

1                   A bill to be entitled  
2           An act relating to victim assistance and  
3           compensation; amending s. 960.001, F.S.;  
4           providing for the assertion of a victim's  
5           rights as provided by law or the State  
6           Constitution; amending s. 960.03, F.S.;  
7           providing definitions; amending s. 960.05,  
8           F.S.; prescribing the purposes of the Crime  
9           Victims' Services Office in the Department of  
10          Legal Affairs; amending s. 960.065, F.S.;  
11          prescribing eligibility criteria for awards  
12          granted under ch. 960, F.S.; amending s.  
13          960.12, F.S.; increasing the maximum amount of  
14          an emergency award; providing an additional  
15          criteria for the denial of an award; amending  
16          s. 960.13, F.S.; prescribing criteria  
17          applicable to awards; allowing the department  
18          to establish, by rule, maximum award amounts  
19          that are lower than the statutory maximums;  
20          amending s. 960.14, F.S.; specifying the  
21          circumstances in which the department may  
22          modify or rescind previous awards for victim  
23          compensation; creating s. 960.198, F.S.;  
24          allowing the department to award to a victim of  
25          domestic violence a sum of money which the  
26          victim may use for relocating; providing  
27          maximum amounts of such awards; providing  
28          prerequisites; amending s. 960.28, F.S.;  
29          increasing the limit on payment for victims'  
30          examination expenses by the office; amending s.  
31          960.045, F.S.; authorizing the Department of

1           Legal Affairs to perform and criminal history  
2           check on certain victims or other claimants;  
3           establishing criteria governing certain awards;  
4           providing effective dates.

5  
6 Be It Enacted by the Legislature of the State of Florida:

7  
8           Section 1. Subsections (7) and (8) of section 960.001,  
9 Florida Statutes, 1998 Supplement, are renumbered as  
10 subsections (8) and (9), respectively, and a new subsection  
11 (7) is added to said section to read:

12           960.001 Guidelines for fair treatment of victims and  
13 witnesses in the criminal justice and juvenile justice  
14 systems.--

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

19           Section 2. Section 960.03, Florida Statutes, 1998  
20 Supplement, is amended to read:

21           960.03 Definitions.--As used in ss. 960.01-960.28,  
22 unless the context otherwise requires, the term:

23           (1) "Catastrophic injury" means a permanent impairment  
24 constituted by:

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

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

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

29 by:

30           1. Severe sensory or motor disturbances;

31           2. Severe communication disturbances;

1           3. Severe complex integrated disturbances of cerebral  
2 function;

3           4. Severe episodic neurological disorders; or

4           5. Other severe brain and closed-head injury  
5 conditions at least as severe in nature as any condition  
6 described in subparagraphs 1.-4.;

7           (d) Second-degree or third-degree burns on 25 percent  
8 or more of the total body surface or third-degree burns on 5  
9 percent or more of the face and hands;

10          (e) Total or industrial blindness; or

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

18          (2)(1) "Claimant" means the person on whose behalf an  
19 award is sought.

20          ~~(2) "Department" means the Department of Legal~~  
21 ~~Affairs.~~

22          (3) "Crime" means:

23          (a) A felony or misdemeanor offense committed by  
24 either an adult or a juvenile which results in physical injury  
25 or death. The term also includes any such criminal act which  
26 is committed within this state but which falls exclusively  
27 within federal jurisdiction.

28          (b) A violation of s. 316.193, s. 316.027(1), s.  
29 327.35(1), or s. 782.071(2), or s. 860.13(1)(a) which results  
30 in physical injury or death; however, no other act involving  
31 the operation of a motor vehicle, boat, or aircraft which

1 results in injury or death shall constitute a crime for the  
2 purpose of this chapter unless the injury or death was  
3 intentionally inflicted through the use of such vehicle, boat,  
4 or aircraft or unless such vehicle, boat, or aircraft is an  
5 implement of a crime to which this act applies.

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

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

19 (4) "Crime Victims' Services Office" means the former  
20 Bureau of Crimes Compensation and Victim and Witness Services,  
21 now the Crime Victims' Services Office of the Department of  
22 Legal Affairs.

23 (5) "Department" means the Department of Legal  
24 Affairs.

25 (6)~~(5)~~ "Disabled adult" means a person 18 years of age  
26 or older who suffers from a condition of physical or mental  
27 incapacitation due to a developmental disability or organic  
28 brain damage or mental limitations that restrict the person's  
29 ability to perform the normal activities of daily living.

