

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1291 CS

Weapons

**SPONSOR(S):** Poppell

**TIED BILLS:**

**IDEN./SIM. BILLS:** SB 2438

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Criminal Justice Committee</u>	<u>8 Y, 0 N, w/CS</u>	<u>Cunningham</u>	<u>Kramer</u>
2) <u>PreK-12 Committee</u>	<u>10 Y, 0 N</u>	<u>Beagle</u>	<u>Mizereck</u>
3) <u>Justice Council</u>	<u>11 Y, 0 N</u>	<u>Cunningham</u>	<u>De La Paz</u>
4) _____	_____	_____	_____
5) _____	_____	_____	_____

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### SUMMARY ANALYSIS

Chapter 790 defines the term “weapon” as “any dirk, metallic knuckles, slungshot, billie, tear gas gun, chemical weapon or device, or other deadly weapon *except* a firearm or a common pocketknife.” Although not specifically listed, knives have commonly been included in the definition of “weapon.”

Currently, Florida school districts are required to adopt a zero tolerance policy that requires the expulsion of students who bring firearms or weapons, as defined by chapter 790, F.S., to school, to any school function, or onto school-sponsored transportation. While chapter 790, F.S. currently excepts “common pocketknives” from its definition of “weapon,” other types of knives, such as butter knives and plastic knives, are not currently excepted. As a result, there has been some confusion as to whether students who bring objects such as butter knives onto school grounds must be disciplined.

This bill amends the definition of “weapon” to include the term “knife,” and to except from the definition “plastic knives” and “blunt-bladed table knives.” The result is that a “knife” would be considered a weapon, while “common pocketknives”, “plastic knives”, and “blunt-bladed table knives” would not be. The bill also provides in s. 790.115, F.S. (relating to the possession and discharge of weapons at school-sponsored events or on school property), and in s. 810.095, F.S. (relating to trespassing on school property with a weapon), that the term “weapon” is to be defined by s. 790.001(13), F.S. This should help clarify what types of knives are permitted on school grounds.

This bill takes effect July 1, 2006.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

Maintain Public Security → This bill revises the definition of “weapon” to include the term “knife” and clarifies provisions relating to the prohibited exhibition and possession of specified weapons at school-sponsored events or on school property.

#### B. EFFECT OF PROPOSED CHANGES:

Chapter 790 defines the term “weapon” as “any dirk, metallic knuckles, slungshot, billie, tear gas gun, chemical weapon or device, or other deadly weapon *except* a firearm or a common pocketknife.”<sup>1</sup> Although the term “knife” is not included in the above definition, courts have interpreted the statute as including certain knives.<sup>2</sup>

Currently, Florida school districts are required to adopt a zero tolerance policy that requires the expulsion of students who bring firearms or weapons, as defined by chapter 790, F.S., to school, to any school function, or onto school-sponsored transportation.<sup>3</sup> Schools also must refer such students to either the criminal or juvenile justice systems.<sup>4</sup> While chapter 790, F.S., currently excepts the “common pocketknife” from its definition of “weapon,” other types of knives, such as butter knives and plastic knives, are not currently excepted. As a result, there has been some confusion as to whether students who bring objects such as butter knives onto school grounds must be disciplined.<sup>5</sup>

This bill amends the definition of the term “weapon” to include the term “knife,” and to except from the definition “plastic knives” and “blunt-bladed table knives.” The result is that a “knife” would be considered a weapon, while “common pocketknives”, “plastic knives”, and “blunt-bladed table knives” would not be.

The bill clarifies in s. 790.115, F.S. (relating to the possession and discharge of weapons at school-sponsored events or on school property), and in s. 810.095, F.S. (relating to trespassing on school property with a weapon), that the term “weapon” is to be defined by s. 790.001(13), F.S. This should help clarify what types of knives are permitted on school grounds. The bill also specifies in s. 790.115, F.S., that “common pocketknives” are included in the list of items that may not be exhibited in a rude, careless, angry, or threatening manner at a school-sponsored event or on school property.

#### C. SECTION DIRECTORY:

**Section 1.** Amends s. 790.001, F.S., revising the definition of “weapon.”

**Section 2.** Amends s. 790.115, F.S., revising and clarifying provisions related to the prohibited exhibition and possession of specified weapons at school-sponsored events or on school property.

**Section 3.** Amends s. 810.095, F.S., clarifying provisions related to the prohibited trespass on school property with a weapon.

**Section 4.** This act takes effect July 1, 2006.

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<sup>1</sup> s. 790.001(13), F.S.

<sup>2</sup> See, e.g., *State v. Walthour*, 876 So.2d 594 (Fla. 5<sup>th</sup> DCA 2004); *Garcia v. State*, 789 So.2d 1059 (Fla. 4<sup>th</sup> DCA 2001), *Evans v. State*, 703 So.2d 1201 (Fla. 1<sup>st</sup> DCA 1997). *Miller v. State*, 421 So.2d 746 (Fla. 4<sup>th</sup> DCA 1982);

<sup>3</sup> s. 1006.13, F.S.

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

<sup>5</sup> See, e.g., [http://www.sptimes.com/2005/10/25/Hernando/Girl\\_arrested\\_for\\_but.shtml](http://www.sptimes.com/2005/10/25/Hernando/Girl_arrested_for_but.shtml) (An 11-year old girl was arrested and charged with a felony for bringing a butter knife to school)

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

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

#### **1. Revenues:**

The Department of Education does not foresee a fiscal impact.

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

The Department of Education does not foresee a fiscal impact.

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

#### **1. Revenues:**

None.

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

None.

### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

### **D. FISCAL COMMENTS:**

None.

## **III. COMMENTS**

### **A. CONSTITUTIONAL ISSUES:**

#### **1. Applicability of Municipality/County Mandates Provision:**

The 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:**

None.

### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

## **IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**

On March 22, 2006, the Criminal Justice Committee adopted one amendment to the bill and reported the bill favorably with committee substitute. The amendment makes technical changes and clarifies the definition of the term "weapon."