

STORAGE NAME: h1755.lecp

DATE: March 23, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
LAW ENFORCEMENT AND CRIME PREVENTION
ANALYSIS**

BILL #: HB 1755

RELATING TO: Prosecutors Reporting of Sexual Offenses

SPONSOR(S): Representative Reddick

COMPANION BILL(S):

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

- (1) LAW ENFORCEMENT AND CRIME PREVENTION
 - (2) FAMILY LAW AND CHILDREN
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

Florida prosecutors have been required since February 1, 1997, to file a report with the legislature regarding prosecutions for specified sexual offenses, when the victim is under 18 years of age. The report provides a variety of information which prosecutors are required to submit pursuant to s. 27.365 F.S. The information required in the report includes: (a) the initial charge in a case, (b) the age of the victim and the age of the offender, (c) charge the offender was ultimately prosecuted for, (d) disposition of the case, and (e) the offenders sentence or the status of the case as of December 31, if it is still pending.

House Bill 1755 would amend s. 27.365 F.S., to require additional information be included in the report. The additional information required in HB 1755 includes the victim / next of kin notification of the filing decision, when the victim is less that 18 years of age involving a sexual offense.

House Bill 1755 also expands the reporting requirements to include victims of specific crimes who are 18 years of age and older. The bill specifically requires reporting the disposition of the cases involving arrests for domestic violence, violation of an injunction for protection against domestic violence or repeat violence, stalking, or sexual battery regardless of the victims age.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

State Attorneys:

All state attorneys in the State of Florida are required by s. 27.365 F.S., to gather information on cases involving sexual crimes where the victim is under 18 years of age. The information from each circuit is forwarded to the Florida Prosecuting Attorneys Association. The Association compiles the information gathered from all the states attorneys and submits a final report to the legislature by the first of February each year. This reporting system has been in place since 1997. The report must include the following information when a crime of a sexual nature is committed and the victim is under the age of 18:

- (1) The initial charge in each case;
- (2) The age of the victim and the age of the offender;
- (3) The charge ultimately prosecuted, if any;
- (4) Whether the case went to trial or was resolved by plea agreement; and
- (5) The sentence imposed in each case, or the status of each case as of December 31st.

The names of sexual offense victims are not revealed in the report.

Florida Prosecuting Attorneys Association:

The Florida Prosecuting Attorneys Association is responsible for data collection from all the state prosecuting attorneys in Florida. The report is to be submitted no later than the first day of February of each year to the legislature. Copies of the report are required by s. 27.365 F.S., to be sent to the following members of the legislature:

- (1) President of the Senate
- (2) Minority Leader of the Senate
- (3) Speaker of the House of Representatives
- (4) Minority Leader of the House of Representatives

B. EFFECT OF PROPOSED CHANGES:

House Bill 1755 would require all states attorneys to compile and submit additional information in all of the following types of cases, regardless of the victim's age:

- (1) Arrests for a crime of domestic violence defined in s. 741.28 F.S.
- (2) Violations of an injunction for protection against domestic violence defined in s. 741.31 F.S.
- (3) Violations of an injunction for protection against repeat violence defined in s. 784.047 F.S.
- (4) Stalking defined in s. 784.048 F.S.
- (5) Sexual Battery defined in Chapter 794 F.S.

The report filed by the states attorneys and the Association on these cases will be required to include information on the filing decision made by the state attorney, whether to decline to prosecute the crime; to dismiss the criminal charges filed against the defendant; to enter into a plea agreement; or to proceed to full prosecution of the crime. House Bill 1755 also requires that specific information in each case on whether the state attorney has notified the victim or victim's next of kin of the filing decision.

The bill also amends s. 27.365 F.S., to add that all other information about the victim that is either confidential or exempt from public records requirements shall also be excluded in the report.

Upon receiving this information from all states attorneys throughout the state, the Florida Prosecuting Attorneys Association would be required to forward this information to the specified members of the legislature by February 1st of each year.

House Bill 1755 also contains a provision that the report be made available for public inspection and copying.

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?

Yes, the Florida Prosecuting Attorneys Association would be required to compile and report all the information as required in HB 1755 if it should be passed.

(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?

N/A

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

N/A

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

N/A

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?

N/A

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?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

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

N/A

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

N/A

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

N/A

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?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

s. 27.365 F.S.

E. SECTION-BY-SECTION ANALYSIS:

This section need be completed only in the discretion of the Committee.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

There will be a significant cost to the various state attorneys offices throughout the state. The cost associated with HB 1755 will differ for each circuit, depending on the number of additional crimes to be reported. At this time it is not possible to determine the exact amount it will take to implement HB 1755 in personnel or monetarily, but it is expected to be a significant increase.

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS a WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

As with the state attorneys throughout Florida, the Association will be required to deal with a significantly larger report and there will be costs associated with to compiling the data that is collected from all the states attorneys.

2. Direct Private Sector Benefits:

N/A

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

N/A

D. FISCAL COMMENTS:

The Florida Prosecuting Attorneys Association and the various states attorneys offices would incur a cost in the compilation and reporting of the added information required in HB 1755. This cost would be related to the time and personnel required for the Prosecuting Attorneys Association and the states attorneys offices to comply with the bill. An exact cost to be incurred by the states attorneys offices is not available but is expected to be significant.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

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

N/A

V. COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

House Bill 1755 was amended on page 3, between lines 2 and 3 to add: There is hereby appropriated a sum of \$500,000 to implement this act. This amendment is not a committee substitute, and will travel with the bill.

VII. SIGNATURES:

COMMITTEE ON LAW ENFORCEMENT AND CRIME PREVENTION:

Prepared by:

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