30 (7)~~(6)~~ "Elderly person" means a person 60 years of age  
31 or older who is suffering from the infirmities of aging as

1 manifested by advanced age or organic brain damage, or other  
2 physical, mental, or emotional dysfunction, to the extent that  
3 the ability of the person to provide adequately for his or her  
4 own care or protection is impaired.

5 (8)~~(7)~~ "Hearing officer" means a hearing officer  
6 designated by the Attorney General.

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

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

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

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

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

25 (11) "Property loss" means the loss of tangible  
26 personal property directly caused by a criminal or delinquent  
27 act of another.

28 (12) "Treatment" means:

29 (a) Medical, dental, psychological, mental health,  
30 chiropractic, or physical rehabilitation services;

31 (b) Nonmedical remedial care; or

1 (c) Other treatment rendered in accordance with a  
2 religious method of healing.

3 (13) "Victim" means:

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

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

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

14 Section 3. Paragraphs (k) and (m) of subsection (2) of  
15 section 960.05, Florida Statutes, are amended to read:

16 960.05 Crime Victims' Services Office.--

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

19 (k) To receive request from the state attorney or from  
20 the law enforcement agencies involved such investigation and  
21 data, including confidential records, as will enable the  
22 department to determine if, in fact, a crime was committed or  
23 attempted, and the extent, if any, to which the victim or  
24 claimant was responsible for his or her own injury or death.

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

28 Section 4. Section 960.065, Florida Statutes, is  
29 amended to read:

30 960.065 Eligibility for awards.--

31

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 or guardian, sibling,  
7 or child of a 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 claim filed by or on behalf of a person who:

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

13           (b) Was engaged in an unlawful activity at the time of  
14 the crime upon which the claim for compensation is based;~~7~~

15           (c) Was in custody or confined, regardless of  
16 conviction, in a county or municipal detention facility, a  
17 state or federal correctional facility, or a juvenile  
18 detention or commitment facility at the time of the crime upon  
19 which the claim for compensation is based;

20           (d) Has been adjudicated as a habitual felony  
21 offender, habitual violent offender, or violent career  
22 criminal under s. 785.084; or

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

25  
26 shall not be eligible for ~~to receive~~ an award ~~with respect to~~  
27 ~~such claim.~~

28          (3) Any claim filed by or on behalf of a person who  
29 was in custody or confined, regardless of adjudication, in a  
30 county or municipal facility, a state or federal correctional  
31 facility, or a juvenile detention, commitment, or assessment

1 facility at the time of the crime upon which the claim is  
 2 based, who has been adjudicated as a habitual felony offender  
 3 under s. 775.084, or who has been adjudicated guilty of a  
 4 forcible felony offense as described in s. 776.08, shall not  
 5 be eligible for an award. Notwithstanding the foregoing, upon  
 6 a finding by the Crime Victims' Services Office of the  
 7 existence of mitigating or special circumstances that would  
 8 render such a disqualification unjust, an award may be  
 9 approved. A decision that mitigating or special circumstances  
 10 do not exist in a case subject to this section shall not  
 11 constitute final agency action subject to review pursuant to  
 12 ss. 120.569 and 120.57.

13 (4)(3) ~~No~~ Payment may not ~~shall~~ be made under this  
 14 chapter if the person who committed the crime upon which the  
 15 claim is based will receive any direct or indirect financial  
 16 benefit from such payment, unless such benefit is minimal or  
 17 inconsequential. Payment may ~~shall~~ not be denied based on the  
 18 victim's familial relationship to the offender or based upon  
 19 the sharing of a residence by the victim and offender, except  
 20 to prevent unjust enrichment of the offender.

21 Section 5. Section 960.12, Florida Statutes, is  
 22 amended to read:

23 960.12 Emergency awards.--Notwithstanding ~~the~~  
 24 ~~provisions of~~ s. 960.07, if it appears to the department that  
 25 such claim is one with respect to which an award probably will  
 26 be made, and that either the claimant is a recipient of  
 27 benefits under the Federal Social Security Act or undue  
 28 hardship will result to the claimant if immediate payment is  
 29 not made, the department may make an emergency award to the  
 30 claimant, pending a final decision in the case, on the  
 31 following conditions:



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

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

5 (3) The amount of such emergency award which is in  
6 excess of the final award, or the full amount of the emergency  
7 award if no final award is made, shall be repaid by the  
8 claimant to the department.

9 (4) The claimant has not been adjudicated guilty of a  
10 forcible felony, as verified through a criminal history  
11 records check performed through the Florida Crime Information  
12 Center system pursuant to s. 960.045.

