

STORAGE NAME: h1059a.leps
DATE: March 27, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
LAW ENFORCEMENT AND PUBLIC SAFETY
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 1059

RELATING TO: Sentencing Statements/ Victim or Next of Kin

SPONSOR(S): Representative Fasano

STATUTE(S) AFFECTED: s. 921.143, F.S.

COMPANION BILL(S): SB 1874

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

(1) LAW ENFORCEMENT AND PUBLIC SAFETY YEAS 6 NAYS 0

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I. SUMMARY:

Currently, the provisions of s. 921.143, F.S., allow for the appearance of a victim of a felony offense or the victim's next of kin at the sentencing hearing for the purpose of making an oral statement for the record, or for the victim or next of kin to submit a written statement to be filed with the sentencing court. This bill provides for the victim or next of kin to make a statement at the sentencing hearing in conjunction with the submission of a written statement. The bill also requires the prosecuting attorney to advise the victim that the oral or written statement may relate to any matter relevant to an appropriate disposition and sentence.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Section 921.143(1), F.S., provides that at the sentencing hearing, prior to imposition of sentence upon a defendant for a felony, the victim of the crime, or the next of kin if the victim has died from causes related to the crime, has the option to *either*:

(a) Appear before the sentencing court for the purpose of making a statement under oath for the record;

or

(b) Submit a written statement under oath to the office of the state attorney or assistant state attorney.

Section 921.143(2), F.S., requires that the state attorney or assistant state attorney advise the victims, or their next of kin, that the oral or written statements "shall relate solely to the facts of the case and the extent of any harm, including social, psychological, or physical harm, financial losses, and loss of earnings directly or indirectly resulting from the crime for which the defendant is being sentenced."

B. EFFECT OF PROPOSED CHANGES:

The bill amends the current statute to allow the victim or victim's next of kin, to *both* appear before the sentencing court to make an oral statement *and* to submit a written statement to the office of the state attorney, which is filed with the sentencing court. Thus, an oral statement may be provided in conjunction with a written statement.

The bill also broadens the scope of the oral or written statements to include "any matter relevant to an appropriate disposition and sentence." The state attorney or assistant state attorney must advise all victims or their next of kin, of the scope of their statements.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

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(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

Not applicable.

(2) what is the cost of such responsibility at the new level/agency?

Not applicable.

(3) how is the new agency accountable to the people governed?

Not applicable.

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

Not applicable.

- (2) Who makes the decisions?

Not applicable.

- (3) Are private alternatives permitted?

Not applicable.

- (4) Are families required to participate in a program?

Not applicable.

(5) Are families penalized for not participating in a program?

Not applicable.

b. Does the bill directly affect the legal rights and obligations between family members?

No.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

Not applicable.

(2) service providers?

Not applicable.

(3) government employees/agencies?

Not applicable.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Provides for the victim of a crime or next of kin to make a statement while appearing at the sentencing hearing, and, in conjunction with such statement, to submit a written statement under oath to the state attorney's office. The prosecuting attorney advises the victim that the oral or written statement may relate to any matter relevant to an appropriate disposition and sentence.

Section 2: Provides an effective date.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring 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.

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IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a tax shared with counties or municipalities.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON LAW ENFORCEMENT AND PUBLIC SAFETY:

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