

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 Rules

BILL: CS/SB 1234

INTRODUCER: Judiciary Committee and Senator Boyd

SUBJECT: False Reports of Crimes

DATE: April 15, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Jones</u>	<u>CJ</u>	Favorable
2.	<u>Ravelo</u>	<u>Justin</u>	<u>JU</u>	Fav/CS
3.	<u>Erickson</u>	<u>Phelps</u>	<u>RC</u>	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1234 allows for an individual convicted of falsely reporting a crime to receive an enhanced financial penalty if the offense resulted in certain aggravated circumstances such as death or great bodily harm.

Currently, the criminal act of falsely reporting a crime is a misdemeanor in the first degree punishable by up to 1 year in county jail and a fine of up to \$1,000. Under the bill, an offender may receive an *additional* fine of up to:

- \$5,000 if the offense results in a response by a federal, state, district, municipal, or other “public safety agency” (a term defined in the bill) to address the reported crime, and the combined cost incurred by all responding agencies exceeds \$1,000;
- \$7,500 if the offense results in great bodily harm, permanent disfigurement, or permanent disability as a proximate result of lawful conduct arising out of a response; or
- \$10,000 if the offense results in death as a proximate result of lawful conduct arising out of a response.

The bill takes effect upon becoming a law.

II. Present Situation:

Swatting

“Swatting’ is a form of harassment in which attackers try to trick law enforcement into sending heavily armed strike forces – like S.W.A.T.¹ As false reporting of crimes continues to grow in popularity, it unnecessarily places law enforcement and the public in harm’s way.”² “For some attackers, this is the thrill and the purpose of swatting: to cause the victims to fear for their lives as armed police charge into their homes, often with little warning. The police often believe that they themselves are facing an armed and dangerous adversary, producing a volatile scenario that can result in property destruction, injury, and death.”³

False Reports Concerning the Commission of Any Crime

Section 817.49, F.S., provides that it is a first degree misdemeanor⁴ to willfully impart, convey or cause to be imparted or conveyed to any law enforcement officer false information or reports concerning the alleged commission of any crime under the laws of this state, knowing such information or report to be false, in that no such crime had actually been committed.

Examples of Other Statutes Involving False Information or False Reporting

Provided are examples of other statutes involving false information or false reporting:

- Section 39.205(9), F.S., provides that it is a third degree felony⁵ to knowingly and willfully make a false report of child abuse, abandonment, or neglect, or advise another to make a false report.
- Section 365.172(14), F.S., provides, in part, that it is a first degree misdemeanor to use the 911 system for the purpose of making a false alarm or complaint or reporting false information that could result in the emergency response of any public safety agency.⁶
- Section 401.41(3), F.S., provides that it is a second degree misdemeanor⁷ to summon an emergency medical services⁸ vehicle when the person knows or has reason to know the services of the vehicle are not needed.

¹ A “S.W.A.T.” team is a special weapons and tactics team.

² Press Release, The Florida Senate, *Senator Boyd Files Legislation to Stop the False Reporting of Crimes* (Feb. 11, 2021), available at <https://www.flsenate.gov/Media/PressReleases/show/3911> (last visited on March 3, 2021).

³ Josh Fruhlinger, *What is swatting? Unleashing armed police against your enemies* (Nov. 25, 2020), CSO (IDG Communications, Inc.), available at <https://www.csoonline.com/article/3573381/what-is-swatting-unleashing-armed-police-against-your-enemies.html> (last visited on March 3, 2021).

⁴ A first degree misdemeanor is punishable by up to 1 year in county jail and a fine of up to \$1,000. Sections 775.082 and 775.083, F.S.

⁵ A third degree felony is punishable by up to 5 years in state prison and a fine of up to \$5,000. Sections 775.082 and 775.083, F.S.

⁶ It is a third degree felony if the person has been convicted four times of the unauthorized use of the 911 system and continues to engage in such unauthorized use, or if the value of the service or service charge obtained in violation of s. 365.172(14), F.S., exceeds \$100. Section 365.172(14), F.S.

⁷ A second degree misdemeanor is punishable by up to 60 days in county jail and a fine of up to \$500. Sections 775.082 and 775.083, F.S. A second or subsequent violation is a first degree misdemeanor. Section 401.41(3), F.S.

⁸ Emergency medical services do not appear to include law enforcement services. *See* s. 401.407(3), F.S. (defining “emergency medical services” in regard to emergency medical services grants).

