

By Senator Dyer

14-1084-99

See HB

1                                   A bill to be entitled  
2           An act relating to victim assistance; amending  
3           s. 960.045, F.S., relating to powers and duties  
4           of the Department of Legal Affairs under the  
5           Florida Crimes Compensation Act; requiring the  
6           department to have a criminal history record  
7           check performed through the Florida Crime  
8           Information Center system on any victim or  
9           other claimant on whose behalf an award is  
10          sought under that act; amending s. 960.065,  
11          F.S., relating to eligibility for awards;  
12          providing that a person who has a criminal  
13          history of having committed a felony in this  
14          state, or of having committed a misdemeanor in  
15          this state within 10 years of seeking the  
16          award, is ineligible for an award; amending s.  
17          960.12, F.S., relating to emergency awards;  
18          prescribing as a condition for making an  
19          emergency award that the victim or other  
20          claimant does not have such criminal history;  
21          amending s. 960.195, F.S.; prescribing as an  
22          additional condition for an award to an elderly  
23          person or disabled adult for property loss that  
24          the claimant does not have such criminal  
25          history; amending s. 960.21, F.S., relating to  
26          the Crimes Compensation Trust Fund; specifying  
27          that payments to any victim or other claimant  
28          who has such criminal history do not constitute  
29          payments of necessary and proper expenses and  
30          claims out of the Crimes Compensation Trust  
31          Fund; providing an effective date.

1 Be It Enacted by the Legislature of the State of Florida:

2  
3 Section 1. Section 960.045, Florida Statutes, 1998  
4 Supplement, is amended to read:

5 960.045 Department of Legal Affairs; powers and  
6 duties.--It shall be the duty of the department to assist  
7 persons who are victims of crime.

8 (1) The department shall:

9 (a) Establish and maintain an office in Tallahassee  
10 and prescribe the duties of the employees of the Crime  
11 Victims' Services Office.

12 (b) Adopt rules pursuant to ss. 120.536(1) and 120.54  
13 to implement the provisions of this chapter.

14 (c) Render, prior to January 1 of each year, to the  
15 presiding officers of the Senate and House of Representatives  
16 a written report of the activities of the Crime Victims'  
17 Services Office.

18 (d) Authorize other units within the department to  
19 assist in carrying out the provisions of this chapter.

20 (2) The department shall provide the Crime Victims'  
21 Services Office with legal representation relative to its  
22 duties and responsibilities under this chapter.

23 (3) The department shall have a criminal history  
24 record check performed through the Florida Crime Information  
25 Center system on any victim or other claimant on whose behalf  
26 an award is sought under ss. 960.01-960.28.

27 Section 2. Section 960.065, Florida Statutes, is  
28 amended to read:

29 960.065 Eligibility for awards.--  
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1           (1) Except as provided in subsection (2), the  
2 following persons shall be eligible for awards pursuant to  
3 this chapter:

4           (a) A victim.

5           (b) An intervenor.

6           (c) A surviving spouse, parent, sibling, or child of a  
7 deceased victim or intervenor.

8           (d) Any other person who is dependent for his or her  
9 principal support upon a deceased victim or intervenor.

10          (2) Any person who:

11           (a) Committed or aided in the commission of the crime  
12 upon which the claim was based; ~~or~~

13           (b) Was engaged in an unlawful activity at the time of  
14 the crime upon which the claim is based; or;

15           (c) Has a criminal history of ever having committed a  
16 felony in this state, or of having committed a misdemeanor in  
17 this state within the 10-year period before the claim was  
18 sought,

19  
20 shall not be eligible to receive an award with respect to such  
21 claim.

22          (3) No payment shall be made under this chapter if the  
23 person who committed the crime upon which the claim is based  
24 will receive any direct or indirect financial benefit from  
25 such payment, unless such benefit is minimal or  
26 inconsequential. Payment shall not be denied based on the  
27 victim's familial relationship to the offender or based upon  
28 the sharing of a residence by the victim and offender, except  
29 to prevent unjust enrichment of the offender.

