

CS/HB 889 – Theft from Nonprofit Organizations (Similar SB 836)

This bill creates s. 812.0146, F.S., adding multiple felonies for the act of theft from a nonprofit organization, defined as “an organization that he or she knows or has reason to believe is qualified as charitable under s. 501(c)(3) of the Internal Revenue Code.” The felony degree depends on the value of “the funds, assets, or property involved in the theft from an organization.” Monetary thresholds and the associated felonies for them are listed below:

- \$50,000 or more – Level 7, 1st degree felony
- \$10,000 or more, less than \$50,000 – Level 4, 2nd degree felony
- \$300 or more, less than \$10,000 – Level 1, 3rd degree felony

In FY 18-19, the incarceration rate for a Level 1, 3rd degree felony was 9.1%, and in FY 19-20 the incarceration rate was 8.2%. In FY 20-21, the incarceration rate for a Level 1, 3rd degree felony was 7.5%, and in FY 21-22 the incarceration rate was 8.6%. In FY 18-19, the incarceration rate for a Level 4, 2nd degree felony was 28.7%, and in FY 19-20 the incarceration rate was 27.3%. In FY 20-21, the incarceration rate for a Level 4, 2nd degree felony was 23.8%, and in FY 21-22 the incarceration rate was 29.7%. In FY 18-19, the incarceration rate for a Level 7, 1st degree felony was 67.1%, and in FY 19-20 the incarceration rate was 66.5%. In FY 20-21, the incarceration rate for a Level 7, 1st degree felony was 65.5%, and in FY 21-22 the incarceration rate was 63.1%.

While these felonies are newly created, other felonies currently exist where theft from nonprofit organizations might be prosecuted, such as retail theft, grand theft, and petit theft. Per DOC, there were 40 new commitments to prison in FY 18-19 for retail theft offenses, and 23 new commitments in FY 19-20. There were 22 new commitments in FY 20-21, and 14 new commitments in FY 21-22. For grand theft, there were 1,511 new commitments in FY 18-19, and 1,069 new commitments in FY 19-20. In FY 20-21, there were 698 new commitments, and in FY 21-22, there were 785 new commitments. While a large proportion of the grand theft commitments include a third conviction for petit theft, there are also a large number of 1st degree misdemeanor petit theft convictions each year for those on their first or second conviction. Per FDLE, in FY 21-22, there were 5,335 guilty/convicted charges and 1,454 adjudication withheld charges. These misdemeanors could be elevated to felonies under this new language, though it is not known how many of these involved theft from a nonprofit organization, nor is it known how many of these fall between \$300 and \$750, since the minimum threshold for a 1st degree misdemeanor is \$100. The same can be said for the other theft felonies where theft from nonprofit organizations might currently fall, and which also have differing monetary thresholds from the current language. Therefore, the impact of this new language on the prison population cannot be quantified.

CONFERENCE ADOPTED ESTIMATE: Positive Indeterminate

Requested by: House & Senate