

1989

## Session Law 89-524

Florida Senate & House of Representatives

Follow this and additional works at: <https://ir.law.fsu.edu/staff-analysis>



Part of the Legislation Commons

---

### Recommended Citation

House of Representatives, Florida Senate &, "Session Law 89-524" (1989). *Staff Analysis*. 1191.  
<https://ir.law.fsu.edu/staff-analysis/1191>

This Article is brought to you for free and open access by the Florida Legislative Documents at Scholarship Repository. It has been accepted for inclusion in Staff Analysis by an authorized administrator of Scholarship Repository. For more information, please contact [efarrell@law.fsu.edu](mailto:efarrell@law.fsu.edu).

B  
I  
L  
L  
  
H  
I  
S  
T  
O  
R  
Y

**S 4-A GENERAL BILL by Langley and others (Identical H 5-A, Similar S 1415)**

Drug Abuse Prevention & Control; prescribes minimum term of imprisonment for persons who sell, purchase, manufacture, or deliver controlled substance within 1,000 feet of school or who possess such controlled substance with intent to commit such actions; provides that such persons are not eligible for parole or statutory gain-time; provides for act to be read in pari materia with acts passed during regular session, etc. Amends 893.13. Effective Date: 06/27/89.

06/03/89 SENATE Filed; Introduced, referred to Finance, Taxation and Claims; Appropriations; Immediately withdrawn from Finance, Taxation and Claims; Appropriations; Passed; YEAS 37 NAYS 0 -SJ 3

06/03/89 HOUSE In Messages; Received, referred to Rules & Calendar -HJ 4; On Committee agenda—Rules & Calendar, 06/03/89, 4:00 pm, 413-C; Preliminary Committee Action by Rules & Calendar: Favorable; Comm. Report: Favorable by Rules & Calendar, placed on Calendar -HJ 26; Placed on Special Order Calendar; Read second time -HJ 18; Read third time; Passed; YEAS 102 NAYS 4 -HJ 18

06/03/89

Ordered enrolled -SJ 20

06/12/89

Signed by Officers and presented to Governor

06/27/89

Approved by Governor; Chapter No. 89-524

**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: s0004a-a.cj  
DATE: June 13, 1989

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

BILL #: SB 4A

RELATING TO: Drug Abuse Substances

SPONSOR(S): Senator Langley and others

EFFECTIVE DATE: Upon becoming a law

DATE BECAME LAW: June 27, 1989

CHAPTER #: 89-524, Laws of Florida

COMPANION BILL(S): HB 5-A

OTHER COMMITTEES OF REFERENCE: (1) Finance, Taxation and Claims  
(2) Appropriations

\*\*\*\*\*

I. SUMMARY:

A. PRESENT SITUATION:

Currently s. 893.13, F. S., provides that it is a first degree felony to sell, purchase, manufacture or deliver or to possess with the intent to sell, purchase, manufacture or deliver within 1000 feet of a public or private elementary, middle or secondary school any controlled substance named in s. 893.03 (1)(a), (b), (d) or (2)(a) or (b). It is a second degree felony if the controlled substance is listed in 893.03(1)(c), (2)(c), (3) or (4).

Generally, drugs in schedule I, the most strictly controlled category, have a high potential for abuse and no currently accepted medical use in the United States. Drugs in this category include heroin and other opiates, and many hallucinogenic substances such as marijuana, peyote and LSD.

Schedule II drugs have a high potential for abuse, severely restricted medical use, and abuse of a substance in this category may lead to severe psychological or physical dependence. Substances in this category include cocaine, morphine, and PCP.

Schedule III drugs have less potential for abuse than schedules I or II and some accepted medical use. Drugs in this category include codeine and derivatives of barbituric acid. Schedule IV drugs have a low potential for abuse compared to substances in schedule III and have currently accepted medical uses. Drugs in this category include phenobarbital, and anabolic steroids.

Schedule V controlled substances have a low potential for abuse compared to those in schedule IV and a currently accepted medical use.

B. EFFECT OF PROPOSED CHANGES:

This bill would provide a three year minimum term of imprisonment for anyone convicted of a first degree felony offense as described above. That person would not be eligible for parole or statutory gain-time under s. 944.275 prior to serving such minimum sentence. If a person violates s. 893.13 with respect to controlled substances in schedule V he shall be sentenced to pay a \$500 fine and serve 100 hours of public service in addition to any other penalty prescribed by law.

C. SECTION-BY-SECTION ANALYSIS:

Section 1 provides a minimum mandatory term for certain violations and for a \$500 fine and required 100 hours of public service for other violations as discussed above.

Section 2 provides that if any law amended by this act was also amended by the 1989 Legislature, both laws should be construed as if they had been enacted by the same session of the Legislature and full effect should be given to each.

