

The Florida Senate
PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Prepared By: Criminal Justice Committee

BILL: CS/SB 1934

INTRODUCER: Criminal Justice Committee and Senator Oelrich

SUBJECT: Victims of Crime/Compensation

DATE: April 23, 2007

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dugger	Cannon	CJ	Fav/CS
2.			JU	
3.			JA	
4.				
5.				
6.				

I. Summary:

The bill amends the definition of the term “crime” for victim compensation purposes to remove the requirement that the vehicular homicide offense be a first degree felony. This will mean that all vehicular homicide offenses, regardless of the felony classification level, will be included in the list of offenses for which a victim may be eligible for compensation.

The bill also provides that a person who is a victim in another crime or case and whose testimony is proffered pursuant to s. 90.404(2), F.S., relating to similar fact evidence of other crimes or wrongs, is eligible for victim compensation awards.

It extends until June 30, 2008, the time for filing a compensation claim for crimes occurring between June 30, 1994, and June 30, 2007, if the claimant is a victim of an attempt to commit murder and is rendered a paraplegic requiring life-supporting or life-sustaining equipment as defined in s. 400.925, F.S., as a result of the crime.

Finally, the bill creates two new offenses (third and second degree felonies) for a person, who takes custody of or exercises control over a person he or she knows to be injured as a result of criminal activity, to deprive that person of medical care with the intent to avoid, delay, hinder, or obstruct any investigation of the criminal activity contributing to the injury.

This bill amends sections 960.03, 960.065, and 960.07, Florida Statutes.

II. Present Situation:

The Florida Crimes Compensation Act,¹ authorizes the Florida Attorney General's Division of Victim Services to administer a compensation program to ensure financial assistance for innocent victims of crime. Currently, only victims; intervenors; surviving spouses, parents or guardians, siblings, or children of a deceased victim or intervenor; and other persons who are dependent upon a deceased victim or intervenor are eligible for victim compensation awards.²

Currently, a claim for compensation must be filed no later than one year after:

- The occurrence of the crime upon which the claim is based;
- The death of the victim or intervenor;
- The death of the victim or intervenor is determined to be the result of a crime, and the crime occurred after June 30, 1994.³

For good cause, the Department of Legal Affairs may extend the time for filing a claim for compensation for two years after any of the above occurrences.⁴

The Act's definition of the term "crime" enumerates certain offenses for which a victim is eligible for compensation. Such offenses include driving an automobile or boat under the influence, leaving the scene of an accident, and operating an aircraft while intoxicated or in a careless or reckless manner.⁵ The definition of the term "crime" also includes vehicular homicide, but only when the offense is classified as a first degree felony.⁶

Vehicular homicide is the killing of a human being caused by the reckless operation of a motor vehicle in a manner likely to cause the death of, or great bodily harm to, another.⁷ Vehicular homicide is a second degree felony; however, the offense is reclassified to a first degree felony if the at-fault party knew or should have known that the accident occurred and the person failed to give information and render aid.⁸

The Florida Evidence Code⁹ allows similar fact evidence of other crimes, wrongs, or acts to be admissible in court when relevant to prove a material fact in issue, including, but not limited to, proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident, but it is inadmissible when the evidence is relevant solely to prove bad character or propensity.¹⁰ In a criminal case in which the defendant is charged with a crime involving child molestation, evidence of the defendant's commission of other crimes, wrongs, or

¹ ss. 960.01-960.28, F.S.

² s. 960.065, F.S.

³ s. 960.07, F.S.

⁴ *Id.*

⁵ s. 960.03(3)(b), F.S.

⁶ *Id.*

⁷ s. 782.071(1)(a), F.S.

⁸ s. 782.07(1)(b), F.S.

⁹ s. 90.404(2)(a), F.S.

¹⁰ The Florida Supreme Court established what is known as the "Williams Rule" in *Williams v. State*, 110 So.2d 654 (Fla. 1959), which held that evidence of any facts relevant to a material fact in issue, except where the sole relevancy is character or propensity of the accused, is admissible unless precluded by some specific exception or rule of exclusion.

acts of child molestation is admissible, and may be considered for its bearing on any matter to which it is relevant.¹¹

III. Effect of Proposed Changes:

The bill amends the definition of the term “crime” for victim compensation purposes to remove the requirement that the vehicular homicide offense be a first degree felony. As a result, all vehicular homicide offenses, regardless of the felony classification level, will be included in the list of offenses for which a victim may be eligible for compensation. Thus, even if the offender did not leave the scene of an accident, the victim will be eligible for compensation.

The bill also adds an additional category of persons who will be eligible for victim compensation awards. Specifically, the bill provides that a person who is a victim in another crime or case and whose testimony is proffered pursuant to s. 90.404(2), F.S., relating to similar fact evidence of crimes or wrongs, will be eligible for victim compensation awards.

In addition, the bill provides that for crimes occurring between June 30, 1994, and June 30, 2007, the Department of Legal Affairs may extend until June 30, 2008, the time for filing a claim for compensation if the claimant is a victim of an attempt to commit murder and is rendered a paraplegic requiring life-supporting or life-sustaining equipment as defined in s. 400.925, F.S., as a result of the crime.

Finally, the bill creates s. 843.21, F.S., making it a crime for a person, who takes custody of or exercises control over a person he or she knows to be injured as a result of criminal activity, to deprive that person of medical care with the intent to avoid, delay, hinder, or obstruct any investigation of the criminal activity contributing to the injury. The bill makes such crime a third degree felony¹² if the victim’s medical condition worsens as a result of the deprivation of medical care. It is a second degree felony¹³ if the deprivation of medical care results in the victim’s death. This provision of the bill has an effective date of October 1, 2007.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹¹ s. 90.404(2)(b), F.S.

¹² A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. ss. 775.082, 775.083, and 775.084, F.S.

¹³ A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. ss. 775.082, 775.083, and 775.084, F.S.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Certain victims who are not currently eligible for crimes compensation funds will become eligible under this bill (all vehicular homicide victims, victims who proffer testimony under s. 90.404(2), F. S., and specified victims rendered paralyzed who require life support equipment as a result of the crime).

C. Government Sector Impact:

The impact is indeterminate although the Department of Legal Affairs does estimate increased expenditures of \$2.8 million from the Crime Victims Compensation Trust Fund. The department's estimate is based on data gathered from eight of the state's 20 judicial circuits. The department notes that the information used for the estimate is incomplete and inconclusive. This calls into question the reliability of the data used for the estimate and any resulting conclusions. Despite these limitations, the department states that the potential fiscal impact on the Crime Victim Compensation Trust Fund will be significant. In defense of this conclusion, it cites a \$1.4 million impact from only considering the cases reported by the eight circuits that did report data. (These eight circuits do not include some of the more populous circuits in the state.)

The Crime Victim Compensation Trust Fund is projected to have a \$2.3 million unencumbered cash balance on June 30, 2008. If the department's estimated \$2.8 million impact materializes, this could require the department to reduce awards to individuals eligible for assistance under current law.

The Criminal Justice Impact Conference has not yet met to determine if there will be any prison bed impact as a result of this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
