

# 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.)

BILL: SB 24-C

SPONSOR: Senators Crist and Brown-Waite

SUBJECT: Domestic Security

DATE: November 27, 2001      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Cannon	CJ	Favorable
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

## I. Summary:

Senate Bill 24-C directs the Department of Law Enforcement to coordinate and direct the law enforcement, initial emergency, and other initial responses to acts of terrorism within or affecting this state. The department shall work closely with the Division of Emergency Management; other federal, state, and local law enforcement agencies; fire and rescue agencies, first-responder agencies; and others involved in preparation against and responses to such terrorism.

The bill also requires the executive director of the Department of Law Enforcement to serve as or designate a Chief of Domestic Security Initiatives. The bill establishes the duties and responsibilities of the chief, which include, but are not limited to, coordinating the department's ongoing assessment of this state's vulnerability to, and ability to detect and respond to, acts of terrorism; conducting specified security assessments; making recommendations for minimum security standards, funding and training requirements and other security matters; and developing best practices for safety and security.

The bill also requires the department to establish a regional domestic security task force in each of the department's operational regions to serve in an advisory capacity to the Chief of Domestic Security Initiatives. Goals and objectives of each task force include, but are not limited to, coordinating efforts, training, and the collection and dissemination of investigative and intelligence information relevant to countering terrorism; identifying appropriate equipment and training needs, curricula, and materials relevant to responding to acts of terrorism or incidents involving real or hoax weapons of mass destruction; and ensuring that there are appropriate investigations and responses to hate-driven acts against ethnic groups that may have been targeted as a result of acts of terrorism.

The bill defines the term "terrorism."

This bill amends ss. 252.311 and 943.03, F.S., and creates ss. 775.30, 943.0311, 943.012, and 943.021, F.S.

## II. Present Situation:

Section 252.311, F.S., provides legislative intent with regard to this state's vulnerability to a wide range of emergencies and preparation and responses thereto.

Section 943.03, F.S., specifies the requirements for the executive director position at the Department of Law Enforcement and the director's responsibilities, and operational and other matters pertaining to the department.

After the terrorist attacks on the United States on September 11, 2001, Governor Bush directed the Department of Law Enforcement and the Division of Emergency Management to assess Florida's capability to prevent, mitigate and respond to a terrorist attack. Under the State plan, the Department of Law Enforcement is the lead agency for crisis management and the Department of Emergency Management is the lead agency for consequence management. For purposes of the assessment, primary workgroups were formed around the state's existing emergency support functions: Emergency Services, Human Services, Critical Infrastructure and Public Information and Awareness. These workgroups collected information about Florida's existing capabilities and capacities and identified areas in which the state's preparedness could be enhanced.

Based on the recommendations in the Assessment of Florida's Anti-Terrorism Capabilities, the Governor issued Executive Order 01-300 (October 11, 2001) relating to domestic security. This order set forth specific actions to be taken based on recommendations made in the Assessment. The Governor directed that certain actions be taken immediately, or when necessary, upon legislative approval of funding.

There is presently no state definition of the term "terrorism."

Recent federal legislation amends 18 U.S.C s. 2331 to create a definition of "domestic terrorism." *See e.g.*, Section 802, H.R. 2975, the "USA Act of 2001" (107th Congress). The definition of "domestic terrorism" in 18 U.S.C. s. 2331, as amended by the federal legislation is as follows:

- (5) the term 'domestic terrorism' means activities that—
- (A) involve acts dangerous to human life that are a violation of the criminal laws of the United States or of any State;
  - (B) appear to be intended—
    - (i) to intimidate or coerce a civilian population;
    - (ii) to influence the policy of a government by intimidation or coercion; or
    - (iii) to affect the conduct of government by mass destruction, assassination, or kidnapping; and
  - (C) occur primarily within the territorial jurisdiction of the United States.

The definition of “domestic terrorism” is similar, but not identical, to the definition of “act of terrorism” in Title 18 U.S.C. s. 3077:

- (1) “act of terrorism” means an activity that—
- (A) involves a violent act or an act dangerous to human life that is a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; and
  - (B) appears to be intended—
    - (i) to intimidate or coerce a civilian population;
    - (ii) to influence the policy of a government by intimidation or coercion; or
    - (iii) to affect the conduct of a government by assassination or kidnapping . . .

