

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: SB 1348

SPONSOR: Senator Constantine

SUBJECT: Memorial - Rights of Crime Victims

DATE: January 21, 2004 REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Brown	Lang	JU	Favorable
2.		RC	
3.			
4.			
5.			
6.			

I. Summary:

This memorial bill requests the U.S. Congress to consider an amendment to the Federal Constitution that grants protection and rights to crime victims.

Copies of the memorial are to be sent to the President of the United States, the President of the U.S. Senate, the Speaker of the U.S. House of Representatives and to each member of the Florida delegation to the U.S. Congress.

II. Present Situation:

Since 1996, members of Congress have introduced legislation relating to creating a Crime Victims Rights constitutional amendment. The legislation was introduced in 2003, 2002, 2000, 1999, 1998, 1997 and 1996. If passed by Congress and ratified by at least 38 states, the Victims Rights Amendment would be the twenty-eighth amendment to the Constitution, and the first since 1992. This legislation has not passed.

Groups endorsing this measure include the National Victims Constitutional Amendment Network, International Association of Chiefs of Police, the California District Attorneys Association, Mothers Against Drunk Driving, the National Center for Missing and Exploited Children, the National Coalition Against Sexual Assault, the National Organization of Victim Assistance, the National Victim Center, and the Parents of Murdered Children.

Many states have passed laws providing specifically for victims rights, including Florida. Chapter 960 is titled the Florida Crimes Compensation Act (s. 960.01, F.S.), and contains various provisions relating to victims assistance.

Additionally, section 16 of Article I of the Florida Constitution provides for the following:

Section 16. Rights of accused and of victims. –

- (a) In all criminal prosecutions the accused shall, upon demand, be informed of the nature and cause of the accusation, and shall be furnished a copy of the charges, and shall have the right to have compulsory process for witnesses, to confront at trial adverse witnesses, to be heard in person, by counsel or both, and to have a speedy and public trial by impartial jury in the county where the crime was committed. If the county is not known, the indictment or information may charge venue in two or more counties conjunctively and proof that the crime was committed in that area shall be sufficient; but before pleading the accused may elect in which of those counties the trial will take place. Venue for prosecution of crimes committed beyond the boundaries of the state shall be fixed by law.
- (b) Victims of crime or their lawful representatives, including the next of kin of homicide victims, are entitled to the right to be informed, to be present, and to be heard when relevant, at all crucial stages of criminal proceedings, to the extent that these rights do not interfere with the constitutional rights of the accused.

III. Effect of Proposed Changes:

This memorial bill makes the following statements regarding victims of violent crimes rights:

- That a victim deserves protection as part of his or her rights, notwithstanding the constitutional protections affording the accused;
- That a victim should have the right to notice of any public proceeding relating to the crime, as well as notice of any release or escape of the defendant;
- That a victim has the right to participate in and be heard at any public proceeding, as well as any public release, plea, sentencing, reprieve or pardon proceeding;
- That a victim has the right to adjudicative decisions that take into account the victim's safety, preventing unreasonable delay, and just and timely claims to restitution; and,
- That these rights should only be restricted when preceded by a substantial interest in public safety, the administration of justice, or a compelling necessity.

This memorial bill requests the U.S. Congress to enact a constitutional amendment to the U.S. Constitution to provide specific protection of crime victims rights. This memorial, though non-binding, is an express statement to the federal government regarding the will of the Legislature.

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:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.