

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1147

Crimes Against Homeless Persons

SPONSOR(S): Justice

TIED BILLS:

IDEN./SIM. BILLS: SB 2074

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Criminal Justice Committee		Ferguson	Kramer
2) Criminal Justice Appropriations Committee			
3) Justice Council			
4) _____			
5) _____			

SUMMARY ANALYSIS

This bill requires the Office of the Attorney General (the office) to assess the extent of the problem of crimes against homeless persons and develop a plan in consultation with other agencies to prevent these crimes and to apprehend and prosecute the perpetrators of these crimes. This bill requires the office to make an initial report to the Legislature by January 7, 2007 and a final report by December 1, 2007.

This bill also requires, by July 1, 2007, for the Department of Law Enforcement in consultation with other agencies to develop a 2-hour telecourse for all law enforcement agencies to address crimes against homeless persons and methods of dealing effectively and humanely with homeless persons.

This bill takes effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government- This bill requires the Office of the Attorney General to assess the extent of the problem of crimes against homeless persons and develop a plan in consultation with other agencies to prevent these crimes and to apprehend and prosecute the perpetrators of these crimes.

B. EFFECT OF PROPOSED CHANGES:

Effect of bill on the Office of the Attorney General (the office)

This bill requires the office to assess the extent of the problem of crimes against homeless persons and develop a plan in consultation with homeless persons and their advocates, law enforcement agencies, the Department of Law Enforcement, the Florida Criminal Justice Executive Institute, and the regional domestic task forces under s. 943.0312, F.S., to prevent these crimes and to apprehend and prosecute the perpetrators of these crimes.

This bill requires the office to make an initial report to the Legislature by January 7, 2007 and a final report by December 1, 2007. These reports must include legislative recommendations to carry out this plan and recommendations for additional legislation to curtail crimes targeted against the homeless.

Effect of bill on the Florida Department of Law Enforcement (FDLE)

This bill requires, by July 1, 2007, the FDLE in consultation with the Criminal Justice Standards and Training Commission (CJSTC) and the Florida Criminal Justice Executive Institute (FCJEI)¹ to develop a two-hour telecourse addressing crimes against homeless persons, methods of dealing with them effectively and humanely, and instruction concerning hate crimes directed towards the homeless. The telecourse must be made available to all law enforcement agencies in the State.

The type of training mandated by this bill would be new for FDLE and different than other training developed by the agency, the CJSTC, and the FCJEI. To date, the FDLE has developed primarily training geared toward classroom delivery and some online training classes, not telecourses (i.e. courses of televised lectures).

The law enforcement basic recruit training curriculum approved by the CJSTC does teach law enforcement recruits to be sensitive to the needs of "special populations" they may encounter in their day to day duties. Specifically, mental retardation, mental illness, substance abuse, physical disabilities, gangs and the elderly are among the classifications identified, many of which could, in fact, apply to some homeless persons.

C. SECTION DIRECTORY:

Section 1 requires the Office of the Attorney General to assess and develop a plan in conjunction with other agencies as to the extent of the problem of crimes against homeless persons, prevent these crimes, and apprehend and prosecute the perpetrators of these crimes. It also requires, FDLE in conjunction with other agencies to develop a 2-hour telecourse for all law enforcement agencies to

¹ The FCJEI is statutorily created under s. 943.1755, F.S., for the purpose of providing such training as is deemed necessary to prepare the State's present and future criminal justice executives to deal with the complex issues facing the state. The FCJEI shall conduct research projects, utilizing the resources of community colleges and universities, for the purpose of improving law enforcement interaction and intervention in communities of diverse populations.

address crimes against homeless persons and methods of dealing effectively and humanely with homeless persons.

Section 2 provides that this bill takes effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

This chart reflects the Office of the Attorney General's analysis of this bill:

FY 06-07	FY07-08
\$145,600 (OPS)	\$60,550 (OPS)
\$150,000 (Expense)	\$50,000 (Expense)
\$ 2,800 (OCO)	
\$298,400 Total	\$110,550 Total

The Florida Department of Law Enforcement's analysis of this bill indicates an approximate cost of \$10,000 to develop curriculum and two-hour telecourse for FY 06-07.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

FDLE determined there would be no impact on law enforcement training centers.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

As drafted, this bill requires the Office of the Attorney General to develop a plan to apprehend and prosecute the perpetrators of crimes against the homeless. However, the statutory authority to

prosecute these cases may not lie with the Office of the Attorney General, but rather, the State Attorney's Office.

Article IV, section 4 of the Florida Constitution, together with section 16.56, F.S., sets forth the jurisdiction and authority of the Office. The Office of Statewide Prosecution, established within the Office of the Attorney General, was created by constitutional amendment passed by the voters in 1986. In order for the Statewide Prosecutor to handle a case, the crime must have occurred in more than one judicial circuit or be part of a conspiracy affecting more than one judicial circuit, and it must be one of the offenses enumerated in the law: bribery; burglary; usury; extortion; gambling; kidnapping; theft; murder; prostitution; perjury; robbery; home-invasion robbery; car-jacking; narcotics violations; antitrust violations; anti-fencing violations; crimes involving fraud and deceit; computer crimes; racketeering; and attempts, solicitations, or conspiracies to commit these offenses².

Article V, section 17 of the Florida Constitution, together with chapter 27 part II, F.S., vests the State Attorney with the sole and sound discretion to conduct grand jury proceedings, perform criminal intake, and prosecute crimes committed against the people of the State of Florida in their respective circuit. Currently, there are twenty judicial circuits.

In light of the jurisdiction and authority of the Statewide Prosecutor and State Attorney's office, certain crimes are prosecuted by the State Attorney's office and not the Statewide Prosecutor. For example, if a crime occurred in only one judicial circuit with no conspiracy affecting more than one judicial circuit the State Attorney of that judicial circuit would be responsible for prosecuting the case. Furthermore, certain crimes, such as assault³ or battery⁴, would not fall under the statutory authority of the Statewide Prosecutor because assault and battery are not among the enumerated offenses in which the Statewide Prosecutor would have jurisdiction over.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

² Section 16.56(1)(a) 1-12, F.S.

³ Section 784.011, F.S.

⁴ Section 784.03, F.S.