

STORAGE NAME: h1101.leps
DATE: March 5, 1997

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

BILL #: HB 1101 (PCB LEPS 97-03A)
RELATING TO: The Florida Crimes Compensation Act
SPONSOR(S): Committee on Law Enforcement and Public Safety and Representative Futch
STATUTE(S) AFFECTED: s. 960.03(3), F.S.
COMPANION BILL(S): None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) LAW ENFORCEMENT AND PUBLIC SAFETY YEAS 6 NAYS 0
(2)
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I. SUMMARY:

The "Florida Crimes Compensation Act" provides financial assistance to certain persons for medical expenses, mental health services, lost wages, loss of support, funeral expenses, and other out-of-pocket losses that are directly related to a criminal act.

In 1996, the United States Congress passed the *Antiterrorism and Effective Death Penalty Act of 1996 (the Antiterrorism Act)*, which amended, in relevant part, the federal *Victims of Crime Act (VOCA)*. The legislation provides additional funding to state victim compensation programs that provide benefits to state residents who are victimized by acts of mass violence or terrorism occurring outside of the United States. The *Antiterrorism Act* requires each state to expand coverage to these victims by April, 1997, *in order to continue to receive federal VOCA funds*. According to the Office of the Attorney General, Florida has received the following VOCA funds in recent years:

1996-97	\$5.7 million
1995-96	\$4.2 million
1994-95	\$3.6 million

If Florida's Crimes Compensation Act does not cover Florida residents who are victims of mass violence or terrorism while traveling outside the United States, the state could lose all federal VOCA funding.

House Bill 1101 amends the definition of "crime" for purposes of Florida's Crimes Compensation Act to include:

An act of mass violence or an act of international terrorism, as defined in section 2331 of title 18, United States Code, that is committed outside of the territorial boundaries of the United States upon a resident of this state, when such act results in physical injury or death and the person is not eligible for compensation under title VIII of the Omnibus Diplomatic Security and Antiterrorism Act of 1986.

Passage of this bill should enable Florida to continue to receive federal VOCA funding.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Florida's Crimes Compensation Act

The "Florida Crimes Compensation Act" provides financial assistance to certain persons for medical expenses, mental health services, lost wages, loss of support, funeral expenses, and other out-of-pocket losses that are directly related to a criminal act [see ss. 960.01-960.28, F.S.]. The program is administered by the Crime Victims' Services Office of the Department of Legal Affairs and funded through the Crimes Compensation Trust Fund. The trust fund is authorized to receive monies from: a \$50 court cost assessed in felony, misdemeanor, and criminal traffic cases; a surcharge on fines and bail bonds; restitution payments; federal grant awards; legislative appropriations; and any other public or private source.

Section 960.065, F.S., provides that the following persons may be eligible for compensation under the Crimes Compensation Act: a victim; an intervenor; a surviving spouse, parent, sibling, or child of a deceased victim or intervenor; and any other person who was dependent upon a deceased victim or intervenor for his or her principal support. A "victim" means:

- ▶ Any person who suffers physical injury or death as a direct result of a crime; or
- ▶ A person less than 16 years of age who was present at the scene of a crime, saw or heard the crime, and suffered a psychiatric or psychological injury because of the crime, but who was not physically injured. [s. 960.03(9), F.S., 1996 Supplement.]

Definitions are also provided for "crime" and "intervenor," [see s. 960.03, F.S., 1996 Supplement].

Section 960.13, F.S., 1996 Supplement, describes the award that may be made to a person who files a claim under the Crimes Compensation Act. The department is authorized to award compensation if it determines that:

- ▶ A crime was committed;
- ▶ The crime directly resulted in personal injury to, psychiatric or psychological injury to, or death of, the victim or intervenor; and
- ▶ The crime was promptly reported to the proper authorities.

The department can not award compensation if the record reflects that the crime was reported more than 72 hours after its occurrence, unless the department finds that the delay in reporting the crime was justified "for good cause shown."

Generally, claims for compensation must be filed no later than one year after the occurrence of the crime upon which the claim is based, or not later than one year after the death of the victim or intervenor. For good cause, the department is authorized to extend the filing time for a period not to exceed two years after the occurrence of the crime, [see s. 960.07(2) and (3), F.S.]

