

By the Committee on Criminal Justice and Senator Saunders

307-1762-99

1 A bill to be entitled
2 An act relating to victim assistance and
3 compensation; amending s. 960.001, F.S.;
4 providing that a victim and state attorney have
5 standing to assert the rights of a crime
6 victim; amending s. 960.03, F.S.; providing
7 definitions; amending s. 960.05, F.S.;
8 prescribing the purposes of the Crime Victims'
9 Services Office in the Department of Legal
10 Affairs; amending s. 960.065, F.S.; prescribing
11 eligibility criteria for awards granted under
12 ch. 960, F.S.; amending s. 960.12, F.S.;
13 increasing the maximum amount of an emergency
14 award; amending s. 960.13, F.S.; prescribing
15 criteria applicable to awards; allowing the
16 department to establish, by rule, maximum award
17 amounts that are lower than the statutory
18 maximums; amending s. 960.14, F.S.; specifying
19 the circumstances in which the department may
20 modify or rescind previous awards for victim
21 compensation; creating s. 960.198, F.S.;
22 allowing the department to award to a victim of
23 domestic violence a sum of money which the
24 victim may use for relocating; providing
25 maximum amounts of such awards; providing
26 prerequisites; providing applicability;
27 providing effective dates.
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29 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Present subsections (7) and (8) of section
2 960.001, Florida Statutes, 1998 Supplement, are redesignated
3 as subsections (8) and (9), respectively, and a new subsection
4 (7) is added to that section, to read:

5 960.001 Guidelines for fair treatment of victims and
6 witnesses in the criminal justice and juvenile justice
7 systems.--

8 (7) The victim of a crime and the state attorney, with
9 the consent of the victim, have standing to assert the rights
10 of a crime victim which are provided by law or s. 16(b) of
11 Art. I of the State Constitution.

12 Section 2. Section 960.03, Florida Statutes, 1998
13 Supplement, is amended to read:

14 960.03 Definitions.--As used in ss. 960.01-960.28,
15 unless the context otherwise requires, the term:

16 (1) "Catastrophic injury" means a permanent impairment
17 constituted by:

18 (a) Spinal cord injury involving severe paralysis of
19 an arm, a leg, or the trunk;

20 (b) Amputation of an arm, a hand, a foot, or a leg;

21 (c) Severe brain or closed-head injury as evidenced

22 by:

23 1. Severe sensory or motor disturbances;

24 2. Severe communication disturbances;

25 3. Severe complex integrated disturbances of cerebral
26 function;

27 4. Severe episodic neurological disorders; or

28 5. Other severe brain and closed-head injury

29 conditions at least as severe in nature as any condition

30 described in subparagraphs 1.-4.

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1 (d) Second-degree or third-degree burns on 25 percent
2 or more of the total body surface or third-degree burns on 5
3 percent or more of the face and hands;

4 (e) Total or industrial blindness; or

5 (f) Any other injury that would otherwise qualify
6 under this chapter and that is of a nature and severity that
7 would qualify an employee to receive disability income
8 benefits under Title II or supplemental security income
9 benefits under Title XVI of the Federal Social Security Act as
10 the Social Security Act existed on July 1, 1992, without
11 regard to any time limitations provided under that act.

12 (2)(1) "Claimant" means the person on whose behalf an
13 award is sought.

14 ~~(2) "Department" means the Department of Legal~~
15 ~~Affairs.~~

16 (3) "Crime" means:

17 (a) A felony or misdemeanor offense committed by
18 either an adult or a juvenile which results in physical injury
19 or death. The term also includes any such criminal act which
20 is committed within this state but which falls exclusively
21 within federal jurisdiction.

22 (b) A violation of s. 316.193, s. 316.027(1), s.
23 327.35(1), or s. 782.071(2), or s. 860.13(1)(a) which results
24 in physical injury or death; however, no other act involving
25 the operation of a motor vehicle, boat, or aircraft which
26 results in injury or death shall constitute a crime for the
27 purpose of this chapter unless the injury or death was
28 intentionally inflicted through the use of such vehicle, boat,
29 or aircraft or unless such vehicle, boat, or aircraft is an
30 implement of a crime to which this act applies.