- Section 790.163(1), F.S., provides that it is a second degree felony⁹ to make a false report, with intent to deceive, mislead, or otherwise misinform any person, concerning the placing or planting of any bomb, dynamite, other deadly explosive, or weapon of mass destruction, or concerning the use of firearms in a violent manner against a person or persons.
- Section 790.164(1), F.S., provides that it is a second degree felony to make a false report, with intent to deceive, mislead, or otherwise misinform any person, concerning the placing or planting of any bomb, dynamite, other deadly explosive, or weapon of mass destruction, concerning any act of arson or other violence to property owned by the state or any political subdivision, or concerning the use of firearms in a violent manner against a person or persons.
- Section 806.101, F.S., provides that it is a first degree misdemeanor¹⁰ for a person, without reasonable cause, by outcry or the ringing of bells, or otherwise, to make or circulate, or cause to be made or circulated, a false alarm of fire.
- Section 837.05(1)(a), F.S., provides that it is a first degree misdemeanor¹¹ to knowingly give false information to a law enforcement officer concerning the alleged commission of any crime.¹²
- Section 837.05(2), F.S., provides that it a third degree felony to knowingly give false information to a law enforcement officer concerning the alleged commission of a capital felony.
- Section 837.055(1), F.S., provides that it is a first degree misdemeanor to knowingly and willfully give false information to a law enforcement officer who is conducting a missing person investigation or a felony criminal investigation with the intent to mislead the officer or impede the investigation.
- Section 837.055(2), F.S., provides that it is third degree felony to knowingly and willfully give false information to a law enforcement officer who is conducting a missing person investigation involving a child 16 years of age or younger with the intent to mislead the officer or impede the investigation, and the child who is the subject of the investigation suffers great bodily harm, permanent disability, permanent disfigurement, or death.

III. Effect of Proposed Changes:

The bill amends s. 817.49, F.S., to provide for additional fines for the criminal offense of willfully making a false report of a crime to a law enforcement officer¹³ in the following manner:

⁹ A second degree felony is punishable by up to 15 years in state prison and a fine of up to \$10,000. Sections 775.082 and 775.083, F.S.

¹⁰ A second or subsequent conviction is a third degree felony. Section 806.101, F.S.

¹¹ A second or subsequent violation is a third degree felony if the information the person gave to the law enforcement officer was communicated orally and the officer's account of that information is corroborated by an audio recording or audio recording in a video of that information, a written or recorded statement made by the person who gave that information, or another person who was present when that person gave that information to the officer and heard that information; or the information the person gave to the law enforcement officer was communicated in writing. Section 837.05(1)(b), F.S.

¹² "Perhaps the only difference between the misdemeanor offenses described in section 837.05(1) and section 817.49 is that the latter would appear to permit a conviction for indirectly providing false information to a police officer, while the former might be interpreted as requiring the defendant to directly give the information to the officer." *Boland v. State*, 893 So.2d 683, 685 (Fla. 2d DCA 2005).

¹³ The elements of the offense (with minor modifications in wording made by the bill) are willfully imparting, conveying, or causing to be imparted or conveyed to a law enforcement officer false information or reports concerning the alleged

- Up to \$5,000 if the offense results in a response by a federal, state, district, municipal, or other “public safety agency” (a term defined in the bill) to address the reported crime, and the combined cost incurred by all responding agencies exceeds \$1,000;
- Up to \$7,500 if the offense results in great bodily harm, permanent disfigurement, or permanent disability as a proximate result of lawful conduct arising out of a response; or
- Up to \$10,000 if the offense results in death as a proximate result of lawful conduct arising out of a response.

Under the bill, an offender may receive the above fine *in addition* to the current maximum sanction of imprisonment of up to 1 year in county jail and a fine of up to \$1,000.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by article VII, section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

commission of any crime under the laws of this state, knowing such information or report to be false, when no such crime has had actually been committed.

C. **Government Sector Impact:**

Indeterminate. The bill does not increase or decrease jail or prison sanctions. The bill may, however, increase the amount of fines collected by the Clerk of the Court within each judicial circuit.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

This bill substantially amends section 817.49 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.)

CS by Judiciary on March 29, 2021:

Removes the felony offenses created under the bill, and instead, allows for certain enhanced fines. The amendment authorizes an additional fine when a false report of a crime results in:

- Significant costs to first responders;
- Great physical harm to a person as a result of the response by first responders; or
- Death of a person as the result of the response by first responders.

B. **Amendments:**

None.