. Present Situation:

Corruption by threat against public servants

It is a felony to unlawfully harm or threaten to harm any public servant,¹ his or her immediate family, or any other person whose welfare the public servant is interested with the intent or purpose of:

- Influencing the performance of any act or omission that the person believes to be, or that the public servant represents as being, within the official discretion of the public servant, in violation or performance of a public duty²;

¹ Section 838.021, F.S.

² Section 838.021(1)(a), F.S.

- Causing or inducing the public servant to use or exert, or procure the use of exertion of any influence upon or with any other public servant regarding any act or omission which the defendant believes to be or the public servant represents as being, within the official discretion of the public servant, in violation or performance of a public duty.³

Prosecution under this section does not require allegation or proof that:

- The public servant ultimately sought to be unlawfully influenced was qualified to act in the desired way;
- That the public servant had assumed office;
- That the matter was properly pending before him or her or might by law properly be brought before him or her;
- That the public servant possessed jurisdiction over the matter; or
- That his or her official action was necessary to achieve the person's purpose.⁴

It is a second degree felony if the defendant actually does harm or a third degree felony if the defendant threatens harm.⁵

III. Effect of Proposed Changes:

The bill creates s. 775.32, F.S., an act related to terroristic threats. For purposes of the act the bill provides the following definitions:

- “Communicate” – is defined as a means to convey in person, in writing, or by electronic means to another person or other persons a message, including words, images, or language, through the use of electronic mail, the Internet, or any other type of electronic communication;
- “Immediate family member” – is defined to mean a spouse, parent, brother, sister, child, uncle, aunt, first cousin, nephew, niece, half-brother, half-sister, father-in-law, mother-in law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepparent, stepbrother, stepsister, stepchild, grandparent, great-grandparent, grandchild, great-grandchild, step great-grandchild of the person; a person who is engaged to be married to, or who otherwise holds himself or herself out as, or is generally known as, the person whom the person intends to marry; or a person to whom the person stands in loco parentis; or
 - Any other person living in the person's household and related to the person by blood or marriage or any other natural person having the same legal residence as the person.⁶
- “Law enforcement officer” includes a law enforcement officer, a correctional officer, a correctional probation officer including part-time and auxiliary officers, a county probation officer, an employee or agent of the Department of Corrections who supervises or provides services to inmates, an officer of the Florida Commission on Offender Review, a federal law enforcement officer, law enforcement personnel of the Fish and Wildlife Conservation Commission, or the Department of Law Enforcement.

³ Section 838.021(1)(b), F.S.

⁴⁴ Section 838.021(2), F.S.

⁵ Section 838.021(3)(a) and (b), F.S.

⁶ A similar definition of “relative” is also found in s. 112.312, F.S.

The bill provides that a person commits a crime of terroristic threats if the person communicates, directly or indirectly, a threat to do any of the following:

- Commit any violent act or any act dangerous to human life with the intent to terrorize, intimidate, injure, or coerce a person or group;
- Cause the evacuation of a building, place of assembly, or facility of public transportation;
- Cause serious public inconvenience or terror, or cause serious inconvenience with reckless disregard of the risk of causing such terror or inconvenience.
- A person who violates this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.

A person who violates this section commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S., if the violation:

- Causes the occupants of the building, place of assembly, or facility of public transportation to be diverted from their normal or customary operations;
- Involves a threat against a law enforcement officer or an immediate family member of a law enforcement officer; or
- Involves a threat against a state attorney or an assistant state attorney, or an immediate family member of a state attorney or an assistant state attorney.

A person convicted of violating this section shall, in addition to any other restitution that may be ordered, pay restitution in an amount equal to the cost of the evacuation, including, but not limited to, fire and police response; emergency medical service or emergency preparedness response; and transportation of an individual from the building, place of assembly, or facility of public transportation. A judgment or order of restitution does not preclude a person from recovering from the offender other relief that may be available in a civil action authorized by law, provided that a civil award shall be reduced by the amount paid under the judgment or order of restitution.⁷

The bill has an effective date of October 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁷ Pennsylvania, New York, Missouri, Illinois, Nebraska, Minnesota, Kentucky, Georgia, and California have passed similar laws relating to terroristic threats. See 18 Pa. Cons. Stat. s. 2706, McKinney's Penal law s. 490.20, V.A.M.S. 574.125, 720 ILCS 5/29D-20, Neb.Rev.St. s28-311.01, M.S.A. s. 609.713, KRS s. 508.080, Ga St. s. 16-11-37, and Cal. Penal Code s. 422

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference (CJIC) reviewed the bill and found that it will have a positive insignificant impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 775.32 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.