

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 37 Knowingly and Willfully Giving False Information to a Law Enforcement Officer

**SPONSOR(S):** Criminal Justice Subcommittee; Diaz; Plakon and others

**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 858

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	11 Y, 0 N, As CS	Krol	Cunningham
2) Justice Appropriations Subcommittee		McAuliffe	Jones Darity
3) Judiciary Committee			

### SUMMARY ANALYSIS

Section 837.055, F.S., currently makes it a first degree misdemeanor 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.

The bill increases the penalty to a third degree felony if a person knowingly and willfully provides false information with the intent to mislead or impede a law enforcement officer in a missing person investigation involving a child 16 years of age or younger, and such child suffers great bodily harm, permanent disability, permanent disfigurement, or death.

On December 14, 2011, the Criminal Justice Impact Conference determined that the bill will have an insignificant prison bed impact on the Department of Corrections. The bill increases the criminal penalty for a violation of s. 837.055, F.S., from a first degree misdemeanor to a third degree felony. As a result, the bill may have an insignificant positive jail bed impact on local governments.

The bill is effective October 1, 2012.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Senate Select Committee on Protecting Florida's Children**

On August 10, 2011, in the wake of the Casey Anthony verdict, Florida Senate President Haridopolos created the Senate Select Committee on Protecting Florida's Children.<sup>1</sup> The committee was charged with examining the various policy options to further advance the protection of children and determine whether changes to current law were needed. The committee identified and examined the relevant laws on child abuse and providing false information in missing children investigations. Particular attention was given to ss. 827.03<sup>2</sup> and 837.055, F.S., and their relationship to the circumstances in the Anthony case.<sup>3</sup>

After reviewing these laws and receiving testimony from child abuse officials, law enforcement entities, prosecutors, and defense counsel, the committee recommended the creation of a third degree felony offense for persons who knowingly and willfully provide false information to law enforcement with the intent to mislead or impede a missing child investigation when the child is 16 years of age or younger and suffers great bodily harm or death.<sup>4</sup>

##### **Providing False Information to Law Enforcement during an Investigation**

Section 837.055, F.S., provides it is a first degree misdemeanor<sup>5</sup> 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.

##### *Effect of the Bill*

The bill implements the recommendation of the Senate Select Committee on Protecting Florida's Children by amending s. 837.055, F.S., to make it a third degree<sup>6</sup> felony for persons to knowingly and willfully provide false information with the intent to mislead or impede a law enforcement officer in a missing person investigation involving a child 16 years of age or younger, when such child suffers great bodily harm, permanent disability, permanent disfigurement, or death.

#### B. SECTION DIRECTORY:

Section 1. Amends s. 837.055, F.S., relating to false information to law enforcement during an investigation.

Section 2. Provides an effective date of October 1, 2012.

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<sup>1</sup> Caylee Anthony was almost three years old when last seen alive on June 16th, 2008 at the Anthony residence. She was reported missing by her grandmother on July 15, 2008. Casey Anthony, the mother of Caylee, was indicted on charges of first degree murder, aggravated child abuse, aggravated manslaughter of a child, and providing false information to law enforcement and she pled not guilty. Caylee's skeletal remains were located in a wooded area near the family residence on December 11, 2008. On July 5, 2011, the jury found Casey Anthony not guilty of murder, aggravated child abuse, and aggravated manslaughter of a child, but guilty of four counts of providing false information to a law enforcement officer. Anthony received a sentence of one year in jail and a \$1,000 fine for each count.

<sup>2</sup> Section 827.03, F.S., relates to abuse, aggravated abuse, and neglect of a child; penalties.

<sup>3</sup> See Select Committee on Protecting Florida's Children. <http://www.flsenate.gov/Committees/Show/SPFC> (last visited January 24, 2012).

<sup>4</sup> *Id.*

<sup>5</sup> Punishable by up to 1 year imprisonment and a fine of up to \$1,000. Sections 775.082 and 775.083, F.S.

<sup>6</sup> Punishable by up to 5 year imprisonment and a fine of up to \$5,000. Sections 775.082 and 775.083, F.S.

## **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 revenues.

#### **2. Expenditures:**

On December 14, 2011, the Criminal Justice Impact Conference determined that the bill will have an insignificant prison bed impact on the Department of Corrections.<sup>7</sup>

### **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 increases the criminal penalty for a violation of s. 837.055, F.S., from a first degree misdemeanor to a third degree felony. As a result, the bill may have an insignificant positive jail bed impact on local governments.

### **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.

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<sup>7</sup> “2012 Session Bills and Links to Backup Materials.” Office of Economic & Demographic Research.  
[http://edr.state.fl.us/Content/conferences/criminaljusticeimpact/CJIC\\_12.xls](http://edr.state.fl.us/Content/conferences/criminaljusticeimpact/CJIC_12.xls) (last visited on January 18, 2012).

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On January 25, 2012, the Criminal Justice Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment:

- Creates a third-degree felony offense for persons to knowingly and willfully provide false information with the intent to mislead or impede a law enforcement officer in a missing person investigation involving a child 16 years of age or younger, when such child suffers great bodily harm, permanent disability, permanent disfigurement, or death.
- Provides an effective date of October 1, 2012.

The analysis is drafted to the committee substitute as passed by the Criminal Justice Subcommittee.