

STORAGE NAME: h0037s1.cj

DATE: April 19, 1999

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
CRIMINAL JUSTICE APPROPRIATIONS
ANALYSIS**

BILL #: CS/HB 37

RELATING TO: Crime Prevention

SPONSOR(S): Committee on Law Enforcement and Crime Prevention and Representative Ball

COMPANION BILL(S): SB 138 (i)

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

- (1) LAW ENFORCEMENT AND CRIME PREVENTION 10 YEAS 0 NAYS
 - (2) JUDICIARY YEAS 8 NAYS 0
 - (3) CRIMINAL JUSTICE APPROPRIATIONS
 - (4)
 - (5)
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I. SUMMARY:

The bill amends section 960.001, Florida Statutes, to authorize specified law enforcement agencies to participate in and expend funds for crime prevention, public awareness, public participation, and educational activities.

The bill provides for the implementation of the crime prevention policy expressed in the State Comprehensive Plan, Chapter 187, F.S., by identifying which law enforcement agencies of the state may implement crime prevention, public awareness, public participation, and educational activities.

The bill has an effective date of July 1, 1999.

The bill as written raises two questions regarding the nexus of its crime prevention provisions and Chapter 960, which is directly solely toward victims' rights and services; and the source of the funds that may be used to support the crime prevention programs.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Section 187.101, F.S., provides for a State Comprehensive Plan implementing long-range policy guidance for the orderly social, economic, and physical growth of the state. The State Comprehensive Plan was adopted by statute by the 1985 Legislature as a means of setting broad directional objectives for state agencies. The mechanics of implementation were reserved for specific statutory enactments or annual appropriations policies by each succeeding Legislature. Subsection (7) of the Plan contains a public safety element, one portion of which encourages increased crime prevention efforts for enhanced protection of personal and property safety. Section 187.201(7)(b)9., F.S., states the policy for the State Comprehensive Plan as follows:

Increase crime prevention efforts to enhance the protection of individual personal safety and property.

Importantly, Chapter 187 does not specify which state agencies are to be involved in crime prevention, nor do the Florida Statutes specifically authorize State Attorneys to participate in crime prevention programs.

Article I, section 16(b), of the Florida Constitution, provides for reasonable notice, attendance, and participation by victims, their representatives, and families at all stages of criminal proceedings where this participation does not interfere with the constitutional rights of the accused defendant.

Chapter 960, Florida Statutes, generally provides for victim rights and victim assistance, but not crime prevention. It was originally enacted as a pure victim compensation program by the 1977 Legislature. Over the intervening years the concept of victim compensation as an incident-based reimbursement program has evolved to victim assistance inclusive of a wider range of proactive services. The chapter now includes the institutionalization of victim/witnesses services in the court administration process and provides for further civil remedies for victims and public safety agencies against convicted defendants for cost recovery actions.

Note: It is not clear from the language of the bill whether it has a nexus with Chapter 960 or Article I, Section 16 of the Florida Constitution. These provisions go to victims' rights and services, and the bill addresses crime prevention. Moreover, it is not clear where the funds used to support the crime prevention programs will come from, and it may be argued that the Legislature has implicitly granted law enforcement agencies the right to transfer funds from existing victims' rights programs to crime prevention programs. An amendment may resolve this ambiguity.

B. EFFECT OF PROPOSED CHANGES:

The bill adds a new paragraph to Section 960.001, Florida Statutes that authorizes law enforcement agencies to participate in and expend funds for crime prevention, public awareness, public participation, and educational activities.

The bill provides for the implementation of the crime prevention policy expressed in the State Comprehensive Plan, Chapter 187, F.S., by identifying which law enforcement agencies of the state may implement crime prevention, public awareness, public participation, and educational activities.

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?

The bill does not create, increase, or reduce any authority to make rules or adjudicate disputes.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

The bill expands the ability of law enforcement agencies to develop and operate crime prevention programs using existing funds.

(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?

The bill does not reduce or eliminate any agency program.

(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?

No.

- 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?

To the extent that the bill purports to provide crime prevention services to families or children, it authorizes state and local law enforcement agencies to participate in crime prevention and related activities. The bill ostensibly authorizes these agencies to make decisions regarding the types of activities to participate in and may result in the shift of some resources from existing victims' rights programs to prevention programs.

- (2) Who makes the decisions?

The identified law enforcement agencies.

- (3) Are private alternatives permitted?

No.

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

No.

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

No.

- 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:

- (1) parents and guardians?

No.

- (2) service providers?

No.

- (3) government employees/agencies?

Yes, various state and local law enforcement agencies, as identified in the bill, may have more authority to re-direct resources from existing victims' programs to prevention programs.

D. STATUTE(S) AFFECTED:

Section 960.001, F.S.

E. SECTION-BY-SECTION ANALYSIS:

Section 1. Authorizes specified law enforcement agencies to participate in and expend funds for crime prevention, public awareness, public participation, and educational activities.

Section 2. Provides an effective date of July 1 of the year in which enacted.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

See Fiscal Comments.

2. Recurring Effects:

See Fiscal Comments.

3. Long Run Effects Other Than Normal Growth:

See Fiscal Comments.

4. Total Revenues and Expenditures:

Not estimated.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

The implementation of crime prevention programs and activities may result in the prevention of losses through criminal activity and consequent savings to those persons and business that might otherwise suffer losses in the absence of crime prevention programs.

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

None.

D. FISCAL COMMENTS:

This bill would authorize law enforcement agencies to expend funds for crime prevention public awareness, public participation, and educational activities. These would be available agency funds - not additional funds from other sources or entities. All programs or activities which require separate authorization or funding would still be required to achieve those separate statutory or appropriations authorizations.

The extent to which this bill would allow agencies to divert funds from other priorities already established by the Legislature has not been determined.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill allows local governments to participate in crime prevention activities at their discretion, and contemplates that the costs of such participation will be borne with currently available funds. Consequently, the bill is exempt from the mandates provision of Article VII, Section 18 of the Florida Constitution.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

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

N/A

V. COMMENTS:

Some law enforcement agencies, like the Department of Legal Affairs, have statutory authority to be involved in and expend funds for crime prevention programs. Other entities, such as the State Attorneys are concerned that it can be difficult to receive the consent of the Comptroller or local government for money, already allocated to the State Attorneys, to be spent on crime prevention programs, because there is not statutory authority for the State Attorneys to be involved with crime prevention. The bill does not identify the source of the funds that may be used for crime prevention, however.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On January 6, 1999, the Committee on Law Enforcement and Crime Prevention adopted one amendment which clarified that specified law enforcement agencies may participate in and expend funds for crime prevention, public awareness, public participation, and educational activities.

VII. SIGNATURES:

COMMITTEE ON LAW ENFORCEMENT AND PUBLIC SAFETY:

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