

## CS/SB 728 – Threats

This bill amends s. 790.162, F.S., adding (in bold):

- “(1) It is unlawful for any person to threaten:**
- (a) The use of a firearm or any weapon, including the future use of a firearm or any weapon if the threat is sufficient to cause alarm in a reasonable person; or**
  - (b) To throw, project, place, or discharge any destructive device, including the future throwing, projecting, placing, or discharging of any destructive device,**

with intent to do bodily harm to any person or with intent to do damage to any property of any person.”

- “(2) A person does not violate subsection (1) if he or she uses or threatens to use a firearm or any other weapon in lawful self-defense, lawful defense of others, or lawful defense of property.”**

Currently, “it is unlawful for any person to threaten to throw, project, place, or discharge any destructive device with such intent.” This act is a Level 5, 2<sup>nd</sup> degree felony. This new language would expand the pool of eligible offenders by including those threatening to use a firearm or other weapon not included in the current language. It should be noted that s. 790.07(2), F.S. includes an unranked, 2<sup>nd</sup> degree felony (Level 4 by default) for “whoever, while committing or attempting to commit any felony, displays, uses, threatens, or attempts to use any firearm or carries a concealed firearm.”

Additionally, this bill amends s. 790.163, F.S. and s. 790.164, F.S., adding “current or future” activity to the false reports concerning planting a bomb, explosive, using a firearm, etc. This could expand the pool of eligible offenders for the second degree felonies included under these statutes.

Per DOC, in FY 17-18, there were 13 (adj.) offenders sentenced under s. 790.162, F.S., with 2 (adj.) offenders sentenced to prison (mean sentence length=65.0 m, incarceration rate: 15.4% adj-16.7% unadj). There were 30 (adj.) offenders sentenced under s. 790.07(2), F.S., with 8 (adj.) offenders sentenced to prison (mean sentence length=28.7 m, incarceration rate: 26.7% adj-25.0% unadj).

Per DOC, in FY 17-18, there were 29 (adj.) offenders sentenced under s. 790.163, F.S. and s. 790.164, F.S., with 5 (adj.) offenders sentenced to prison (mean sentence length=44.4 m, incarceration rate: 17.2% adj-18.5% unadj). In FY 18-19 there were 8 new commitments to prison.

Given the potential overlap between the newly added language under s. 790.162, F.S. and the language under s. 790.07(2), F.S., which has a higher incarceration rate and a lower mean sentence length, in addition to the unknown pool of newly eligible offenders,

the impact of this bill cannot be quantified. However, due to the small number of offenders currently sentenced to prison under these statutes, this new language would not be expected to have a significant impact on prison beds.

**CONFERENCE ADOPTED ESTIMATE: Positive Insignificant**

**Requested by: Senate**