### **III. Effect of Proposed Changes:**

Actions directed under Section One of the Governor’s Executive Order 01-300 (October 11, 2001) will be implemented with the passage of SB 24-C. Provided is a section-by-section analysis of the bill:

#### **Section 1.**

The bill amends s. 252.311, F.S., which provides legislative intent with regard to this state’s vulnerability to a wide range of emergencies and preparation and responses thereto, to indicate that such emergencies constituting “manmade disasters,” include but are not limited to, acts of terrorism within or affecting this state. The bill provides further legislative findings that specialized efforts of emergency management are required that are unique to counterterrorism efforts and initial responses to acts of terrorism; and such efforts and initial responses require coordination of federal, state, and local law enforcement efforts and the efforts of other emergency responders, and should be coordinated by and through the Department of Law Enforcement, working closely with the Division of Emergency Management and others involved in the preparation against and initial response to acts of terrorism within or affecting this state.

#### **Section 2.**

The bill amends s. 943.03, F.S., to direct the Department of Law Enforcement to coordinate and direct the law enforcement, initial emergency, and other initial responses to acts of terrorism within or affecting this state. The department shall work closely with the Division of Emergency Management; other federal, state, and local law enforcement agencies; fire and rescue agencies, first-responder agencies; and others involved in preparation against and responses to such terrorism.

The executive director of the Department of Law Enforcement, or another member of the department designated by the director, shall serve as Chief of Domestic Security Initiatives for the purpose of directing and coordinating counterterrorism efforts. The department and the chief shall use the regional domestic security task forces as established in Chapter 943, F.S. (by this bill) to assist in such efforts.

**Section 3.**

The bill creates s. 943.0311, F.S. This new section provides that the executive director of the Department of Law Enforcement, or a member of the department designated by the executive director, shall serve as the Chief of Domestic Security Initiatives. Duties of the chief include, but are not limited to, coordinating the department's ongoing assessment of this state's vulnerability to, and ability to detect and respond to, acts of terrorism within or affecting this state; coordinating proposals, and preparing recommendations for the Governor's Office and the Legislature, based on this ongoing assessment; and using regional task forces to support, and public and private resources to perform, the department's domestic security duties.

The chief is also required to conduct specific security assessments of buildings and facilities owned or leased by state agencies or local governments. State agencies and local governments are required to cooperate with the department and provide requested information and resources to assist the department in meeting its counterterrorism responsibilities. The chief may also conduct specific security assessments of a building or facility owned by a private entity upon the request of that private entity, or pursuant to the chief's solicitation to receive such request. The chief may prioritize requests, and such prioritization is not agency action that is subject to review under chapter 120, F.S. Private entities are urged to cooperate with and assist the department in meeting its domestic security responsibilities. Based upon the security assessments, the chief shall prepare recommendations to enhance the security of buildings and facilities owned or leased by state agencies or local governments.

The chief shall report to the Governor's Office and the Legislature on recommended minimum security standards or security-enhancement needs for any building or facility owned or leased by a state agency or local government. The report must identify and prioritize the recommended security enhancements and provide recommendations to maximize federal funding in support of building and facility security. Additionally, the chief shall develop and submit recommended best practices for safety and security (which are not a rule as defined in chapter 120, F.S.). The chief is required to review the recommended best practices as necessary, but at least once each year.

By November 1 of each year, the executive director of the Department of Law Enforcement shall compile, coordinate, and prioritize recommendations and proposals concerning security and present them to the Governor's Office and the Legislature. All recommendations seeking funding shall be prioritized, with critical domestic security needs requiring immediate or top-priority funding being clearly identified. Such recommendations shall include recommendations to maximize federal funding in support of the state's domestic-security efforts.

**Section 4.**

The bill creates s. 943.0312, F.S. This new section sets forth legislative findings on the need to develop and implement a statewide strategy to address preparation and response efforts by federal, state, and local law enforcement agencies, emergency management agencies, fire and rescue departments, first-responder personnel and others in dealing with potential or actual terrorist acts within or affecting this state.

The new section establishes a regional domestic security task force in each of the department's operational regions to assist the department and the chief in performing their roles and duties as previously described. The task forces serve in an advisory capacity to the department and the chief.

Each task force is co-chaired by the department's director of the operational region in which the task force is located and by a local sheriff or chief of police within that region. Membership may also include an available representative from the Division of Emergency Management, the Department of Health, and a local emergency planning committee; representatives from state or law enforcement agencies, fire and rescue departments, or first-responder personnel; and other persons as deemed appropriate and necessary by the task force co-chairs.

