

1989

## Session Law 89-044

Florida Senate & House of Representatives

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**H 106 GENERAL BILL by Smith and others (Identical S 1170)**  
Circuit Court Clerk/Obscene Material: eliminates requirement that clerks of circuit courts retain evidence re violations in connection with obscene materials. Amends 847.011. Effective Date: 07/01/89.

01/13/89 HOUSE Prefiled  
01/19/89 HOUSE Referred to Criminal Justice  
01/20/89 HOUSE Subreferred to Subcommittee on Prosecution and Punishment; On Committee agenda—Criminal Justice, 02/08/89, 8:00 am. 16-HOB—For ratification of subreferral  
02/20/89 HOUSE On subcommittee agenda—Criminal Justice, 03/08/89, 8:00 am, 21-HOB  
03/09/89 HOUSE Subcommittee Recommendation: Favorable; On Committee agenda, pending subcommittee action—Criminal Justice, 03/21/89, 3:00 pm, 217-HOB  
03/23/89 HOUSE Preliminary Committee Action by Criminal Justice: Favorable  
03/24/89 HOUSE Comm. Report: Favorable by Criminal Justice, placed on Calendar  
04/04/89 HOUSE Introduced, referred to Criminal Justice -HJ 22; Subreferred to Subcommittee on Prosecution and Punishment; Comm. Report: Favorable by Criminal Justice, placed on Calendar -HJ 156  
04/11/89 HOUSE Placed on Special Order Calendar  
04/12/89 HOUSE Read second time -HJ 209  
04/13/89 HOUSE Read third time; Passed; YEAS 114 NAYS 0 -HJ 217  
04/19/89 SENATE In Messages  
04/27/89 SENATE Received, referred to Judiciary-Civil -SJ 229  
04/28/89 SENATE Extension of time granted Committee Judiciary-Civil  
05/05/89 SENATE On Committee agenda—Judiciary-Civil, 05/09/89, 3:15 pm, Room-1C-(309)  
05/09/89 SENATE Comm. Report: Favorable by Judiciary-Civil, placed on Calendar -SJ 311  
05/29/89 SENATE Substituted for SB 1170; Passed; YEAS 37 NAYS 0 -SJ 530  
05/29/89 Ordered enrolled  
06/13/89 Signed by Officers and presented to Governor  
06/15/89 Approved by Governor; Chapter No. 89-44

**NOTES:** Above bill history from Division of Legislative Information's *FINAL LEGISLATIVE BILL INFORMATION, 1989 SESSIONS*. Staff Analyses for bills amended beyond final committee action may not be in accordance with the enacted law. Journal page numbers (HJ & SJ) refer to daily Journals and may not be the same as final bound Journals.

STORAGE NAME: h0106a.cj  
DATE: June 13, 1989

HOUSE OF REPRESENTATIVES  
COMMITTEE ON CRIMINAL JUSTICE  
FINAL STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: HB 106

RELATING TO: Evidence: Obscene Literature

SPONSOR(S): Representative Smith and others

EFFECTIVE DATE: Latter of July 1, 1989 or upon becoming a law

DATE BECAME LAW: June 15, 1989

CHAPTER #: 89-44, Laws of Florida

COMPANION BILL(S): SB 1170

OTHER COMMITTEES OF REFERENCE: (1)

(2)

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I. SUMMARY:

A. PRESENT SITUATION:

Section 847.011, F. S., provides that obscene literature seized pursuant to an arrest in violation of the obscenity statutes by a law enforcement officer shall be delivered to the clerk of the court having jurisdiction until the literature is no longer needed as evidence.

B. EFFECT OF PROPOSED CHANGES:

This bill would require the arresting agency to hold the items seized, rather than the clerk of the court.

C. SECTION-BY-SECTION ANALYSIS:

Section 1 requires the arresting agency, rather than the clerk of the court to hold items seized as a result of violations of the obscene literature statutes.

