

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: SB 436

INTRODUCER: Senator Simpson

SUBJECT: Terroristic Threats

DATE: January 22, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sumner	Cannon	CJ	Pre-meeting
2.			ACJ	
3.			AP	

I. Summary:

SB 436 creates an act relating to terroristic threats. A person commits the crime of terroristic threats if he or she communicates, directly or indirectly, a threat to do a violent act dangerous to human life with the intent to terrorize, intimidate, injure, or coerce a person or group; cause the evacuation of a building, place of assembly or facility of public transportation; or cause serious public inconvenience or terror.

Persons violating this provision commit a third degree felony punishable by up to 5 years imprisonment and a \$5,000 fine. Persons commit a second degree felony punishable by up to 15 years imprisonment and a \$10,000 fine if occupants of the building, place of assembly, or facility of public transportation are diverted from their normal or customary operations; if the threat is against a law enforcement officer or immediate family member; or state attorney or assistant state attorney.

The bill provides that in addition to any restitution ordered, persons violating this section may be ordered to pay restitution in an amount equal to the cost of the evacuation. A judgment of restitution does not preclude persons from recovering in a civil action.

II. Present Situation:

Threat to Throw, Project, Place or Discharge any Destructive Device

Section 790.162, F.S., makes it a second degree felony if a person threatens to throw, project, place, or discharge any destructive device with intent to do bodily harm to any person or with intent to do damage to any property of any person.

False reports concerning planting a bomb, explosive, or weapon of mass destruction in or committing arson against, state-owned property

Section 790.164, F.S., makes it a second degree felony if a person makes a false report, with intent to deceive, mislead, or otherwise misinform any person, concerning the placing or planting of any bomb, dynamite, or other deadly explosive, or weapon of mass destruction.¹ Persons who are convicted of commission of this offense that resulted in the mobilization of any law enforcement officer or any state or local agency, may be required by the court to pay restitution for all of the costs and damages arising from the criminal conduct.

Planting of “hoax bomb”

Section 790.165, F.S., makes it a second degree felony if a person who, without lawful authority manufactures, possesses, sells, delivers, sends, mails, displays, uses, threatens to use, attempts to use or conspires to use, or who makes readily accessible to others a “hoax bomb.”²

Written Threats to Kill or Do Bodily Injury

Section 836.10, F.S., provides that it is a second degree felony to write or compose and send, or procure the sending, of any written communication containing a threat to kill or do bodily injury to the person to whom the letter is sent or a threat to kill or do bodily injury to the family of the person to whom such letter or communication is sent.

Corruption by threat against public servants

It is a felony to unlawfully harm or threaten to harm any public servant,³ his or her immediate family, or any other person whose welfare the public servant is interested with the intent or purpose of:

- Influencing the performance of any act or omission that the person believes to be, or that the public servant represents as being, within the official discretion of the public servant, in violation or performance of a public duty⁴ ;
- Causing or inducing the public servant to use or exert, or procure the use of exertion of any influence upon or with any other public servant regarding any act or omission which the defendant believes to be or the public servant represents as being, within the official discretion of the public servant, in violation or performance of a public duty.⁵

¹ “Weapon of mass destruction” means any device or object that is designed or intended to cause death or serious bodily injury to any human or animal, or severe emotional or mental harm to any human, through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors; any device or object involving a biological agent or that is designed or intended to release radiation or radioactivity at a level dangerous to human or animal life or any biological agent, toxin, vector, or delivery system.

² “Hoax bomb” means any device or object that by its design, construction, content, or characteristics appears to be, or to contain, or is represented to be or to contain a destructive device or explosive but is in fact inoperable. s. 790.165(1), F.S.

³ Section 838.021, F.S.

⁴ Section 838.021(1)(a), F.S.

⁵ Section 838.021(1)(b), F.S.