The members of the regional domestic security task forces are entitled to reimbursement for per diem and travel expenses. Subject to annual appropriation, the Department of Law Enforcement shall provide staff and administrative support.

Goals and objectives for each task force are identified, including, but not limited to, the coordination of counterterrorism efforts and training and the coordination and dissemination of investigative and intelligence information.

## **Section 5.**

The bill creates s. 775.30, F.S, which defines the term "terrorism" for the purposes of the Florida Criminal Code. The definition in the bill contains some of the same features of Title 18 U.S.C. s. 2331, as amended by Section 802, H.R. 2975, the "USA Act of 2001" (107th Congress) and Title 18 U.S.C. s. 3077, and some features that are unique to the definition in the bill.

The definition of "terrorism" in the bill is as follows:

**775.30 Terrorism; definition.**—As used in the Florida Criminal Code, the term "terrorism" means an activity that:

- (1)(a) Involves a violent act or an act dangerous to human life which is a violation of the criminal laws of this state or of the United States; or
- (b) Involves a violation of s. 815.06; and
- (2) Is intended to:
  - (a) Intimidate, injure, or coerce a civilian population;
  - (b) Influence the policy of a government by intimidation or coercion; or
  - (c) Affect the conduct of government through destruction of property, assassination, murder, kidnapping, or aircraft piracy.

Some of the substantial differences between the definition in the bill and the federal definitions are described in the following remarks.

To constitute "terrorism," the violent act or act dangerous to human life which is a federal criminal violation or Florida crime, the act must also have been *intended* for one of three

specified purposes. In the federal sections, it is only necessary that the specified act *appear to be intended* for the specified purposes.

In addition to a violent act (Section 3077) or an act dangerous to human life (Sections 2331 and 3077) which is a criminal violation, the definition in the bill includes a violation of s. 815.06, F.S. (computer crimes). Apparently, this inclusion is to address cyberterrorism.

The specified act is an act of “domestic terrorism” (Section 2331) or an “act of terrorism” (Section 3077) if it appears to be intended to intimidate or coerce a civilian population. In the bill, the specified act is an act of “terrorism” if it is intended to intimidate, *injure*, or coerce a civilian population.

The specified act is also an act of “domestic terrorism” (Section 2331) or an “act of terrorism” (Section 3077) if it appears to be intended to affect the conduct of government by mass destruction (Section 2331), assassination (Sections 2331 and 3077), or kidnapping (*id.*). The definition in the bill does not include “mass destruction”; it includes destruction to property. Further, in addition to including assassination and kidnapping, the bill includes murder and aircraft piracy. Assassination is not a specific crime in Florida (the act would constitute murder), but it is a specific federal crime, and the definition in the bill includes violent acts that are federal crimes. *See* Title 18 U.S.C. s. 351 (Congressional, Cabinet, and Supreme Court assassination, kidnapping, and assault) and 18 U.S.C. s. 1751 (Presidential and Presidential staff assassination, kidnapping, and assault).

Under Section 2311, the relevant act must also “occur primarily within the territorial jurisdiction of the United States.” Section 3077 includes the specified act that “would be a criminal violation if committed within the jurisdiction of the United States or of any State. . . .” The definition in the bill does not include these provisions. It appears that the provision in Section 2311 is there to distinguish the definition of “domestic terrorism” in that section from the definition of “international terrorism” in that section. The provision in Section 3077 is relevant to that section, because Section 3077 appears in Chapter 204 of Part II of Title 18, which relates to rewards for information concerning terrorist acts and espionage. Neither provision is relevant to the state definition.

## **Section 6.**

The bill takes effect upon becoming a law.

### **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:

Local governments will incur expenditures for the salaries and benefits, and any associated overtime costs for affected employees.

C. Government Sector Impact:

CS/SB 2-B provided the following appropriations:

- Critical Infrastructure Security Assessment and Standards: \$500,000 from the Grants and Donations Trust Fund.
- Domestic Preparedness Program/Equipment: \$9,000,000 from the Grants and Donations Trust Fund.
- Department of Highway Safety Driver License Office Scanning Stations: additional \$500,000 from the Highway Safety Operating Trust Fund.
- Department of Law Enforcement Regional Anti-Terrorism Task Forces: 30 positions and \$1,799,571 from the General Revenue Fund.
- Responder and Incident Training: \$2,000,000 from the Criminal Justice Standards and Training Trust Fund.
- Terrorist Intelligence Database: 5 positions and \$200,429 from the General Revenue Fund; \$300,000 from the Grants and Donations Trust Fund.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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

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