

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: CS/SB 436

INTRODUCER: Criminal Justice Committee and Senator Simpson

SUBJECT: Terroristic Threats

DATE: January 26, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sumner	Cannon	CJ	Fav/CS
2.			ACJ	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 436 creates an act relating to terroristic threats. The bill makes it unlawful for a person to threaten to commit a crime of violence with the intent to cause, or with reckless disregard for the risk of causing terror or the evacuation of a building, place of assembly, or facility of public transportation.

Persons violating this provision commit a third degree felony punishable by up to 5 years imprisonment and a \$5,000 fine. Persons commit a second degree felony punishable by up to 15 years imprisonment and a \$10,000 fine 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 instructional personnel, a law enforcement officer, state attorney or assistant state attorney, firefighter, judge, or elected official or any of their family members.

The bill provides that in addition to any restitution or penalty, persons violating this section shall pay restitution for all costs and damages caused by the evacuation resulting from the criminal conduct.

II. Present Situation:

Threat to Throw, Project, Place or Discharge any Destructive Device

Section 790.162, F.S., makes it a second degree felony if a person threatens to throw, project, place, or discharge any destructive device with intent to do bodily harm to any person or with intent to do damage to any property of any person.

False reports concerning planting a bomb, explosive, or weapon of mass destruction in or committing arson against, state-owned property

Section 790.164, F.S., makes it a second degree felony if a person makes a false report, with intent to deceive, mislead, or otherwise misinform any person, concerning the placing or planting of any bomb, dynamite, or other deadly explosive, or weapon of mass destruction.¹ Persons who are convicted of commission of this offense that resulted in the mobilization of any law enforcement officer or any state or local agency, may be required by the court to pay restitution for all of the costs and damages arising from the criminal conduct.

Planting of “hoax bomb”

Section 790.165, F.S., makes it a second degree felony if a person who, without lawful authority manufactures, possesses, sells, delivers, sends, mails, displays, uses, threatens to use, attempts to use or conspires to use, or who makes readily accessible to others a “hoax bomb.”²

Written Threats to Kill or Do Bodily Injury

Section 836.10, F.S., provides that it is a second degree felony to write or compose and send, or procure the sending, of any written communication containing a threat to kill or do bodily injury to the person to whom the letter is sent or a threat to kill or do bodily injury to the family of the person to whom such letter or communication is sent.

Corruption by threat against public servants

It is a felony to unlawfully harm or threaten to harm any public servant,³ 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 duty⁴;

¹ “Weapon of mass destruction” means any device or object that is designed or intended to cause death or serious bodily injury to any human or animal, or severe emotional or mental harm to any human, through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors; any device or object involving a biological agent or that is designed or intended to release radiation or radioactivity at a level dangerous to human or animal life or any biological agent, toxin, vector, or delivery system.

² “Hoax bomb” means any device or object that by its design, construction, content, or characteristics appears to be, or to contain, or is represented to be or to contain a destructive device or explosive but is in fact inoperable. s. 790.165(1), F.S.

³ Section 838.021, F.S.

⁴ 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.⁵

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.⁶

It is a second degree felony if the defendant actually does harm or a third degree felony if the defendant threatens harm.⁷

According to the Pasco Sheriff's Office, this bill would address issues that existing statutes do not. By eliminating the need for a specific victim, including threats that cause an evacuation of a building and cause serious public inconvenience, law enforcement will have the necessary tools to bring charges when these types of events take place.

III. Effect of Proposed Changes:

The bill creates s. 775.32, F.S., an act related to terroristic threats, making it a third degree felony punishable by up to five years in prison and a \$5,000 fine for persons who threaten to commit a crime of violence with the intent to cause, or with reckless disregard for the risk of causing:

- Terror; or
- Evacuation of a building, place of assembly, or facility of public transportation.

Persons commit a second degree felony punishable by up to 15 years imprisonment and a \$10,000 fine 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 instructional personnel, a law enforcement officer, state attorney or assistant state attorney, firefighter, judge, or elected official or any of their family members.

The bill provides that in addition to any restitution or penalty, persons violating this section shall pay restitution for all costs and damages caused by the evacuation resulting from the criminal conduct.

For purposes of the act the bill provides the following definitions:

⁵ Section 838.021(1)(b), F.S.

⁶ Section 838.021(2), F.S.

⁷ Section 838.021(3)(a) and (b), F.S.

- “Facility of public transportation” – is defined as a public conveyance and any area, structure, or device which is used to support, guide, control, permit, or facilitate the movement, starting, stopping, takeoff, landing, or servicing of a public conveyance, or the loading or unloading of passengers, freight, or goods. (“Public conveyance” for purposes of this paragraph includes a passenger or freight train, airplane, bus, truck, car, boat, tramway, gondola, lift, elevator, escalator, or other device used for the public carriage of persons or property.
- “Family member of a person” is defined as:
 - An individual related to the person by blood or marriage;
 - An individual living in the person’s household or having the same legal residence as the person;
 - An individual who is engaged to be married to the person, or who holds himself or herself out as, or is generally known as, an individual whom the person intends to marry; or
 - An individual to whom the person stands in loco parentis.⁸
- “Instructional personnel” is defined in accordance with s. 1012.01, F.S.⁹
- “Law enforcement officer” is defined as a current or former:
 - Law enforcement officer, correctional officer, correctional probation officer, part-time law enforcement officer, part-time correctional officer, part-time correctional probation officer, auxiliary law enforcement officer, auxiliary correctional officer, or auxiliary correctional probation officer, as those terms are respectively defined in s. 943.10, or a county probation officer;
 - Employee or agent of the Department of Corrections who supervises or provides services to inmates;
 - Officer of the Florida Commission on Offender Review;
 - Federal law enforcement officer as defined in s. 901.1505; or
 - Law enforcement personnel of the Fish and Wildlife Conservation Commission or the Department of Law Enforcement.

The bill has an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

⁸ “In loco parentis” means “in the place of a parent.” MERRIAM-WEBSTER, *In Loco Parentis*, <http://www.merriam-webster.com/dictionary/in%20loco%20parentis> (last visited Nov. 9, 2015).

⁹ “Instructional personnel” means any K-12 staff member whose function includes the provision of direct instructional services to students. The term also includes K-12 personnel whose functions provide direct support in the learning process of students. s. 1012.01(2), F.S.

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 (CJIC) reviewed HB 257 which is similar to SB 436 and found that it will have a positive insignificant prison bed impact on the Department of Corrections (an increase of ten or fewer beds).

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 Substantial Changes:

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

CS by Criminal Justice on January 25, 2016:

- Adds and clarifies definitions.
- Revises the prohibition in the bill to apply to threats to commit a crime of violence with intent to cause, or reckless disregard for causing terror or the evacuation of a public building, place of assembly, or facility of public transportation.
- Clarifies the requirement for persons convicted under the bill to pay restitution.
- The effective is changed from October 1, 2016 to July 1, 2016.

B. Amendments:

None.

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