Section 3 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:

Indeterminate

2. Recurring or Annualized Continuation Effects:

Indeterminate

3. Long Run Effects Other Than Normal Growth:

Indeterminate

4. Appropriations Consequences:

As a minimum mandatory term is imposed, a negative fiscal consequence can be assumed. With regard to violations of the current law pertaining to schedule V substances and the imposition of a \$500 fine, a positive fiscal impact could result.

STORAGE NAME: s0004a-a.cj

DATE: June 13, 1989

PAGE: 3

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

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

Insignificant

2. Recurring or Annualized Continuation Effects:

Insignificant

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:

III. LONG RANGE CONSEQUENCES:

This is consistent with the State Comprehensive Plan goals of punishing criminal behavior.

IV. COMMENTS:

This is consistent with the committee mission statement and the policy statement goals of punishing drug offenders more severely.

V. SIGNATURES:

SUBSTANTIVE COMMITTEE:

Prepared by:

  
Robin S. Hassler

Staff Director:

  
Robin S. Hassler

SECOND COMMITTEE OF REFERENCE:

Prepared by:

Staff Director:

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Rudolph</u>	<u>Liepshutz</u>	1. <u>JCR</u>	<u>Favorable</u>
2. <u>Wilson</u> / / /	<u>Wilson</u> / / /	2. <u>COR</u>	<u>Favorable</u>
3. _____	_____	3. <u>AP</u>	_____
4. _____	_____	4. _____	_____

SUBJECT:

Drug Abuse Prevention and Control

BILL NO. AND SPONSOR:

SB 1415 by Senator Langley

I. SUMMARY:

A. Present Situation:

Chapter 893 (Florida's Comprehensive Drug Abuse Prevention and Control Act) classifies certain drugs into five schedules in order to regulate legitimate manufacture and distribution as well as to penalize unauthorized transactions involving these substances.

Currently, Chapter 893, F.S., prohibits any person from selling, purchasing, manufacturing or delivering controlled substances in schedules I, II, III, or IV, or possessing them with the intent to commit these acts within 1,000 feet of a public or private elementary, middle or secondary school. s. 893.13(1)(e), F.S. (1988 Supp.). Violation of this section constitutes a first or second degree felony, depending on the controlled substance involved.

First degree felonies are punishable by up to 30 years in prison, and second degree felonies, by up to 15 years in prison. s. 775.082, F.S. The actual sentence imposed, however, will be determined in accordance with sentencing guidelines.

Drug trafficking offenses are the only crimes in chapter 893, F.S., which, currently, are punished by minimum mandatory terms of imprisonment. s. 893.135, F.S.

B. Effect of Proposed Changes:

SB 1415 would provide that upon a conviction for commission of a drug offense within 1,000 feet of school premises, as described in s. 893.13(1)(e), F.S., which constitutes a first degree felony, a 3 year minimum mandatory term of imprisonment would be imposed. In addition, these offenders would not be eligible for parole or gain-time. Because inmates who do not receive incentive gain-time are also ineligible by statute for provisional credits (awarded to reduce prison overcrowding), these offenders would, in effect, serve the entire 3 year minimum mandatory sentence.

SB 1415 also would create mandatory penalties for commission of these offenses involving schedule V controlled substances. These penalties would consist of a \$500 fine and 100 hours of public service and would be imposed in addition to other penalties prescribed by law.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

None.

B. Government:

According to the Division of Economic and Demographic Research, 136 individuals were sentenced under s. 893.13(1)(e)1., F.S., during a 9-month period, from July, 1988 through March, 1989. Forty-two of the 136 offenders received a sentence of a non-state prison sanction. Of that number, 33 offenders received sentences of community control. Passage of SB 1415, therefore, would result in those offenders who are currently being sentenced to non-state prison sanctions (probation, community control or county jail) serving a 3-year minimum mandatory term of imprisonment.

The division adjusted the number of individuals sentenced for these particular offenses to reflect a 12 month period, and reviewed the sentences imposed in conjunction with future prison admissions forecasts prepared by the Criminal Justice Estimating Conference. As a result, SB 1415 is estimated by the division to have the following fiscal impact:

<u>Fiscal Year</u>	<u>Additional Inmates</u>	<u>Capital Costs</u>	<u>Operating Costs</u>	<u>Total Costs</u>
1989-90	106	\$2,226,000	\$ 696,000	\$ 2,922,000
1990-91	371	\$5,565,000	\$3,134,000	\$ 8,699,000
1991-92	703	\$6,972,000	\$7,056,000	<u>\$14,028,000</u>
				\$25,649,000

The division noted that 71.3% of the 136 convictions under s. 893.13(1)(e)1., F.S., during the 9-month period occurred in Broward County. In addition, a significant number of these convictions (64%) resulted in mitigated sentences. Given this current mitigation rate, in lieu of the estimated fiscal impact, the legislation could very likely result in substantially enhanced use of plea bargaining to allow defendants to plead guilty to lesser offenses.

III. COMMENTS:

None.

IV. AMENDMENTS:

None.