13 Section 6. Paragraph (b) of subsection (1) and  
14 subsections (6) and (9) of section 960.13, Florida Statutes,  
15 are amended to read:

16 960.13 Awards.--

17 (1)

18 (b) In no case may an award be made when the record  
19 shows that such report was made more than 72 hours after the  
20 occurrence of such crime unless the department, for good cause  
21 shown, finds the delay to have been justified. The department,  
22 upon finding that any claimant or award recipient has not duly  
23 cooperated with the state attorney, all law enforcement  
24 agencies, and the department, may deny, reduce, or withdraw  
25 any award, as the case may be.

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

30 (a) From or on behalf of the person who committed the  
31 crime; provided, however, that a restitution award ordered by

1 a court to be paid to the claimant by the person who committed  
2 the crime shall not reduce any award made pursuant to this  
3 chapter unless it appears to the department that the claimant  
4 will be unjustly enriched thereby.

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

8 (c) From agencies mandated by other Florida statutes  
9 to provide or pay for services, except as provided in s.  
10 960.28.

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

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

13 1. Ten thousand dollars for treatment;

14 2. Ten thousand dollars for continuing or periodic  
15 mental health care of a minor victim whose normal emotional  
16 development is adversely affected by being the victim of a  
17 crime;

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

19 4. Fifty thousand dollars when the department makes a  
20 written finding that the victim has suffered a catastrophic  
21 injury as a direct result of the crime.

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

31

1       ~~(b) A minor victim may receive continuing or periodic~~  
2 ~~mental health care necessitated by the adverse impact of~~  
3 ~~victimization upon normal emotional development, up to the~~  
4 ~~maximum award of \$10,000. After approval of the initial~~  
5 ~~application for an award to a minor victim, the minor victim~~  
6 ~~or the minor victim's legal guardian may submit supplemental~~  
7 ~~requests for additional victimization treatment as necessary.~~

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

10           960.14 Manner of payment; execution or attachment.--

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

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

17           960.198 Relocation assistance for victims of domestic  
18 violence.--

19           (1) Notwithstanding the criteria set forth in s.  
20 960.13 for crime victim compensation awards, the department  
21 may award a one-time payment of up to \$1,500 on any one claim  
22 and a lifetime maximum of \$3,000 to a victim of domestic  
23 violence who needs immediate assistance to escape from a  
24 domestic violence environment.

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

27           (a) There must be proof that a domestic violence  
28 offense was committed;

29           (b) The domestic violence offense must be reported to  
30 the proper authorities;

31

1           (c) The victim's need for assistance must be certified  
2 by a certified domestic violence center in this state; and

3           (d) The center certification must assert that the  
4 victim is cooperating with law enforcement officials, if  
5 applicable, and must include documentation that the victim has  
6 developed a safety plan.

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

9           960.28 Payment for victims' initial forensic physical  
10 examinations.--

11           (2) The Crime Victims' Services Office of the  
12 department shall pay for medical expenses connected with an  
13 initial forensic physical examination of a victim who reports  
14 a violation of chapter 794 or chapter 800 to a law enforcement  
15 officer. Such payment shall be made regardless of whether or  
16 not the victim is covered by health or disability insurance.  
17 The payment shall be made only out of moneys allocated to the  
18 Crime Victims' Services Office for the purposes of this  
19 section, and the payment may not exceed ~~\$250~~\$150 with respect  
20 to any violation. Payment may not be made for an initial  
21 forensic physical examination unless the law enforcement  
22 officer certifies in writing that the initial forensic  
23 physical examination is needed to aid in the investigation of  
24 an alleged sexual offense and that the claimant is the alleged  
25 victim of the offense. The department shall develop and  
26 maintain separate protocols for the initial forensic physical  
27 examination of adults and children. Payment under this section  
28 is limited to medical expenses connected with the initial  
29 forensic physical examination, and payment may be made to a  
30 medical provider using an examiner qualified under chapter  
31 464, excluding s. 464.003(5); chapter 458; or chapter 459.

1 Payment made to the medical provider by the department shall  
2 be considered by the provider as payment in full for the  
3 initial forensic physical examination associated with the  
4 collection of evidence. The victim may not be required to pay,  
5 directly or indirectly, the cost of an initial forensic  
6 physical examination performed in accordance with this  
7 section.

8 Section 10. Subsections (3) and (4) are added to  
9 section 960.045, Florida Statutes, 1998 Supplement, to read:

10 960.045 Department of Legal Affairs; powers and  
11 duties.--It shall be the duty of the department to assist  
12 persons who are victims of crime.

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

17 (4) Establish criteria governing awards for  
18 catastrophic injury as a direct result of a crime.

19 Section 11. This act shall take effect January 1,  
20 2000, except that section 1 of this act shall take effect upon  
21 becoming a law.