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1 (c) A criminal act committed outside of this state
2 against a resident of this state which ~~that~~ would have been
3 compensable if it had occurred in this state and which ~~that~~
4 occurred in a state that does not have an eligible crime
5 victim compensation program as the term is defined in the
6 federal Victims of Crime Act of 1984.

7 (d) An act of mass violence or an act of international
8 terrorism, as defined in 18 U.S.C. s. 2331, which ~~that~~ is
9 committed outside of the territorial boundaries of the United
10 States upon a resident of this state, when such act results in
11 physical injury or death and the person is not eligible for
12 compensation under Title VIII of the Omnibus Diplomatic
13 Security and Antiterrorism Act of 1986.

14 (4) "Crime Victims' Services Office" means the former
15 Bureau of Crimes Compensation and Victim and Witness Services,
16 now the Crime Victims' Services Office of the Department of
17 Legal Affairs.

18 (5) "Department" means the Department of Legal
19 Affairs.

20 ~~(6)~~⁽⁵⁾ "Disabled adult" means a person 18 years of age
21 or older who suffers from a condition of physical or mental
22 incapacitation due to a developmental disability or organic
23 brain damage or mental limitations that restrict the person's
24 ability to perform the normal activities of daily living.

25 ~~(7)~~⁽⁶⁾ "Elderly person" means a person 60 years of age
26 or older who is suffering from the infirmities of aging as
27 manifested by advanced age or organic brain damage, or other
28 physical, mental, or emotional dysfunction, to the extent that
29 the ability of the person to provide adequately for his or her
30 own care or protection is impaired.

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1 (8)~~(7)~~ "Hearing officer" means a hearing officer
2 designated by the Attorney General.

3 (9)~~(8)~~ "Intervenor" means any person who goes to the
4 aid of another and suffers bodily injury or death as a direct
5 result of acting, not recklessly, to prevent the commission of
6 a crime, to lawfully apprehend a person reasonably suspected
7 of having committed a crime, or to aid the victim of a crime.

8 ~~(9) "Victim" means:~~

9 ~~(a) A person who suffers personal physical injury or~~
10 ~~death as a direct result of a crime; or~~

11 ~~(b) A person less than 16 years of age who was present~~
12 ~~at the scene of a crime, saw or heard the crime, and suffered~~
13 ~~a psychiatric or psychological injury because of the crime,~~
14 ~~but who was not physically injured.~~

15 (10) "Out-of-pocket loss" means unreimbursed and
16 unreimbursable expenses or indebtedness incurred for medical
17 care, nonmedical remedial care, psychological counseling, or
18 other treatment rendered in accordance with a religious method
19 of healing or for other services necessary as a result of the
20 injury or death upon which such claim is based.

21 (11) "Property loss" means the loss of tangible
22 personal property directly caused by a criminal or delinquent
23 act of another.

24 (12) "Treatment" means:

25 (a) Medical, dental, psychological, mental health,
26 chiropractic, or physical rehabilitation services;

27 (b) Nonmedical remedial care; or

28 (c) Other treatment rendered in accordance with a
29 religious method of healing.

30 (13) "Victim" means:

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1 (a) A person who suffers personal physical injury or
2 death as a direct result of a crime;

3 (b) A person less than 16 years of age who was present
4 at the scene of a crime, saw or heard the crime, and suffered
5 a psychiatric or psychological injury because of the crime,
6 but who was not physically injured; or

7 (c) A person against whom a forcible felony was
8 committed and who suffers a psychiatric or psychological
9 injury as a direct result of that crime but who does not
10 otherwise sustain a personal physical injury or death.

11 Section 3. Paragraph (m) of subsection (2) of section
12 960.05, Florida Statutes, is amended to read:

13 960.05 Crime Victims' Services Office.--

14 (2) The Crime Victims' Services Office is established
15 for the following purposes:

16 (m) To require the submission of such ~~medical~~ records
17 as are required and, when necessary, to direct medical
18 examination of the victim or intervenor.

