

**The Florida Senate**  
**PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT**

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

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Prepared By: Criminal Justice Committee

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BILL: SB 566

INTRODUCER: Senator Rich

SUBJECT: Criminal Sentencing

DATE: March 6, 2007

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Cannon	CJ	<b>Favorable</b>
2.			JU	
3.			JA	
4.				
5.				
6.				

**I. Summary:**

This bill adds the offense of attempted felony murder against a law enforcement officer or other similar official to the list of offenses covered by the Law Enforcement Protection Act, thereby making attempted felony murder subject to the 2.5 sentencing point multiplier under the Criminal Punishment Code. The bill also increases the sentencing multiplier in the case of second-degree murder of a law enforcement officer to 2.5, from the existing multiplier of 2.0. As a result, this bill increases the lowest permissible sentence that can be imposed against a person for conviction of one of these violent offenses against as a law enforcement officer or similar official.

In addition, the bill includes attempted felony murder and third degree murder under the Law Enforcement Protection Act among those crimes that 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; or
- justices and judges.

The specific crimes to which the increased penalties apply are:

- first-degree murder (s. 782.04(1), F.S.);
- attempted first-degree murder (ss. 782.04(1) and 777.04, F.S.<sup>1</sup>);
- 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.).<sup>2</sup>

The increased penalties for the commission of these crimes are assessed through “sentencing multipliers,” which are provided in the Criminal Punishment Code.<sup>3</sup>

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 was 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.<sup>4</sup>

Section 784.07(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 medical care provider, traffic accident investigation officer, traffic infraction enforcement officer, parking enforcement specialist, or certain security officers, while in possession of a firearm.<sup>5</sup>

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<sup>1</sup> Section 777.04, F.S., governs attempts to commit an offense.

<sup>2</sup> Section 775.0823(1)-(10), F.S.

<sup>3</sup> Section 921.0024(1)(b), F.S.

<sup>4</sup> *Id.*

<sup>5</sup> Although the wording of the statute is somewhat ambiguous, this section also appears to apply to battery on a public transit employee or agent. *See* s. 784.07(2), F.S.

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:**

This bill adds the offense of attempted felony murder to the list of crimes subject to the 2.5 sentencing point multiplier as a result of being committed against a law enforcement officer or similar official under the Law Enforcement Protection Act and the Criminal Punishment Code. Attempted felony murder consists of the commission of the enumerated crimes that constitute felony murder, when the victim is not killed.<sup>6</sup> This change will result in substantially higher penalties for the crime of attempted felony murder when the victim is one of the persons covered by the Law Enforcement Protection Act.<sup>7</sup> In addition, this bill increases to 2.5 from 2.0 the sentencing point multiplier applicable to the offense of second-degree murder of a law enforcement officer or similar covered official, thereby increasing the lowest permissible sentence that can be imposed against a person for conviction for that offense, as well.

The bill also amends the control release statute<sup>8</sup> to include attempted felony murder and third degree murder under the Law Enforcement Protection Act among those crimes that render an inmate ineligible for control release.

The bill provides an effective date of October 1, 2007.

### **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.

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<sup>6</sup> Section 782.051, F.S.

<sup>7</sup> The covered persons include a law enforcement officer, a correctional officer, a state attorney or assistant state attorney, and a justice or judge.

<sup>8</sup> Section 947.146, F.S.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The Criminal Justice Impact Conference discussed this bill on February 16, 2007, and determined that any prison bed impact resulting from the bill would likely be insignificant.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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

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## **VIII. Summary of Amendments:**

None.

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