

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 306

SPONSOR: Criminal Justice Committee and Senators Clary and Smith

SUBJECT: Victim's Rights

DATE: March 27, 2001      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dugger	Cannon	CJ	Favorable CS
2.	_____	_____	APJ	_____
3.	_____	_____	AP	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

## I. Summary:

This CS would require the Department of Corrections (DOC), within 30 days of an inmate having been approved for community work release, to notify the state attorney, the victim, the victim's parent or guardian if the victim is a minor, or the victim's next of kin in a homicide case.

It would require that victims and witnesses of domestic violence be informed about the address confidentiality program provided for under s. 741.403, F.S. The CS would also require the court to inform the victim of a sex offense of his or her right to have the courtroom cleared of certain persons before testifying. Finally, the CS would allow victims to review the presentence investigation report of a defendant being considered for youthful offender status.

This CS would empower the state to join in establishing the "Interstate Compact for Adult Offender Supervision" in place of the current Interstate Compact for the Supervision of Parolees and Probationers. While the new compact will have the same mission as the old compact, the new compact will have the authority to enforce the compact, pass rules binding on the states, hire staff to carry out its work, and facilitate the cooperation between the compacting states in the job of supervising offenders who change states of residence. It is estimated that Florida's dues to the new compact will begin at \$46,000 yearly.

This CS substantially amends the following sections of the Florida Statutes: 944.605, 949.07, 949.071, 949.08, 949.09, 958.07 and 960.001. It also creates 949.072.

## **II. Present Situation:**

### **Victim's Rights**

Section 947.175(3), F.S., requires the DOC, upon request, to notify within 30 days the state attorney, the victim, and the personal representative of the victim when an inmate has been approved for community work release. Section 944.605, F.S., also contains similar victim notification requirements for DOC six months prior to the release of an inmate from the department.

Section 960.001, F.S., prescribes guidelines for the fair treatment of victims and witnesses involved in the criminal and juvenile justice systems, including the right to information about available protections, victim notification, and the right to have an advocate present during depositions. Section 741.403, F.S., allows victims of domestic violence to apply to the Attorney General for a confidential address.

Section 958.07, F.S., allows a defendant being considered for youthful offender status the opportunity to review the material facts in his or her presentence investigation report as well as the opportunity to present facts that could affect the trial court's decision to adjudicate the defendant as a youthful offender.

### **Interstate Compact for the Supervision of Parolees and Probationers**

Florida is now a member of the Interstate Compact for the Supervision of Parolees and Probationers, which allows the states to cooperate on the movement of supervised offenders from one state to another. Section 949.07, F.S., contains the language for the current compact. The signatory states agree:

- The state where the person is on supervision may send supervised offenders to another state if the offender is a resident of the receiving state or has family and opportunity there, or while not qualifying as expressed above, the receiving state consents to the relocation.
- The receiving state will assume the duties of the sending state and will supervise the offender under its own standards.
- The sending state will have the authority to reclaim the offender at any time while the offender is on supervision, and the receiving state will have to allow that, unless the offender has pending charges in the receiving state, which would take precedence.
- The officers of the sending state have the authority to transport the reclaimed offender through all other states without interference.
- The Governor has the authority to name the state officers to work with other states to promulgate the rules to implement to the compact.
- The compact becomes operative between states when those states agree to the compact and remains in force until a ratifying state renounces the compact.

This agreement has remained largely unchanged since 1934, according to the DOC. Since then there has been a large increase in the number of offenders being supervised (4,000,000) and the number who relocate to another state while under supervision (250,000). Advancements in data

systems, communications, and DNA technology now allow for a more centralized system of information exchange.

The current definition of a state includes all fifty states, the District of Columbia, Puerto Rico, and the Virgin Islands. s. 949.071, F.S. The current compact does not apply to juveniles. There is a separate interstate compact described in ss. 985.501 through 985.507, F.S.

