

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1413 Justice for Crime Victims
SPONSOR(S): Williams; Porth
TIED BILLS: none **IDEN./SIM. BILLS:** SB 2314

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Criminal Justice Committee		Bond	Kramer
2) Justice Appropriations Committee			
3) Justice Council			
4) _____			
5) _____			

SUMMARY ANALYSIS

This bill creates a 15 member Commission on Justice for Crime Victims. The commission is comprised of agency heads, victims, and other persons appointed by the Governor. The commission must meet 4 times annually, from inception in 2005 through its abolition in 2009. The commission is administratively housed within the Florida Department of Law Enforcement.

The commission is to “review the nature and severity of the losses and other associated difficulties suffered by crime victims and families of victims of murder and shall review the state’s services provided to victims as well as other responses to the needs of victims. In addition, the commission should consider other factors adversely affecting victims, including delays in capital cases and recommendations for judicial reforms to reduce the delays.”

The commission must submit an annual report.

There are a number of implementation concerns. See “Other Comments”.

This bill does not appear to have a fiscal impact on local governments. This bill appears to have a nonrecurring fiscal impact in FY 05-06 of \$120,000, and a recurring impact of \$350,000 for FY 05-06, 06-07, and 07-08.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government -- This bill creates a new commission. This bill requires 5 FTE's for implementation.

B. EFFECT OF PROPOSED CHANGES:

This bill creates s. 943.0315, F.S., to create a Commission on Justice for Crime Victims.

The bill makes the following legislative findings:

The Legislature finds that there is a need to develop and implement a statewide strategy to address the needs of persons who are the victims of crime in this state. The Legislature also finds that there is a need to understand the severity of the losses incurred by victims and their families and to evaluate the services available to respond to the needs of the victims. In recognition of these needs, the Commission on Justice for Crime Victims is created within the Department of Law Enforcement. The commission shall serve in an advisory capacity to the department.

The commission is composed of 15 members. The bill provides that the "secretary of each agency that includes a criminal justice program shall personally serve as a member of the commission." It is unclear which agencies this includes. Presumably, this may include:

- Department of Agriculture and Consumer Services
- Department of Business and Professional Regulation
- Department of Children and Families
- Department of Community Affairs
- Department of Corrections
- Department of Education
- Department of Environmental Protection
- Department of Financial Services
- Department of Highway Safety and Motor Vehicles
- Department of Juvenile Justice
- Department of Law Enforcement
- Department of Legal Affairs
- Department of Military Affairs
- Department of Transportation
- Florida Fish and Wildlife Conservation Commission

Note that this commission requires the Secretary of each agency to "personally serve" on the commission. Typically, similar commissions allow an agency Secretary to appoint a staff member to act as the designee; this bill does not allow this.

Additional members of the commission are appointed by the Governor and may include the Governor's victims' rights advocate; the director of the Crime Victims' Services Office within the Department of Legal Affairs; a state attorney; a sheriff; a police chief; a circuit judge; a representative of the Florida Network of Victim Witness Services, Inc.; and a representative of the Justice Coalition.

The Governor must also appoint at least three members who have been the victim of a crime, one of whom must be related either to a victim of murder or to the surviving spouse of a victim of murder.

Initial appointments must be made by September 1, 2005. The initial meeting of the commission must be on or before October 31, 2005. Vacancies are filled in the same manner as the original appointment.

Commission action is by majority vote. Quorum is a majority (8 of the 15 members). The chair is elected by the members of the commission.

The duty of the commission is to

Review the nature and severity of the losses and other associated difficulties suffered by crime victims and families of victims of murder and shall review the state's services provided to victims as well as other responses to the needs of victims. In addition, the commission should consider other factors adversely affecting victims, including delays in capital cases and recommendations for judicial reforms to reduce the delays.

The commission must also evaluate:

- The services available to victims as described in s. 960.001(1)(a).¹
- The imposition, collection, and distribution of the surcharge described in s. 938.08, F.S.,² and the fee required in s. 938.03, F.S.,³ to be paid to the Crimes Compensation Trust Fund.
- The imposition, collection, and distribution of victim restitution.
- The necessary state constitutional reforms that would facilitate the resolution of capital cases within 5 years after the imposition of sentence.

The commission must hold at least four public hearings annually throughout the state to:

Solicit input from the public regarding justice for victims, victims' concerns, restitution for victims, judicial reforms that would reduce the suffering of crime victims and their families and improve the treatment of victims and their families in state courts, and other relevant issues. The commission shall devote at least one public hearing to the issues facing families of victims of murder, delays in capital cases, and proposals to reduce these delays in this state. The commission must review laws in other states in which the delays have been reduced.

The commission must submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on or before February 1 of each year. The report must contain specific recommendations for enhancing justice for victims of crime, including the families of murder victims in capital cases. The recommendations of the commission must include proposed legislation and constitutional reforms that will improve justice for victims of crime and family members of victims of murder.

Commission members are not paid, but are entitled to reimbursement for travel and per diem expenses in accordance with s. 112.061, F.S.

The commission, with approval from the Executive Office of the Governor, may employ or contract with an executive director who possesses at least 5 years' previous experience in criminal law and legislative affairs and has worked directly with victims of crime and with families of victims of murder.

¹ Section 960.001, F.S., provides guidelines for fair treatment of victims and witnesses in the criminal justice and juvenile justice systems. It requires every law enforcement agency to provide a number of victim's services.

² Section 938.08, F.S., requires imposition of a \$201 surcharge on persons convicted of certain violent crimes, which money funds programs for victims of domestic violence.

³ Section 938.03, F.S., requires imposition of a \$50 surcharge on all persons convicted of, or pleading no contest to, any criminal offense. The surcharge is paid to the crime compensation trust fund for the benefit of all crime victims.

The executive director may employ or contract with two additional staff members or consultants who have relevant experience in the field of crime victims' rights or data analysis and one administrative assistant. The Department of Law Enforcement must provide administrative support to the commission and its staff.

The commission expires on June 30, 2009.

The effective date of the bill is July 1, 2005.

C. SECTION DIRECTORY:

Section 1 creates the Commission on Justice for Crime Victims.

Section 2 provides an effective date of July 1, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

<u>FDLE:</u>	FY 05-06	FY 06-07	FY 07-08
Recurring	355,600	355,644	355,644
5 FTE			
Non-Recurring	120,139		

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

It is unclear why this bill creates a "commission". Section 20.03(10), F.S., defines a "commission" as "a body created by specific statutory enactment within a department, the office of the Governor, or the Executive Office of the Governor and exercising limited quasi-legislative or quasi-judicial powers, or both, independently of the head of the department or the Governor." The commission created by this bill does not appear to be exercising any form of quasi-legislative or quasi-judicial powers. It may be more appropriate to designate the entity formed by this bill as a "committee" or "task force." See s. 20.03(8), F.S.

It appears that there may be more required members of the commission than the 15 allotted seats. Specifically, there may be 15 agency heads that will serve on the commission, plus 3 victim's advocates.

This bill does not allow an agency head to appoint a designee to attend to commission functions, thereby requiring the agency head to personally appear at commission meetings. The bill also requires that meetings be held across the state. These requirements may be burdensome, and may lead to significant absenteeism that could hurt the ability of the commission to attain quorum.

The bill provides that members are entitled to per diem. The bill does not specify what agency is liable for the per diem costs.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

n/a