Prosecution under this section does not require allegation or proof that:

- The public servant ultimately sought to be unlawfully influenced was qualified to act in the desired way;
- That the public servant had assumed office;
- That the matter was properly pending before him or her or might by law properly be brought before him or her;
- That the public servant possessed jurisdiction over the matter; or
- That his or her official action was necessary to achieve the person's purpose.⁶

It is a second degree felony if the defendant actually does harm or a third degree felony if the defendant threatens harm.⁷

According to the Pasco Sheriff's Office, this bill would address issues that existing statutes do not. By eliminating the need for a specific victim, including threats that cause an evacuation of a building and cause serious public inconvenience, law enforcement will have the necessary tools to bring charges when these types of events take place.

III. Effect of Proposed Changes:

The bill creates s. 775.32, F.S., an act related to terroristic threats for persons who communicate, directly or indirectly, a threat to do any of the following:

- Commit any violent act or any act dangerous to human life with the intent to terrorize, intimidate, injure, or coerce a person or group.
- Cause the evacuation of a building, place of assembly, or facility of public transportation.
- Cause serious public inconvenience or terror, or cause serious inconvenience with reckless disregard of the risk of causing such terror or inconvenience.

A person who violates this section commits a third degree felony.⁸

A person commits a second degree felony if the violation:⁹

- Causes the occupants of the building, place of assembly, or facility of public transportation to be diverted from their normal or customary operations;
- Involves a threat against a law enforcement officer or an immediate family member of a law enforcement officer; or
- Involves a threat against a state attorney or an assistant state attorney, or an immediate family member of a state attorney or an assistant state attorney.

A person convicted of violating this section shall, in addition to any other restitution that may be ordered, pay restitution in an amount equal to the cost of the evacuation, including, but not limited to, fire and police response; emergency medical service or emergency preparedness response; and transportation of an individual from the building, place of assembly, or facility of public transportation.

⁶ Section 838.021(2), F.S.

⁷ Section 838.021(3)(a) and (b), F.S.

⁸ A third degree felony is punishable by up to 5 years imprisonment and a \$5,000 fine.

⁹ A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine.

A judgment or order of restitution does not preclude a person from recovering from the offender other relief that may be available in a civil action authorized by law, provided that a civil award shall be reduced by the amount paid under the judgment or order of restitution.¹⁰

For purposes of the act the bill provides the following definitions:

- “Communicate” – is defined as a means to convey in person, in writing, or by electronic means to another person or other persons a message, including words, images, or language, through the use of electronic mail, the Internet, or any other type of electronic communication;
- “Immediate family member” – is defined to mean a spouse, parent, brother, sister, child, uncle, aunt, first cousin, nephew, niece, half-brother, half-sister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepparent, stepbrother, stepsister, stepchild, grandparent, great-grandparent, grandchild, great-grandchild, step great-grandchild of the person; a person who is engaged to be married to, or who otherwise holds himself or herself out as, or is generally known as, the person whom the person intends to marry; or a person to whom the person stands in loco parentis; or
 - Any other person living in the person’s household and related to the person by blood or marriage or any other natural person having the same legal residence as the person.¹¹
- “Law enforcement officer” includes a law enforcement officer, a correctional officer, a correctional probation officer including part-time and auxiliary officers, a county probation officer, an employee or agent of the Department of Corrections who supervises or provides services to inmates, an officer of the Florida Commission on Offender Review, a federal law enforcement officer, law enforcement personnel of the Fish and Wildlife Conservation Commission, or the Department of Law Enforcement.

The bill has an effective date of October 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹⁰ Pennsylvania, New York, Missouri, Illinois, Nebraska, Minnesota, Kentucky, Georgia, and California have passed similar laws relating to terroristic threats. See 18 Pa. Cons. Stat. s. 2706, McKinney’s Penal law s. 490.20, V.A.M.S. 574.125, 720 ILCS 5/29D-20, Neb.Rev.St. s28-311.01, M.S.A. s. 609.713, KRS s. 508.080, Ga St. s. 16-11-37, and Cal. Penal Code s. 422.

¹¹ A similar definition of “relative” is also found in s. 112.312, 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 (CJIC) reviewed HB 257 which is similar to SB 436 and found that it will have a positive insignificant prison bed impact on the Department of Corrections (an increase of ten or fewer beds).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 775.32 of the Florida Statutes.

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

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

None.

B. Amendments:

None.