30          Section 3. Section 960.12, Florida Statutes, is  
31 amended to read:

1           960.12 Emergency awards.--Notwithstanding the  
2 provisions of s. 960.07, if it appears to the department that  
3 such claim is one with respect to which an award probably will  
4 be made, and that either the claimant is a recipient of  
5 benefits under the Federal Social Security Act or undue  
6 hardship will result to the claimant if immediate payment is  
7 not made, the department may make an emergency award to the  
8 claimant, pending a final decision in the case, on the  
9 following conditions:

10           (1) The amount of such emergency award shall not  
11 exceed \$500;

12           (2) The amount of such emergency award shall be  
13 deducted from any final award made to the claimant; ~~and~~

14           (3) The amount of such emergency award which is in  
15 excess of the final award, or the full amount of the emergency  
16 award if no final award is made, shall be repaid by the  
17 claimant to the department; ~~and-~~

18           (4) The claimant does not have a criminal history of  
19 ever having committed a felony in this state, or of having  
20 committed a misdemeanor in this state within the 10-year  
21 period before the claim was sought, as verified through a  
22 criminal history records check performed through the Florida  
23 Crime Information Center system pursuant to s. 960.045.

24           Section 4. Section 960.195, Florida Statutes, is  
25 amended to read:

26           960.195 Awards to elderly persons or disabled adults  
27 for property loss.--Notwithstanding the criteria in s. 960.13,  
28 for crime victim compensation awards, the department may award  
29 a maximum of \$500 to elderly persons or disabled adults who  
30 suffer a property loss that causes a substantial diminution in  
31 their quality of life when:

1 (1) There is proof that a criminal or delinquent act  
2 was committed;

3 (2) The criminal or delinquent act is reported to law  
4 enforcement authorities within 72 hours;

5 (3) The victim cooperates with law enforcement  
6 authorities in the investigation of the criminal or delinquent  
7 act;

8 (4) There is proof that the tangible personal property  
9 in question belonged to the claimant;

10 (5) The claimant did not contribute to the criminal or  
11 delinquent act;

12 (6) There is no other source of reimbursement or  
13 indemnification available to the claimant; ~~and~~

14 (7) The claimant would not be able to replace the  
15 tangible personal property in question without incurring a  
16 serious financial hardship; ~~and-~~

17 (8) The claimant does not have a criminal history of  
18 ever having committed a felony in this state, or of having  
19 committed a misdemeanor in this state within the 10-year  
20 period before the claim was sought, as verified through a  
21 criminal history records check performed through the Florida  
22 Crime Information Center system pursuant to s. 960.045.

23 Section 5. Section 960.21, Florida Statutes, is  
24 amended to read:

25 960.21 Crimes Compensation Trust Fund.--

26 (1) There is created a special fund, to be known as  
27 the "Crimes Compensation Trust Fund," for the purpose of  
28 providing for the payment of all necessary and proper expenses  
29 incurred by the operation of the department and the payment of  
30 claims. The department shall administer the Crimes  
31 Compensation Trust Fund.

1           (2) The moneys placed in the Crimes Compensation Trust  
2 Fund shall consist of all moneys appropriated by the  
3 Legislature for the purpose of compensating the victims of  
4 crime and other claimants under this act, and of moneys  
5 recovered on behalf of the department by subrogation or other  
6 action, recovered through restitution, received from the  
7 Federal Government, received from additional court costs,  
8 received from fines, or received from any other public or  
9 private source.

10           (3) All administrative costs of this chapter and the  
11 service charge provided for in chapter 215 shall be paid out  
12 of moneys collected pursuant to this chapter and deposited in  
13 the Crimes Compensation Trust Fund.

14           (4) Payments of necessary and proper expenses and of  
15 claims out of the Crimes Compensation Trust Fund, as described  
16 in subsection (1), do not include, and may not be construed to  
17 authorize, payments to a claimant who has a criminal history  
18 of ever having committed a felony in this state, or of having  
19 committed a misdemeanor in this state within the 10-year  
20 period before the claim was sought.

21           Section 6. This act shall take effect July 1, 1999.  
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LEGISLATIVE SUMMARY

Revises the Florida Crimes Compensation Act. Requires the Department of Legal Affairs to have a criminal history record check performed through the Florida Crime Information Center system on any victim or other claimant on whose behalf an award is sought under that act. Provides that a person who has a criminal history of having committed a felony in this state, or of having committed a misdemeanor in this state within 10 years of seeking the award, is ineligible for an award. Prescribes as a condition for making an emergency award that the victim or other claimant does not have such criminal history. Prescribes as an additional condition for an award to an elderly person or disabled adult for property loss that the claimant does not have such criminal history. Specifies that payments to any victim or other claimant who has such criminal history do not constitute payments of necessary and proper expenses and claims out of the Crimes Compensation Trust Fund.