

**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.)

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

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BILL: CS/SB 174

INTRODUCER: Criminal Justice Committee and Senator Polsky

SUBJECT: Protection of Specified Personnel

DATE: April 5, 2023

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Stokes	CJ	Fav/CS
2.			ACJ	
3.			FP	

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 174 amends s. 836.12, F.S., to:

- Add justices, judicial assistants, and family members of justices and judicial assistants, to the list of persons protected from threats of serious bodily harm or death under s. 836.12(2), F.S.;
- Require a violation of s. 836.12(2), F.S., to be committed “knowingly and willfully”; and
- Create a new first-degree misdemeanor offense in s. 836.12(3), F.S., to prohibit a person from knowingly and willfully harassing a law enforcement officer, a state attorney, an assistant state attorney, a firefighter, a judge, a justice, a judicial assistant, or an elected official, with the intent to intimidate or coerce such a person to perform or refrain from performing a lawful duty.

The bill also defines the term “judicial assistant.”

The bill may have a positive indeterminate impact on state prison beds and jail beds.

The bill takes effect on October 1, 2023.

## II. Present Situation:

### Threat Against a Law Enforcement Officer and Others –Section 836.12, F.S.

Section 836.12, F.S., provides that it is first degree misdemeanor<sup>1</sup> for any person to threaten a law enforcement officer,<sup>2</sup> a state attorney, an assistant state attorney, a firefighter, a judge, or an elected official, or a family member<sup>3</sup> of any such person, with death or serious bodily harm.<sup>4</sup>

A person who commits a second or subsequent violation of s. 836.12, F.S., commits a third-degree felony.<sup>5</sup>

## III. Effect of Proposed Changes:

The bill amends s. 836.12, F.S., to:

- Add justices, judicial assistants, and family members of justices and judicial assistants, to the list of persons protected from threats of serious bodily harm or death under s. 836.12(2), F.S.;
- Require a violation of s. 836.12(2), F.S., to be committed “knowingly and willfully”; and
- Create a new first-degree misdemeanor offense in s. 836.12(3), F.S., to prohibit a person from knowingly and willfully harassing a law enforcement officer, a state attorney, an assistant state attorney, a firefighter, a judge, a justice, a judicial assistant, or an elected official, with the intent to intimidate or coerce such a person to perform or refrain from performing a lawful duty.

The bill defines a “judicial assistant” as a court employee assigned to the office of a specific judge or justice responsible for providing administrative, secretarial, and clerical support to the assigned judge or justice.

The bill takes effect October 1, 2023.

## IV. Constitutional Issues:

### A. Municipality/County Mandates Restrictions:

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

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<sup>1</sup> A first-degree misdemeanor is punishable by not more than one year in county jail and fine not exceeding \$1,000. Sections 775.082 and 775.083, F.S.

<sup>2</sup> “Law enforcement officer” means a law enforcement officer as defined in s. 943.10, F.S.; or a federal law enforcement officer as defined in s. 901.1505, F.S. Section 836.12(1)(b), F.S.

<sup>3</sup> “Family member” means an individual related to another individual by blood or marriage; or an individual who stands in loco parentis to another individual. Section 836.12(1)(a), F.S.

<sup>4</sup> Section 836.12(2), F.S.

<sup>5</sup> Section 836.12(3), F.S. A third-degree felony is generally punishable by not more than five years in state prison and a fine not exceeding \$5,000. Sections 775.082 and 775.083, F.S.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None identified.

**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.

Under current s. 836.12(2), F.S., a second or subsequent violation of that subsection would be a third degree felony.<sup>6</sup> Since the bill amends s. 833.6.12(2), F.S., to include certain threats to judges, judicial assistants, and their families, it has the potential to not only expand the number of misdemeanor violations of subsection (2), but also repeat violations of subsection (2), which would trigger third degree felony penalties. However, at present, this impact on state prison beds is indeterminate.

If the provisions of the bill increase the number of misdemeanor violations of s. 836.12(2), F.S., there may also be impact on county jail beds. However, at present, this impact is also indeterminate.

**VI. Technical Deficiencies:**

None.

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<sup>6</sup> The third degree felony is not ranked in the Criminal Punishment Code offense severity ranking level chart (s. 921.0022, F.S.), and therefore, the offense defaults to a level 1 third degree felony under s. 921.0023, F.S.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 836.12 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 April 4, 2023:**

The committee substitute:

- Removes original bill language amending s. 365.16, F.S. (obscene or harassing telephone calls);
- Amends s. 836.12, F.S., to punish threats of serious bodily harm to justices, judicial assistants, and their family members;
- Requires the threat violation to be committed “knowingly and willfully”;
- Creates a new first-degree misdemeanor offense to prohibit a person from knowingly and willfully harassing a law enforcement officer, a state attorney, an assistant state attorney, a firefighter, a judge, a justice, a judicial assistant, or an elected official, with the intent to intimidate or coerce such a person to perform or refrain from performing a lawful duty; and
- Defines the term “judicial assistant.”

- B. **Amendments:**

None.