

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: CS/SB 1410

SPONSOR: Comprehensive Planning Committee, Senator Miller and others

SUBJECT: Neighborhood Crime Watch Programs

DATE: March 24, 2004

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Herrin</u>	<u>Yeatman</u>	<u>CP</u>	<u>Fav/CS</u>
2.	<u>Clodfelter</u>	<u>Cannon</u>	<u>CJ</u>	<u>Favorable</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The committee substitute (CS) authorizes a county sheriff or municipal police department to establish a neighborhood crime watch program. The CS creates a first degree misdemeanor offense if a person willfully harasses a person for the purpose of intimidating or retaliating against a person for their participation in a neighborhood crime watch program. Also, the CS creates a first degree misdemeanor offense if a person harasses a member of the program who is traveling to or from a neighborhood crime watch meeting, or participating in a program meeting, activity, or an ongoing criminal investigation. It defines the term "harass."

This CS creates a new section of the Florida Statutes.

II. Present Situation:

Neighborhood crime watch programs involve residents, business owners, and others with an interest in the community in an effort to prevent crime. Volunteers in such a program usually receive training assistance from a local law enforcement agency. These volunteers observe and report any suspicious activity in their neighborhood to the law enforcement agency. Neighborhood crime watch programs help to create a greater sense of security, discourage crime, and improve the quality of life for a community.

The National Sheriff's Association created the USAonwatch (UOW) program, in cooperation with several federal agencies, to increase the number of neighborhood watch programs and revitalize existing programs. The association reports that the number of watch groups has doubled and there are now more than 15,000 such groups nationwide.¹

¹ See <http://www.usaonwatch.org/faqs.aspx>, visited March 11, 2004.

“Harassment” as Defined in Section 784.048, F. S.

Section 784.048(1)(a), F.S., defines the term “harass” as “engag[ing] in a course of conduct directed at a specific person that causes substantial emotional distress in such person and serves no legitimate purpose.” The term “course of conduct” is defined as “a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose.”² A person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person commits the offense of stalking, a first degree misdemeanor.³ This section also creates the third degree felony offense of aggravated stalking.

The Florida Supreme Court found this section constitutional in *Bouters v. State*,⁴ holding that it is neither overbroad nor vague. Bouters was charged with aggravated stalking, a violation of s. 784.048(4), F.S.⁵ Bouters argued that any emotionally charged activity, even constitutionally protected speech, could result in an arrest because the statute is overbroad. The court rejected this argument, finding that stalking does not fall within the purview of the First Amendment.⁶ However, the court noted that the stalking statute includes an express provision that it does not apply to protected First Amendment activity. There is not such a provision in the committee substitute.

In *Bouters*, the defendant also argued that the statute was unduly vague and violated due process. Specifically, Bouters contended the definition of “harasses” was impermissibly vague. He argued that the statute created a subjective standard for “substantial emotional distress” and “an unduly sensitive victim may suffer such distress from entirely innocent contact.”⁷ The court disagreed and held that the statute creates a “reasonable person” standard and, therefore, is not impermissibly vague.⁸

Tampering With a Witness, Victim, or Informant

Section 914.22, F.S., creates a first degree misdemeanor offense if a person intentionally harasses another person and as a result hinders, delays, prevents, or dissuades a person from: attending or testifying in an official proceeding or cooperating in an official investigation; reporting the possible commission of an offense or a violation of probation to a law enforcement officer or judge; arresting or seeking the arrest of another person in connection with an offense, or causing a criminal prosecution or probation revocation proceeding to be instituted or assisting in such proceeding. Further, a person who knowingly engages in conduct that causes bodily injury to another person or damages a person’s tangible property, or threatens to do so, with the intent to retaliate against the person for attendance or participation in an official proceeding or providing information to a law enforcement officer regarding the possible commission of an offense or a violation of probation, commits a second degree felony.⁹

² s. 784.048(1)(b), F.S.

³ s. 784.048(2), F.S. The term “cyberstalk” is defined in s. 784.048(1)(d), F.S.

⁴ 659 So. 2d 235 (Fla. 1995).

⁵ *See id.* at 236.

⁶ *See id.* at 237.

⁷ *See id.* at 238.

⁸ *See id.*, citing *Pallas v. State*, 636 So. 2d 1358 (Fla. 3d DCA 1994), *aff’d*, *Pallas v. State*, 654 So. 2d 127 (Fla. 1995).

⁹ s. 914.23, F.S.

III. Effect of Proposed Changes:

Section 1 authorizes a county sheriff or municipal police department to establish a neighborhood crime watch program (program) within its jurisdiction. Participants in the program shall include, but are not limited to, residents of and businesses owners within the county or municipality.

Section 2 creates a first degree misdemeanor if a person willfully harasses a person who is a member of a program for the purpose of intimidating or retaliating against that person for his or her participation in the program. The CS also creates a first degree misdemeanor if a person harasses a member of the program while the member is traveling to or from a neighborhood crime watch meeting, or actively participating in a program meeting, program activity, or an ongoing criminal investigation as designated by a law enforcement officer.

The CS defines the term “harass” as engaging in a course of conduct that is directed at a specific person, and which causes substantial emotional distress in the person and serves no legitimate purpose.

Section 3 provides that this act shall take effect July 1, 2004.

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:

Should the bill encourage additional volunteers for neighborhood crime watch groups, it may result in crime reduction and an improvement in the economic outlook for a community.

C. Government Sector Impact:

Many law enforcement agencies have crime prevention officers or other designated personnel that provide assistance to neighborhood crime watch groups. Should this CS

result in an increase in the number of these groups, the law enforcement community will have to respond to such increase.

An increase in the number of neighborhood crime watch groups assists law enforcement agencies with its efforts to reduce crime.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

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