

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 693 Criminal Offenses  
**SPONSOR(S):** Alexander and others  
**TIED BILLS:** IDEN./SIM. **BILLS:** SB 1102

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	9 Y, 3 N	Merlin	White
2) Justice Appropriations Subcommittee	10 Y, 5 N	Welty	Gusky
3) Judiciary Committee	16 Y, 2 N, As CS	Merlin	Camechis

### SUMMARY ANALYSIS

Section 812.155, F.S., creates criminal offenses related to hiring, leasing, or obtaining personal property or equipment with the intent to defraud. These offenses prohibit a person from:

- Obtaining any personal property or equipment by trick, deceit, or fraudulent or willful false representation;
- Hiring or leasing personal property or equipment with intent to defraud; and
- Knowingly abandoning or refusing to return hired or leased personal property or equipment at the conclusion of the rental period where the failure to return such property or equipment is done without the consent of the person letting such property or equipment.

The offenses described above are currently second degree misdemeanors if the offense involves property valued at less than \$300, or third degree felonies if the property is valued at \$300 or more. The \$300 thresholds were added in in 1992 and have not been amended since that time.

The bill amends s. 812.155(1) through (3), F.S., to increase the threshold amounts for the felony offenses described above from \$300 to \$750.

Due to the bill's increased thresholds for the commission of felony offenses, the bill may reduce the need for prison beds and increase the need for county jail beds or probation.

The bill takes effect on July 1, 2017.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Overview of Property Crimes and Dollar Thresholds**

In many states, the amount of harm or damage caused by a defendant is a factor used to determine the severity of an offense; thus, the penalties for an offense may be based on the value of damaged or stolen goods.<sup>1</sup> Typically, “states set a monetary amount that qualifies as a felony theft offense, also known as the felony theft threshold.”<sup>2</sup> According to a report published by the National Conference of State Legislatures (“NCSL”), “[t]he majority of states—30 and the District of Columbia—have felony theft thresholds of \$1,000 or greater, 15 have set them at \$500 to \$950, and five have thresholds below \$500. Legislatures have recently revisited thresholds to ensure these amounts keep pace with inflation and the increase in price of consumer goods. Since 2005, at least 26 states and the District of Columbia have increased the felony theft threshold.”<sup>3</sup>

##### **Offenses Related to the Hiring, Leasing, or Obtaining Personal Property or Equipment**

Section 812.155, F.S., creates criminal offenses related to hiring, leasing, or obtaining personal property or equipment with the intent to defraud. These offenses prohibit a person from:

- 1) Obtaining any personal property or equipment by trick, deceit, or fraudulent or willful false representation;<sup>4</sup>
- 2) Hiring or leasing personal property or equipment with intent to defraud;<sup>5</sup> and
- 3) Knowingly abandoning or refusing to return hired or leased personal property or equipment at the conclusion of the rental period where the failure to return such property or equipment is done without the consent of the person letting such property or equipment.<sup>6</sup>

The offenses described above are second degree misdemeanors if the offense involves property valued at less than \$300, or third degree felonies if the property is valued at \$300 or more.

The \$300 thresholds were added in in Chapter 1992-79,<sup>7</sup> Laws of Florida, and have not been amended since that time. According to the Bureau of Labor Statistics, \$300 in 1992 has the same buying power as \$529.62 in 2017. This is based on the Consumer Price Index (“CPI”) Inflation Calculator. The CPI Inflation Calculator uses the average CPI for a given calendar year. This data represents changes in prices of all goods and services purchased for consumption by urban households. This index value has been calculated every year since 1913.<sup>8</sup>

##### *Effect of the Bill*

The bill amends s. 812.155(1) through (3), F.S., to increase the threshold amounts from \$300 to \$750 for the three offenses listed above.

The bill takes effect on July 1, 2017.

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<sup>1</sup> Alison Lawrence, *Making Sense of Sentencing: State Systems and Policies*, National Conference of State Legislatures (“NCSL Report”) at 2, June 2015, available at <https://www.ncsl.org/documents/cj/sentencing.pdf> (last viewed Feb. 23, 2017).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> s. 812.155(1), F.S.

<sup>5</sup> s. 812.155(2), F.S.

<sup>6</sup> s. 812.155(3), F.S.

<sup>7</sup> Chapter 1992-79, L.O.F., refers to “s. 812.15, F.S.” rather than “s. 812.155, F.S.” However, the text of that chapter refers to s. 812.155, F.S.

<sup>8</sup> For the current year, the latest monthly index value is used.” See Website for the Bureau of Labor Statistics, available at [https://www.bls.gov/data/inflation\\_calculator.htm](https://www.bls.gov/data/inflation_calculator.htm) (last viewed April 22, 2017).

**B. SECTION DIRECTORY:**

Section 1. Amends s. 812.155, F.S., relating to hiring, leasing, or obtaining personal property or equipment with the intent to defraud; failing to return hired or leased personal property; rules of evidence.

Section 2. Provides an effective date of July 1, 2017.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues: The bill does not appear to have any impact on state government revenues.
2. Expenditures: The Criminal Justice Impact Conference has not yet considered the bill. It is anticipated that the bill will reduce the need for prison beds, but the exact amount is not yet known.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues: The bill does not appear to have any impact on local government revenues.
2. Expenditures: The bill raises the thresholds for felonies and misdemeanors. Because the bill raises the threshold for misdemeanor offenses, the bill may increase the need for jail beds, as individuals previously eligible for state sanctions may now instead receive a county jail or probation sanction.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None.**

**D. FISCAL COMMENTS: None.**

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision: This 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: None.

**B. RULE-MAKING AUTHORITY: The bill does not appear to create a need for rulemaking or rulemaking authority.**

**C. DRAFTING ISSUES OR OTHER COMMENTS: None.**

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On April 24, 2017, the Judiciary Committee adopted a proposed committee substitute and reported the bill favorably as a committee substitute ("CS"). The CS differs from the bill as filed in that the CS:

- Increases the monetary threshold from \$300 to \$750 for criminal offenses related to hiring, leasing, or obtaining personal property or equipment with the intent to defraud.
- Removes all sections of the bill which revise the monetary thresholds for various theft and fraud-related offenses.

This analysis is drafted to the CS as passed by the Judiciary Committee.