

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Criminal Justice Committee

BILL: SB 1126

INTRODUCER: Senators Rich, Aronberg, and others

SUBJECT: Criminal Penalties, Offenses Against Law Enforcement

DATE: March 24, 2006

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|------------------|
| 1. | Cellon | Cannon | CJ | Favorable |
| 2. | _____ | _____ | JU | _____ |
| 3. | _____ | _____ | JA | _____ |
| 4. | _____ | _____ | _____ | _____ |
| 5. | _____ | _____ | _____ | _____ |
| 6. | _____ | _____ | _____ | _____ |

I. Summary:

Senate Bill 1126 adds the offense of attempted felony murder to the list of crimes subject to the 2.5 sentencing point multiplier found in the Law Enforcement Protection Act.

The bill also amends the Control Release statute to include attempted felony murder under the Law Enforcement Protection Act among those crimes which render an inmate ineligible for control release.

This bill substantially amends the following sections of the Florida Statutes: 775.0823, 921.0024, and 947.146.

II. Present Situation:

The Law Enforcement Protection Act provides for increased penalties for certain crimes of violence committed against the following individuals, when the offense arises out of or in the scope of that individual's official duty:

- law enforcement officer
- correctional officer
- state attorney or assistant state attorney
- justices and judges

The specific crimes to which the increased penalties are applicable are:

- first degree murder (s. 782.04(1), F.S.)

- attempted first degree murder (ss. 782.04(1), 777.04, F.S.)
 - second degree murder (s. 782.04(2) [depraved mind] and (3) [felony murder], F.S.)
 - attempted second degree murder (ss. 782.04(2) and (3), and 777.04, F.S.)
 - third degree murder (s. 782.04(4), F.S.)
 - attempted third degree murder (ss. 782.04(4), 777.04, F.S.)
 - manslaughter during the commission of a crime (s. 782.07, F.S.)
 - kidnapping (s. 787.01, F.S.)
 - aggravated battery (s. 784.045, F.S.) and
 - aggravated assault (s. 784.021, F.S.)
- (see s. 775.0823(1)-(10), F.S.)

The increased penalties for the commission of the above-listed crimes are assessed through “sentencing multipliers,” which are provided in the Criminal Punishment Code. (s. 921.0024, F.S.)

The Criminal Punishment Code sets forth the Sentencing Worksheet, by which a defendant’s lowest permissible sentence is calculated, using a system of sentencing points based upon a Ranking Chart (see s. 921.002, F.S.). The Ranking Chart has assigned point values by “level of offense.” Additional factors considered on the Worksheet include the defendant’s criminal history, whether he or she is on probation or some other community supervision at the time of the offense, victim injury points, and the “multipliers” previously mentioned.

The law enforcement protection multiplier states:

“If the primary offense is a violation of the Law Enforcement Protection Act under s. 775.0823(2), the subtotal sentence points are multiplied by 2.5. If the primary offense is a violation of s. 775.0823(3), (4), (5), (6), (7), or (8), the subtotal sentence points are multiplied by 2.0. If the primary offense is a violation of s. 784.07(3), 775.0875 (1), or of the Law Enforcement Protection Act under 775.0823(9) or (10), the subtotal points are multiplied by 1.5.” s. 921.0024(1)(b), F.S.

Section 784.073(3), F.S., a violation of which results in a sentencing point multiplier of 1.5, is the offense of battery on a law enforcement officer, firefighter, emergency care provider, traffic accident investigation officer, traffic infraction enforcement officer, parking enforcement specialist, and others, while in possession of a firearm.

Section 775.0875(1), F.S., is the offense of taking a law enforcement officer’s firearm while he or she is engaged in law enforcement duties, an offense which is subject to the 1.5 sentencing point multiplier.

III. Effect of Proposed Changes:

Senate Bill 1126 adds the offense of attempted felony murder to the list of crimes subject to the 2.5 sentencing point multiplier found in the Law Enforcement Protection Act. Attempted felony murder is defined in s. 782.051, F.S., and consists of the commission of the enumerated crimes

that constitute felony murder, when the victim is not killed. This change will result in substantially higher penalties for the crime of attempted felony murder when the victim is one of the persons listed in the Law Enforcement Protection Act.

The bill also amends the Control Release statute to include attempted felony murder under the Law Enforcement Protection Act among those crimes which render an inmate ineligible for control release.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference discussed this bill on March 21, 2006, and determined that any prison bed impact resulting from the bill would likely be insignificant.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

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