

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 511 w/CS Relating to Neighborhood Crime Watch Programs
SPONSOR(S): Rep. Carroll
TIED BILLS: **IDEN./SIM. BILLS:** SB 1410

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Criminal Justice (Sub)</u>	<u>5 Y, 0 N</u>	<u>Maynard</u>	<u>De La Paz</u>
2) <u>Public Safety & Crime Prevention</u>	<u>16 Y, 1 N w/CS</u>	<u>Maynard</u>	<u>De La Paz</u>
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

HB 511 w/CS creates a new section of statutes which authorizes county sheriffs or municipal police to establish neighborhood crime watch programs. The programs may include local residents or business owners. The bill also creates two separate offenses: 1) Willfully harassing a person who is a member of a neighborhood crime watch program for the purpose of intimidating or retaliating against that person for his or her participation in the program and, 2) Harassing a person for participating in a neighborhood watch program while such member is traveling to or from a watch program meeting or activity, participating in a meeting, or involved in an ongoing criminal investigation. The bill specifies that each is a first degree misdemeanor punishable as provided in s. 775.082 and s. 775.083, Florida Statutes. The bill provides a definition of "harass" as "to engage in a course of conduct directed at a specific person which causes substantial emotional distress in that person and serves no legitimate purpose."

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|---|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. EFFECT OF PROPOSED CHANGES:

Neighborhood Crime Watch Programs formally have been in existence since the 1960s. Their roots date back to colonial times when the night watchman patrolled the streets. In response to the advent of violent crimes and gang activity associated with the rise of illegal drug problems nationally, various groups began to form in an effort to "take back the streets." These programs are community sanctioned and coordinated with local law enforcement. The principal concept is that local citizens in a neighborhood organize in an effort to monitor their areas for possible crime, either through actual patrols or by simply being vigilant and becoming familiar with their neighbors.¹

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C. SECTION DIRECTORY:

Section 1. authorizes local law enforcement to form neighborhood watch programs.

Section 2. creates two criminal offenses of harassment of a member of a neighborhood watch program.

Section 3. provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

¹ Source: National Sheriff's Association Website http://www.sheriffs.org/defaults_s_crimeprevention.htm

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Local law enforcement agencies are not obligated to establish neighborhood watch programs. Many sheriff and police agencies already have tasked personnel to establish and support these programs. To the extent that this bill may increase the prevalence of these programs, there may be an increase in the duties related to these programs on law enforcement agencies.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

The bill provides a definition of "harass" as "to engage in a course of conduct directed at a specific person that causes substantial emotional distress in that person and serves no legitimate purpose." This definition traces the definition of the term "harass" in the crime of stalking found in s. 784.048, F.S. That section defines "harass" as "to engage in a course of conduct directed a specific person that causes substantial emotional distress in such person and serves no legitimate purpose." This language has been found constitutional in multiple cases. Bouters v. State, 659 So.2d 235 (Fla 1995) (Stalking statute not unconstitutionally vague to the extent it defined "harasses" to mean to engage in a course of conduct directed at a specific person that causes substantial emotional distress in such person and serves no legitimate purpose; the statute did not create subjective standard for substantial emotional distress, but in fact created reasonable person standard.) Gilbert v. State, 659 So.2d 233 (Fla. 1995) (Criminal statute prohibiting stalking is not facially unconstitutional as being vague and overbroad.)

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On February 17, 2004, the Criminal Justice Subcommittee recommended favorably an amendment to HB 511. The amendment clarifies that the bill creates two separate offenses: 1) Willfully harassing a person who is a member of a neighborhood crime watch program for the purpose of intimidating or retaliating against that person for his or her participation in the program and, 2) Harassing a person for participating in a neighborhood watch program while such member is traveling to or from a watch program meeting or activity, participating in a meeting, or involved in an ongoing criminal investigation. The bill specifies that each is a first degree misdemeanor punishable as provided in s. 775.082 and s. 775.083, Florida Statutes. The amendment also removes references to a "neighborhood crime watch group" and instead utilizes the term "neighborhood crime watch program" for consistency.

On March 10, 2004, the Committee on Public Safety & Crime Prevention voted to adopt a committee substitute to HB 511. The committee substitute encompasses the amendment which was favorably recommended on February 17, 2004. The committee substitute clarifies that the bill creates two separate offenses: 1) Willfully harassing a person who is a member of a neighborhood crime watch program for the purpose of intimidating or retaliating against that person for his or her participation in the program and, 2) Harassing a person for participating in a neighborhood watch program while such member is traveling to or from a watch program meeting or activity, participating in a meeting, or involved in an ongoing criminal investigation. The bill specifies that each is a first degree misdemeanor punishable as provided in s. 775.082 and s. 775.083, Florida Statutes. The committee substitute also removes references to a "neighborhood crime watch group" and instead utilizes the term "neighborhood crime watch program" for consistency.