Section 2 provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

None

2. Recurring or Annualized Continuation Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

4. Appropriations Consequences:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

None

2. Recurring or Annualized Continuation Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None

2. Direct Private Sector Benefits:

None

3. Effects on Competition, Private Enterprise, and Employment Markets:

None

D. FISCAL COMMENTS:

None

III. LONG RANGE CONSEQUENCES:

None

IV. COMMENTS:

None

STORAGE NAME: h0106a.cj


DATE: June 13, 1989

PAGE: 3

V. SIGNATURES:

SUBSTANTIVE COMMITTEE:

Prepared by:

  
\_\_\_\_\_  
Susan G. Bisbee

Staff Director:

  
\_\_\_\_\_  
Robin S. Hassler

SECOND COMMITTEE OF REFERENCE:

Prepared by:

\_\_\_\_\_

Staff Director:

\_\_\_\_\_

APPROPRIATIONS:

Prepared by:

\_\_\_\_\_

Staff Director:

\_\_\_\_\_

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

BILL NO. HB 106

DATE: May 5, 1989

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SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

	<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1.	<u>Smawley</u>	<u>Smawley</u>	1. <u>JCI</u>	<u>Favorable</u>
2.	_____	_____	2. _____	_____
3.	_____	_____	3. _____	_____
4.	_____	_____	4. _____	_____

SUBJECT: Circuit Court Clerk/Obscene Material

BILL NO. AND SPONSOR: HB 106 by Senator Smith

I. SUMMARY:

A. Present Situation:

Section 847.011, F.S., prohibits the sale and possession of obscene literature. Subsection (7) of this section provides that, "There shall be no right of property in any of the materials, matters, articles or things otherwise possessed or otherwise dealt with in violation of this section . . . ". Id. The subsection goes on to provide that after the law enforcement officer seizes the offending materials, they are to be delivered to the clerk of the court having jurisdiction to try the offense. If, after trial, the court finds that the materials are in violation of s. 847.011, F.S., the court must order them destroyed. The sheriff is then required to destroy the materials in the presence of the clerk. The clerk and the sheriff are then required to file a certificate of compliance with the order.

B. Effect of Proposed Changes:

The bill would amend s. 847.11(7), F.S., to provide that the arresting agency would hold the materials and therefore not deliver them to the clerk of the court having jurisdiction to try the offense. The disposal provisions would remain unaffected.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:  
None.

B. Government:  
None.

III. COMMENTS:

None.

IV. AMENDMENTS:

None.

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

BILL NO. SB 1170

DATE: May 3, 1989

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SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Smawley</u>	<u>Smawley</u>	1. <u>JCI</u>	<u>Favorable</u>
2. _____	_____	2. _____	_____
3. _____	_____	3. _____	_____
4. _____	_____	4. _____	_____

SUBJECT:

Circuit Court Clerk/  
Obscene Material

BILL NO. AND SPONSOR:

SB 1170 by  
Senator Thurman

I. SUMMARY:

A. Present Situation:

Section 847.011, F.S., prohibits the sale and possession of obscene literature. Subsection (7) of this section provides that, "There shall be no right of property in any of the materials, matters, articles or things otherwise possessed or otherwise dealt with in violation of this section . . .". Id. The subsection goes on to provide that after the law enforcement officer seizes the offending materials, they are to be delivered to the clerk of the court having jurisdiction to try the offense. If, after trial, the court finds that the materials are in violation of s. 847.011, F.S., the court must order them destroyed. The sheriff is then required to destroy the materials in the presence of the clerk. The clerk and the sheriff are then required to file a certificate of compliance with the order.

B. Effect of Proposed Changes:

The bill would amend s. 847.11(7), F.S., to provide that the arresting agency would hold the materials and therefore not deliver them to the clerk of the court having jurisdiction to try the offense. The disposal provisions would remain unaffected.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

None.

B. Government:

None.

III. COMMENTS:

None.

IV. AMENDMENTS:

None.