

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 919 CS Law Enforcement Investigations
SPONSOR(S): Grant and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Criminal Justice Committee	8 Y, 0 N, w/CS	Cunningham	Kramer
2) Justice Council	10 Y, 0 N	Cunningham	De La Paz
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

Currently, making false reports concerning the *commission* of a criminal act is a crime. Whether it's a crime to give law enforcement officers false information that simply *relates* to a criminal investigation is less clear.

This bill makes it a first degree misdemeanor for a person to knowingly and willfully give false information to a law enforcement officer who is conducting a missing person investigation or a felony criminal investigation with the intent to mislead the officer or impede the investigation.

This bill takes effect October 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government → This bill makes it a first degree misdemeanor to knowingly and willfully give false information or false reports to law enforcement officers in certain circumstances.

Safeguard Individual Liberty → This bill makes it a first degree misdemeanor to knowingly and willfully give false information or false reports to law enforcement officers in certain circumstances.

Maintain Public Security → This bill makes it a first degree misdemeanor to knowingly and willfully give false information or false reports to law enforcement officers in certain circumstances.

B. EFFECT OF PROPOSED CHANGES:

Section 817.49 and 837.05, Florida Statutes

Florida Statutes contain two sections that specifically relate to giving false information to law enforcement officers. Sections 817.49 and 837.05, F.S., criminalize giving false information regarding the *commission* of a crime to a law enforcement officer (e.g. calling a law enforcement agency and falsely reporting that your neighbor stole your car). However, these statutes do not appear to criminalize giving false information to a law enforcement officer when the information does not relate to the *commission* of a crime (e.g. lying to a law enforcement officer when he or she asks if you know the whereabouts of a family member).

Section 843.02, Florida Statutes

Section 843.02, F.S., entitled “Resisting officer without violence to his or her person”, makes it a crime to resist, obstruct, or oppose officers in the lawful execution of any legal duty without offering or doing violence to the officer. The statute has been held to, in some instances, prohibit persons from giving false information to a law enforcement officer. For example, in *Caines v. State*, 500 So.2d 728, Fla. 2nd DCA 1987), the court held that a defendant who gave a false name and address to an officer after being arrested violated s. 843.02, F.S. In contrast, the court in *Steele v. State*, 537 So.2d 711 (Fla. 5th DCA 1989), held that a defendant who was not under arrest and who gave an officer a false name did not violate s. 843.02, F.S., because there was no evidence that the officer was engaged in a criminal investigation, or that the officer was impeded in an investigation by the misinformation.

The majority of “resisting an officer by giving false information” cases have involved defendants who were being arrested or were the subject of a criminal investigation. There is little caselaw as to whether individuals who are not the subject of a criminal investigation can be charged with resisting and officer by making false statements. Thus, in instances where an officer is investigating a crime and, in the course of doing so, interviews potential witnesses, family members, etc, who give the officer false information, it is unclear whether s. 843.02, F.S., could be used as a basis for prosecution.

Effect of the Bill

This bill makes it a first degree misdemeanor¹ for a person to knowingly and willfully give false information to a law enforcement officer who is conducting a missing person investigation or a felony criminal investigation with the intent to mislead the officer or impede the investigation.

C. SECTION DIRECTORY:

¹ A first degree misdemeanor is punishable by a term of imprisonment not exceeding 1 year and a \$1,000 fine. See ss. 775.082 and 775.083.

Section 1. Creates s. 837.055, F.S.; prohibiting knowingly and willfully giving false information to a law enforcement officer who is conducting a missing person investigation or a felony criminal investigation with the intent to mislead the officer or impede the investigation

Section 2. This bill takes effect October 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution, because it is a criminal law.

2. Other:

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 22, 2006, the Criminal Justice Committee adopted a strike-all amendment to the bill and reported the bill favorably with committee substitute. The strike-all amendment adds an intent element, thus making it a crime to intentionally give false information to a law enforcement officer who is conducting a felony or missing person investigation *with the intent to mislead the officer or impede the investigation.*