### **III. Effect of Proposed Changes:**

#### **Victim's Rights**

The CS/SB 306 would amend s. 944.605, F.S., to require the DOC, within 30 days of an inmate having been approved for community work release, to notify the state attorney, the victim, the victim's parent or guardian if the victim is a minor, or the victim's next of kin in a homicide case. (The current notification requirement only applies to prosecutors, victims, and their personal representatives.) Conforming language is also added to s. 960.001(1)(g), F.S.

The CS/SB 306 would also amend s. 960.001(1)(c), F.S., to require that victims and witnesses of domestic violence be informed about the address confidentiality program provided for under s. 741.403, F.S., which allows victims of domestic violence to apply to the Attorney General for a confidential address. The CS would also amend s. 960.001(1)(q), F.S., to require the court to inform the victim of a sex crime of his or her right to clear the court room of certain persons before testifying, as established under s. 918.16, F.S.

In addition, CS/SB 306 would amend s. 958.07, F.S., to allow the victim, the victim's parent or guardian if the victim is a minor, and the victim's next of kin in the case of a homicide, an opportunity to review the presentence investigation report of a defendant who is being considered for youthful offender status. This review would be as provided in s. 960.001(1)(g) 2., F.S., which requires the prosecutor to redact from a presentence investigation report confidential information before showing it to the victim.

#### **Interstate Compact for Adult Offender Supervision**

The CS/SB 306 would substantially amend s. 949.07, F.S., and replace the current language describing the compact the state utilizes to coordinate the movement of parolees and probationers among Florida and other states. The language in the bill, which is drawn from a model version of the compact, would authorize the Governor to enter into the compact. The new provisions include:

- A statement of purpose that describes the need to form an interstate compact to coordinate the movement of offenders and their supervision in order to prevent crime.
- A description of the "Interstate Commission for Adult Offender Supervision" which would be the corporate body and a joint agency of the compacting states. The commission would consist of the representatives of the compacting states and the support staff. The commission would be required to meet at least once a year and conduct business.

- A requirement to form a “State Council” to oversee that state’s participation in the compact. Another section of this bill creates s. 949.072, F.S., describing how Florida will create its council.
- A provision that empowers the commission to supervise the interstate movement of offenders, enforce compliance with the rules of the commission, maintain offices, contract, conduct the normal business of an agency or similar commission and resolve disputes between compacting states.
- A provision that each member (state) of the commission will have a vote in establishing the rules and policies of the commission and compact. All meetings will be public. The commissioner will have the authority to make rules; however, if a majority of the compacting states’ Legislature reject a commission rule, that rule would be in effect repealed.
- A statement specifying that jurisdiction for contesting actions or rules of the commission would be the United States District Court for the District of Columbia or the federal district court where the commissions principal office is located.

When 35 states or territories have agreed to join the new compact, pursuant to the agreement which is embodied in section 4 of this CS, there will be an organizational meeting. The original signatories will establish the organization that will oversee the compact operations and facilitate cooperation between the states. The DOC and the Office of Community Supervision will act as the state’s participant in this process.

Section 6 of this CS will create s. 949.072, F.S., establishing for Florida a “State Council for Interstate Adult Offender Supervision.” The council would be made up of seven members appointed by the Governor, including at least one representative of a victim’s assistance group. The Secretary of the DOC, or his designee, would have to be the chairperson of the council. The state council would exercise an advisory role to the compact administrator.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

#### **V. Economic Impact and Fiscal Note:**

##### **A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The state would incur two separate expenses related to this legislation. First, the state would be obligated to pay dues to the compact organization. It is estimated that Florida's yearly assessment would start out at approximately \$46,000. Section 949.08, F.S., is amended to allow the state to reduce its dues if the Legislature does not appropriate the required amount. The other expense would be the operation of the state council to oversee the state's participation in the compact. Section 949.072, F.S., is created to provide a structure for the state council. While the DOC can provide most of the administrative support without additional staff, this section would authorize reimbursement for the council's travel and per diem expenses.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.