

STORAGE NAME: h0213s1.hcc.doc
DATE: February 14, 2002

HOUSE OF REPRESENTATIVES
HEALTHY COMMUNITIES COUNCIL
ANALYSIS

BILL #: CS/HB 213

RELATING TO: Controlled Substances

SPONSOR(S): Committee on Crime Prevention, Corrections & Safety and Representative Brummer

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) CRIME PREVENTION, CORRECTIONS & SAFETY YEAS 7 NAYS 0
 - (2) CRIMINAL JUSTICE APPROPRIATIONS YEAS 12 NAYS 0
 - (3) HEALTHY COMMUNITIES COUNCIL YEAS 13 NAYS 0
 - (4)
 - (5)
-

I. SUMMARY:

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

Committee Substitute for HB 213 amends § 893.13, F.S., to enhance the penalty for the sale, manufacture, delivery or possession with intent to sell, manufacture, or deliver a controlled substance within 1000 feet of a park. This offense is currently treated in the same manner for sentencing purposes as drug offenses committed within 200 feet of a college or university. The bill will increase the penalty for the offense so that it is treated in the same manner as drug offenses committed within 1000 feet of an elementary, middle or secondary school or day care center. The bill clarifies the definition of park as including state, county and municipal parks and adds drug offenses committed near publicly owned recreational facilities. The bill also increases the enhanced penalty area around parks from 200 feet to 1000 feet.

The Criminal Justice Estimating Conference determined that the bill would have an indeterminate impact on the prison system population.

This bill takes effect October 1, 2002.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|-----------------------------------------|----------------------------------------|-----------------------------------------|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |

For any principle that received a "no" above, please explain:

Expanding the penalties for convictions of specified drug offenses may increase the number of persons incarcerated or on probation.

B. PRESENT SITUATION:

Section 893.13, F.S., creates drug offenses and provides various penalties depending on the type and quantity of the controlled substance sold, possessed or purchased. Included in § 893.13, F.S., are enhanced penalties for drug offenses when committed within 1,000 feet of a child care facility or school. Section 893.13(1)(c), F.S., provides that it is "unlawful for a person to sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, a controlled substance in, on, or within 1,000 feet of the real property comprising a child care facility as defined in § 402.302, F.S., a public or private elementary, middle, or secondary school between the hours of 6 a.m. and 12:00 midnight." For most Schedule I drugs¹, and some Schedule II drugs², the punishment for sale within 1,000 feet of a child care facility or a school is increased to a first degree felony and imposition of a three year mandatory minimum is required. For all other controlled substances, the punishment is increased to a second degree felony.

Section 893.13, F.S., contains another enhancement when a sale occurs within 200 feet of a public housing facility, educational institution, or park. Section 893.13(1)(d), F.S., makes it "unlawful for any person to sell, manufacture, or deliver, a controlled substance in, on, or within 200 feet of the real property comprising a public or private college, university, or other postsecondary educational institution, or within 200 feet of any public park."

C. EFFECT OF PROPOSED CHANGES:

Committee Substitute for HB 213 amends s. 893.13, F.S., to enhance the penalty for the sale, manufacture, delivery or possession with intent to sell, manufacture, or deliver a controlled substance within 1000 feet of a park. This offense is currently treated in the same

¹ Schedule I drugs in this category include such drugs as heroin and GHB. Schedule I drugs have a "high potential for abuse and [have] no currently accepted medical use in treatment in the United States and in its use under medical supervision does not meet accepted safety standards." § 893.03(1), F.S

² Schedule II drugs in this category include such drugs as hydrocode and codeine.

manner for sentencing purposes as drug offenses committed within 200 feet of a college or university. The bill will increase the penalty for the offense so that it is treated in the same manner as drug offenses committed within 1000 feet of an elementary, middle or secondary school or day care center. The bill clarifies the definition of park as including state, county and municipal parks and adds drug offenses committed near publicly owned recreational facilities. The bill also increases the enhanced penalty area around parks from 200 feet to 1000 feet. This bill also amends § 922.0022, F.S., ranking such offenses on the severity ranking chart of the Criminal Punishment Code.

D. SECTION-BY-SECTION ANALYSIS:

See above.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Indeterminate. 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 met on January 18, 2002 and determined that the potential impact of the bill on the state prison population is indeterminate since the number of covered drug offenses that occur between 200-1,000 feet of a public park is not known. The term indeterminate, as used by the conference, means that the conference recognizes the possibility of an impact on the state prison population, but the data that would be necessary to develop a more specific projection are not available.

CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

E. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

F. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

G. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not reduce the percentage of a state tax shared with counties or municipalities.

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Crime Prevention, Corrections & Safety, adopted two (2) amendments. Amendment 1 made a technical correction to the offense severity ranking chart concomitant with other changes in the bill. Amendment 2 added the words "publicly owned" before "recreational facility" to clarifying the intended scope of the bill as it pertains to recreational facilities. This bill as amended was made a committee substitute.

The Healthy Communities Council adopted one (1) strike all amendment that incorporated into the bill HB 467 by Representative Garcia. This amendment maintained the provisions of the bill and added language to increased the enhanced penalty area around the real property comprising a public housing facility, public or private college, university and other postsecondary educational institution from 200 feet to 1000 feet.

VI. SIGNATURES:

COMMITTEE ON CRIME PREVENTION CORRECTIONS & SAFETY:

Prepared by:

Staff Director:

Eric S. Haug

Trina Kramer

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AS REVISED BY THE COMMITTEE ON CRIMINAL JUSTICE APPROPRIATIONS:

Prepared by:

Staff Director:

James P. DeBeaugrine

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AS FURTHER REVISED BY THE HEALTHY COMMUNITIES COUNCIL:

Prepared by:

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