

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Date: March 12, 1998 Revised: _____

Subject: Criminal Mischief

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Dugger</u>	<u>Miller</u>	<u>CJ</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>WM</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

The CS/SB 772 amends the criminal mischief statute to allow for the aggregation of the value of damage to property owned by separate persons if the property damage occurred during one scheme or course of conduct, similar to what is currently allowed under the theft statute.

This CS substantially amends section 806.13 of the Florida Statutes.

II. Present Situation:

Section 806.13, F.S., proscribes the offense of criminal mischief by making it illegal to willfully and maliciously injure or damage any real or personal property belonging to another, including the placement of graffiti on such property or other acts of vandalism. If the resulting property damage is less than \$200, then the offense is classified as a second degree misdemeanor, punishable by potential imprisonment up to 60 days in jail and/or a fine not exceeding \$500. If the resulting property damage is greater than \$200 but less than \$1,000, then the offense is classified as a first degree misdemeanor, punishable by potential imprisonment up to one year in jail and/or a fine not exceeding \$1,000.

If the property damage is \$1,000 or greater, or if there is interruption or impairment of a business operation or public communication, transportation, supply of water or other public service costing \$1,000 or more in labor and supplies to restore, then the offense is classified as a third degree felony under s. 806.13(1), F.S. Subsections (2) and (3) also provide for third degree felony offenses when a person willfully and maliciously defaces or damages a church or other place of worship, or willfully destroys or substantially damages any public telephone, cables, wires, fixtures or other equipment which makes the public telephone inoperative. A person convicted of

a third degree felony is subject to potential imprisonment up to five years and/or a fine not exceeding \$5,000.

Any person who violates s. 806.13, F.S., may also be required to pay for the damages caused by the offense, in addition to any other penalty.

The criminal mischief statute does not have a provision which allows for the aggregation of the value of damage to property owned by separate persons if the damage occurred during one scheme or course of conduct. The theft statute, on the other hand, provides that the value of separate properties involved in thefts committed pursuant to one scheme or course of conduct, whether the thefts are from the same person or different persons, may be aggregated in determining the grade of the theft. s. 812.012(9)(c), F.S.

Since the criminal mischief statute does not provide for the aggregation of property damage, if a person vandalizes numerous cars in a parking lot or numerous mailboxes in a neighborhood during one criminal episode, the prosecution is not authorized to total up the value of all the property damage involved and charge the perpetrator with a higher degree of criminal mischief.

III. Effect of Proposed Changes:

The CS/SB 772 amends the criminal mischief statute to allow for the aggregation of the value of damage to property owned by separate persons if the property damage occurred during one scheme or course of conduct, similar to what is currently allowed under the theft statute.

Thus, under the CS, if a person vandalizes a significant number of cars in a parking lot during one criminal episode, rather than charging numerous counts of criminal mischief that are classified as second degree misdemeanors, the prosecution would be able to total up the value of all the property damage involved and charge the perpetrator with fewer counts of a higher degree criminal mischief, either a first degree misdemeanor or a third degree felony.

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:

Persons committing property damage to separate properties during one course of conduct may be subject to higher criminal fines under the CS.

C. Government Sector Impact:

According to the Department of Juvenile Justice, any fiscal impact upon it will be minimal.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.