

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 317 Threats

SPONSOR(S): Adkins and others

TIED BILLS: IDEN./SIM. BILLS: SB 860

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Public Safety & Domestic Security Policy Committee		Krol	Cunningham
2)	Criminal & Civil Justice Appropriations Committee			
3)	Criminal & Civil Justice Policy Council			
4)				
5)				

SUMMARY ANALYSIS

Section 836.10, F.S., provides that a person commits a second degree felony if the person writes and sends a letter or inscribed communication containing a threat to injure or kill the person to whom the letter or communication is addressed, or a family member of the person to whom the letter or communication is sent. The letter may be signed or sent anonymously. The statute does not specifically include letters or communications written, composed, or sent by *electronic* means.

The bill adds "threats sent through electronic or other means" to the existing statute. Any threats sent in this manner would be punishable by a second degree felony.

The bill also provides that a person who communicates or causes to be communicated orally, in writing, or through the use of electronic or other means a threat to do physical harm to any person or property of another in the course of committing an act of domestic violence commits a second degree misdemeanor.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Section 836.10, F.S., provides that a person commits a second degree felony¹ if the person writes and sends a letter or inscribed communication containing a threat to injure or kill the person to whom the letter or communication is addressed, or a family member of the person to whom the letter or communication is sent. The letter or communication may be signed or sent anonymously.

The statute does not specifically include letters or communications written, composed, or sent by *electronic* means.

Proposed Changes

The bill amends s. 836.10, F.S., to add "threats sent through electronic or other means" to the existing statute. Any threats sent in this manner would be punishable by a second degree felony.

The bill also provides that a person who communicates or causes to be communicated orally, in writing, or through the use of electronic or other means a threat to do physical harm to the person or property of another in the course of committing an act of domestic violence² commits a second degree misdemeanor³.

B. SECTION DIRECTORY:

Section 1: Amends s. 836.10, F.S., relating to written threats to kill or do bodily injury; punishment.

Section 2: Provides an effective date of October 1, 2010.

¹ A second degree felony is punishable by up to 15 years imprisonment and a maximum \$10,000 fine. Sections 775.082, 775.083, 775.084, F.S.

² Domestic violence as referenced in s. 741.28, F.S. means "any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member." Section 741.28, F.S.

³ A second degree misdemeanor is punishable by up to 60 days in county jail and a maximum \$500 fine. Sections 775.082, 775.083, F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See "Fiscal Comments."

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The Criminal Justice Estimating Conference has not yet met to determine any impact this bill might have.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

"Domestic violence" as referenced in s. 741.28, F.S., means "any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member." Section 784.011, F.S., defines "assault" as "an intentional, unlawful threat by word or act to do violence" to a person. The domestic violence statute currently provides a penalty for threats made against a person.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES