

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: CS/SB 1208

INTRODUCER: Criminal Justice Committee and Senator Latvala

SUBJECT: Fraudulent Controlled Substance Prescriptions

DATE: March 11, 2014

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------|----------------|-----------|--------|
| 1. | Erickson | Cannon | CJ | Fav/CS |
| 2. | _____ | _____ | HP | _____ |
| 3. | _____ | _____ | AP | _____ |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1208 increases the penalty for a current prescription fraud offense. Under current law, it is a first degree misdemeanor for a person to possess a prescription form that has not been completed and signed by the practitioner whose printed name appears on the form, unless the person possessing the form is that practitioner or another authorized person.

The bill makes this offense a third degree felony. The bill also rewords the description of the act punished. Under the bill, it is unlawful for a person to possess a prescription form unless it has been signed by the practitioner whose name appears on the form and completed. This offense does not apply if the person in possession of the form is that practitioner or another authorized person.

As a result of this rewording, it appears the practitioner whose name appears printed on the form will still have to sign the form but the form can be completed by either the practitioner or another authorized person (current law: completed and signed by the practitioner).

II. Present Situation:

Section 893.13(7)(a)7., F.S., provides that a person may not possess a prescription form that has not been completed and signed by the practitioner whose printed name appears on the form, unless the person possessing the form is that practitioner, an agent or employee of that

practitioner, or a supplier of prescription forms who is authorized by that practitioner to possess those forms.

Section 893.13(7)(c), F.S., provides that a violation of s. 893.13(7)(a)7., F.S., is a first degree misdemeanor.¹

III. Effect of Proposed Changes:

The bill amends s. 893.13(7)(a)7., F.S., which currently prohibits a person from possessing a prescription form that has not been completed and signed by the practitioner whose printed name appears on the form, unless the person possessing the form is that practitioner or another authorized person. Currently, this offense is a first degree misdemeanor.

The bill makes this offense a third degree felony.² The bill also rewords the description of the act punished. Under the bill, it is unlawful for a person to possess a prescription form unless it has been signed by the practitioner whose name appears on the form and completed. This offense does not apply if the person in possession of the form is that practitioner or another authorized person.

As a result of this rewording, it appears the practitioner whose name appears printed on the form will still have to sign the form but the form can be completed by either the practitioner or another authorized person (current law: completed and signed by the practitioner).

The bill takes effect on October 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹ A first degree misdemeanor is punishable by up to a year in county jail, a fine of up to \$1,000, or both jail and a fine. Sections 775.082 and 775.083, F.S.

² A third degree felony is punishable by up to 5 years in state prison, a fine of up to \$5,000, or both prison and a fine. Sections 775.082 and 775.083, F.S. However, if total sentence points scored under the Criminal Punishment Code are 22 points or fewer, the court must impose a nonstate prison sanction, unless the court makes written findings that this sanction could present a danger to the public. Section 775.082(10), F.S.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation has not yet reviewed the bill. However, the Legislature's Office of Economic and Demographic Research preliminarily estimates that the bill will have an insignificant prison bed impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 893.13 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Criminal Justice on March 10, 2014:

Rewords the description of the prescription fraud act in s. 893.13(7)(a)7., F.S. As a result of this rewording, it appears the practitioner whose name appears printed on the form will still have to sign the form but the form can be completed by either the practitioner or another authorized person (current law: completed and signed by the practitioner).

B. Amendments:

None.