

DATE: February 5, 1982

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. R.W. Evans	P. Liepshutz	1. Judi-Crim.	
2. _____	_____	2. _____	
3. _____	_____	3. _____	

SUBJECT: Theft, robbery & related crimes

BILL No. AND SPONSOR:  
SB 713 by Senator Dunn

I. SUMMARY

A. Present Situation:

Section 812.014, Florida Statutes, requires the state, in order to prove theft, to show that the defendant knowingly obtained or used, or endeavored to obtain or use, the property of another with the intent to: (1) deprive the other person of a right to the property or a benefit from the property, or (2) appropriate the property to his own use or to the use of any person who is not entitled to use such property.

The courts have traditionally required specific intent to permanently deprive the owner of property. The common law requirement of intent to deprive the owner permanently of property was included in an earlier theft statute, s. 811.021(1) (1951). In 1975, the Legislature amended the statute to require an intent to unlawfully deprive or defraud the true owner of his property; the statute did not expressly require an intent to permanently deprive property from the owner.

The present theft statute, s. 812.014, which was enacted in 1977, deletes any reference to unlawful deprivation or permanent deprivation. The constitutionality of the statute was upheld in *State v. Allen*, 362 So.2d 10 (Fla. 1978) when the Florida Supreme Court held that the statute did not eliminate specific criminal intent. Citing this decision, the Second District Court of Appeal construed s. 812.014 in *Hilty v. State*, 386 So.2d 1236 (Fla. 2d DCA 1980) to require the state to prove specific intent to permanently deprive the owner of his property as an element of theft. The Fifth District Court of Appeal similarly interpreted the statute in *Faison v. State*, 390 So.2d 728 (Fla. 5th DCA 1980).

Section 812.041 prohibits the unauthorized temporary use of a motor vehicle, aircraft, boat, or boat motor. A violation of this section may be punished as a first degree misdemeanor.

B. Effect of Proposed Changes:

SB 713 amends s. 812.014(1)(a) to provide that the theft statute shall not be construed to require a showing of intent to permanently deprive another person of a right to the property or benefit from the property. The bill also repeals s. 812.041. Section 812.014, therefore, would be charged in cases involving the unauthorized temporary use of property.

II. ECONOMIC IMPACT AND FISCAL NOTE

A. Public: None.

B. Government: None.

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Analyst: R.W.Evans  
Staff Director:P.Liepshutz  
Subject: Theft, robbery & related crimes

Bill No. And Sponsor:  
SB 713 by Senator Dunn

III. COMMENTS

SB 713 may create an ambiguity in construing s. 812.014 by amending the element of intent required in paragraph (a) of subsection (1) but not amending paragraph (b). If the intent of the bill is to avoid a construction of the statute that requires intent to permanently deprive another of his property, the bill should address both paragraphs (a) and (b). As presently drafted, the bill may still require a showing of intent to permanently appropriate the property in some cases, even though the bill is probably intended to avoid such a construction.

IV. AMENDMENTS

None.

DATE: February 9, 1982 (Updated)

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. R.W. Evans	P. Liepshutz	1. Judi-Crim. FAV/2 amend.	
2. _____	_____	2. _____	
3. _____	_____	3. _____	

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Section 812.041 prohibits the unauthorized temporary use of a motor vehicle, aircraft, boat, or boat motor. A violation of this section may be punished as a first degree misdemeanor.

B. Effect of Proposed Changes:

SB 713 amends s. 812.014(1)(a) to provide that the theft statute shall not be construed to require a showing of intent to permanently deprive another person of a right to the property or benefit from the property. The bill also repeals s. 812.041. Section 812.014, therefore, would be charged in cases involving the unauthorized temporary use of property.

II. ECONOMIC IMPACT AND FISCAL NOTE

A. Public: None.

B. Government: None.

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IV. AMENDMENTS

#1 by Judiciary-Criminal: Technically addresses the intent required in paragraphs (a) and (b) of s. 812.014(1) by providing that a person may be guilty of theft if he steals with intent to temporarily or permanently deprive another of his property or temporarily or permanently appropriate the property of another.

#2 by Judiciary-Criminal: Title.

DATE: February 9, 1982 (Updated)  
May 5, 1982 (Final Update)

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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1. R.W. Evans	P. Liepshutz	1. Judi-Crim. FAV/2 amend.	
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A. Public: None.

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SB 713 passed both houses as amended. The Governor approved the bill and the legislation was assigned Chapter No. 82-164, Laws of Florida.

IV. AMENDMENTS

#1 by Judiciary-Criminal: Technically addresses the intent required in paragraphs (a) and (b) of s. 812.014(1) by providing that a person may be guilty of theft if he steals with intent to temporarily or permanently deprive another of his property or temporarily or permanently appropriate the property of another.

#2 by Judiciary-Criminal: Title.