All awards are granted on an "actual need" basis and are provided subsequent to all benefits provided by primary insurance carriers, including, but not limited to, health and accident insurers, workers' compensation, and automobile accident coverage. An award may not exceed a total of \$15,000 for all compensable costs or losses. However, awards for treatment may not exceed \$10,000. The department has the authority to establish, by rule, award limits below \$15,000 for particular types of costs or losses, [s. 960.13(9), F.S., 1996 Supplement].

Antiterrorism and Effective Death Penalty Act of 1996

In 1996, the United States Congress passed the *Antiterrorism and Effective Death Penalty Act of 1996 (the Antiterrorism Act)*, which amended, in relevant part, the federal *Victims of Crime Act (VOCA)*. The legislation provides additional funding to state victim compensation programs that provide benefits to state residents who are victimized by acts of mass violence or terrorism occurring outside of the United States. The *Antiterrorism Act* requires each state to expand coverage to these victims by April, 1997, *in order to receive the 1998 grant application for VOCA funds*. According to the Office of the Attorney General, Florida has received the following VOCA funds in recent years:

1996-97	\$5.7 million
1995-96	\$4.2 million
1994-95	\$3.6 million

If Florida's Crimes Compensation Act does not cover Florida residents who are victims of mass violence or terrorism while traveling outside the United States, the state could lose all VOCA funding.

B. EFFECT OF PROPOSED CHANGES:

House Bill 1101 amends the definition of "crime" for purposes of Florida's Crimes Compensation Act to include:

An act of mass violence or an act of international terrorism, as defined in section 2331 of title 18, United States Code, that is committed outside of the territorial boundaries of the United States upon a resident of this state, when such act results in physical injury or death and the person is not eligible for compensation under title VIII of the Omnibus Diplomatic Security and Antiterrorism Act of 1986.

[See the *Section by Section Analysis* for the definition of "international terrorism."]

Passage of this bill should enable Florida to continue to receive federal VOCA funding.

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.

- (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?

HB 1101 provides that certain victims of mass violence or international terrorism are eligible for compensation under Florida's Crimes Compensation Act. This could be viewed as creating an entitlement to a government benefit.

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

HB 1101 does not eliminate or reduce an agency or program.

- (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. [See 1.a.(3) above.]

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

No. The beneficiaries of the legislation, specifically certain victims of mass violence or international terrorism, do not directly pay any portion of the implementing or operating costs of Florida's Crimes Compensation program.

4. Individual Freedom:

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

Not applicable.

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

Not applicable.

5. Family Empowerment:

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

HB 1101 does not purport 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:

The bill does not create or change a program providing services to families or children.

- (1) parents and guardians?

Not applicable.

- (2) service providers?

Not applicable.

- (3) government employees/agencies?

Not applicable.

D. SECTION-BY-SECTION ANALYSIS:

Section 1 amends s. 960.03(3), F.S., 1996 Supplement, which provides the definition of "crime" for purposes of Florida's Crimes Compensation Act, as described above.

"International terrorism" means:

- ▶ Activities that involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State or activities that would be a criminal violation if committed within the jurisdiction of the United States or of any State;
- ▶ Activities that appear to be intended to: intimidate or coerce a civilian population; influence the policy of a government by intimidation or coercion; or affect the conduct of a government by assassination or kidnapping; or
- ▶ Activities that occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum, [18 U.S.C.A. § 2331].

Section 2 provides that the act takes effect upon becoming a law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None anticipated.

2. Recurring Effects:

To the extent that persons who are victims of mass violence or international terrorism file claims for compensation under Florida's Crimes Compensation Act, this bill will have a fiscal impact on the Crimes Compensation Trust Fund. Although a precise fiscal impact is indeterminate, it is expected to be minimal.

If this bill becomes law, Florida should continue to be eligible for federal VOCA funds. According to the Office of the Attorney General, Florida has received the following VOCA funds in recent years:

1996-97	\$5.7 million
1995-96	\$4.2 million
1994-95	\$3.6 million

3. Long Run Effects Other Than Normal Growth:

None anticipated.

4. Total Revenues and Expenditures:

See Recurring Effects above.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None anticipated.

2. Recurring Effects:

None anticipated.

3. Long Run Effects Other Than Normal Growth:

None anticipated.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None anticipated.

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2. Direct Private Sector Benefits:

The bill provides that certain victims of mass violence or international terrorism are eligible for compensation under Florida's Crimes Compensation Act.

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

None anticipated.

D. FISCAL COMMENTS:

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 the 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 state tax shared with counties or municipalities.

V. COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

COMMITTEE ON LAW ENFORCEMENT AND PUBLIC SAFETY:

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