19 Section 4. Section 960.065, Florida Statutes, is
20 amended to read:

21 960.065 Eligibility for awards.--

22 (1) Except as provided in subsection (2), the
23 following persons shall be eligible for awards pursuant to
24 this chapter:

25 (a) A victim.

26 (b) An intervenor.

27 (c) A surviving spouse, parent or guardian, sibling,
28 or child of a deceased victim or intervenor.

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

31 (2) Any claim filed by or on behalf of a person who:

1 (a) Committed or aided in the commission of the crime
2 upon which the claim for compensation was based; ~~or~~

3 (b) Was engaged in an unlawful activity at the time of
4 the crime upon which the claim for compensation is based;~~;~~

5 (c) Was in custody or confined, regardless of
6 conviction, in a county or municipal detention facility, a
7 state or federal correctional facility, or a juvenile
8 detention or commitment facility at the time of the crime upon
9 which the claim for compensation is based;

10 (d) Has been adjudicated as a habitual felony
11 offender, habitual violent offender, or violent career
12 criminal under s. 785.084; or

13 (e) Has been adjudicated guilty of a forcible felony
14 offense as described in s. 776.08,

15
16 shall not be eligible for ~~to receive~~ an award ~~with respect to~~
17 ~~such claim.~~

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

26 Section 5. Section 960.12, Florida Statutes, is
27 amended to read:

28 960.12 Emergency awards.--Notwithstanding the
29 ~~provisions of~~ s. 960.07, if it appears to the department that
30 such claim is one with respect to which an award probably will
31 be made, and that either the claimant is a recipient of

1 benefits under the Federal Social Security Act or undue
2 hardship will result to the claimant if immediate payment is
3 not made, the department may make an emergency award to the
4 claimant, pending a final decision in the case, on the
5 following conditions:

6 (1) The amount of such emergency award may ~~shall~~ not
7 exceed \$1,000 ~~\$500~~;

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

10 (3) The amount of such emergency award which is in
11 excess of the final award, or the full amount of the emergency
12 award if no final award is made, shall be repaid by the
13 claimant to the department.

14 Section 6. Subsections (6) and (9) of section 960.13,
15 Florida Statutes, are amended to read:

16 960.13 Awards.--

17 (6) Any award made pursuant to this chapter, except an
18 award for loss of support, shall be reduced by the amount of
19 any payments or services received or to be received by the
20 claimant as a result of the injury or death:

21 (a) From or on behalf of the person who committed the
22 crime; provided, however, that a restitution award ordered by
23 a court to be paid to the claimant by the person who committed
24 the crime shall not reduce any award made pursuant to this
25 chapter unless it appears to the department that the claimant
26 will be unjustly enriched thereby.

27 (b) From any other public or private source or
28 provider, including, but not limited to, an award of workers'
29 compensation pursuant to chapter 440.

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1 (c) From agencies mandated by other Florida statutes
2 to provide or pay for services, except as provided in s.
3 960.28.

4 (d) From an emergency award under s. 960.12.

5 (9)(a) An award may not exceed:

6 1. Ten thousand dollars for treatment;

7 2. Ten thousand dollars for continuing or periodic
8 mental health care of a minor victim whose normal emotional
9 development is adversely affected by being the victim of a
10 crime;

11 3. A total of \$25,000 for all compensable costs; or

12 4. Fifty thousand dollars when the department makes a
13 written finding that the victim has suffered a catastrophic
14 injury as a direct result of the crime.

15 (b) The department may adopt rules that establish
16 limits below the amounts set forth in paragraph (a) and
17 establish criteria governing awards for catastrophic injury.~~a~~
18 ~~total of \$15,000 for all compensable cost or losses. However,~~
19 ~~awards for treatment may not exceed \$10,000. The department~~
20 ~~may, by rule adopted pursuant to chapter 120, establish limits~~
21 ~~below \$15,000 for awards for particular types of costs or~~
22 ~~losses. Any application filed on or after October 1, 1996,~~
23 ~~shall be governed under this section.~~

24 ~~(b) A minor victim may receive continuing or periodic~~
25 ~~mental health care necessitated by the adverse impact of~~
26 ~~victimization upon normal emotional development, up to the~~
27 ~~maximum award of \$10,000. After approval of the initial~~
28 ~~application for an award to a minor victim, the minor victim~~
29 ~~or the minor victim's legal guardian may submit supplemental~~
30 ~~requests for additional victimization treatment as necessary.~~

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1 Section 7. Subsection (3) of section 960.14, Florida
2 Statutes, is amended to read:

3 960.14 Manner of payment; execution or attachment.--

4 (3) The department may reconsider a claim at any time
5 and modify or rescind previous orders for compensation, based
6 upon a change in ~~medical~~ circumstances of a victim or
7 intervenor.

8 Section 8. Section 960.198, Florida Statutes, is
9 created to read:

10 960.198 Relocation assistance for victims of domestic
11 violence.--

12 (1) Notwithstanding the criteria set forth in s.
13 960.13 for crime victim compensation awards, the department
14 may award a one-time payment of up to \$1,500 on any one claim
15 and a lifetime maximum of \$3,000 to a victim of domestic
16 violence who needs immediate assistance to escape from a
17 domestic violence environment.

18 (2) In order for an award to be granted to a victim
19 for relocation assistance:

20 (a) There must be proof that a domestic violence
21 offense was committed;

22 (b) The domestic violence offense must be reported to
23 the proper authorities;

24 (c) The victim's need for assistance must be certified
25 by a certified domestic violence shelter in this state; and

26 (d) The shelter certification must assert that the
27 victim has sought injunctive relief under s. 741.30 and is
28 cooperating with law enforcement officials, if applicable.

29 Section 9. Subsection (2) of section 960.28, Florida
30 Statutes, is amended to read:

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1 960.28 Payment for victims' initial forensic physical
2 examinations.--

3 (2) The Crime Victims' Services Office of the
4 department shall pay for medical expenses connected with an
5 initial forensic physical examination of a victim who reports
6 a violation of chapter 794 or chapter 800 to a law enforcement
7 officer. Such payment shall be made regardless of whether or
8 not the victim is covered by health or disability insurance.
9 The payment shall be made only out of moneys allocated to the
10 Crime Victims' Services Office for the purposes of this
11 section, and the payment may not exceed \$250~~\$150~~ with respect
12 to any violation. Payment may not be made for an initial
13 forensic physical examination unless the law enforcement
14 officer certifies in writing that the initial forensic
15 physical examination is needed to aid in the investigation of
16 an alleged sexual offense and that the claimant is the alleged
17 victim of the offense. The department shall develop and
18 maintain separate protocols for the initial forensic physical
19 examination of adults and children. Payment under this section
20 is limited to medical expenses connected with the initial
21 forensic physical examination, and payment may be made to a
22 medical provider using an examiner qualified under chapter
23 464, excluding s. 464.003(5); chapter 458; or chapter 459.
24 Payment made to the medical provider by the department shall
25 be considered by the provider as payment in full for the
26 initial forensic physical examination associated with the
27 collection of evidence. The victim may not be required to pay,
28 directly or indirectly, the cost of an initial forensic
29 physical examination performed in accordance with this
30 section.

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1 Section 10. Sections 2 through 9 of this act apply
2 with respect to crimes committed on or after January 1, 2000,
3 and the law existing at the time the crime was committed
4 governs with respect to crimes committed before that date.

5 Section 11. This act shall take effect upon becoming a
6 law, except that section 2-10 of this act shall take effect
7 January 1, 2000.

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9 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
10 COMMITTEE SUBSTITUTE FOR
11 Senate Bill 1484

- 12 - Provides that a crime victim and a state attorney, with
13 the crime victim's consent, have standing to assert the
14 crime victim's rights as provided by law.
15 - Provides for multiple effective dates.