

Bill No. SB 642

Barcode 040962

CHAMBER ACTION

Senate

House

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The Committee on Criminal Justice (Bennett) recommended the following amendment:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause

and insert:

Section 1. Paragraphs (t) and (u) are added to subsection (1) of section 960.001, Florida Statutes, to read:  
960.001 Guidelines for fair treatment of victims and witnesses in the criminal justice and juvenile justice systems.--

(1) The Department of Legal Affairs, the state attorneys, the Department of Corrections, the Department of Juvenile Justice, the Parole Commission, the State Courts Administrator and circuit court administrators, the Department of Law Enforcement, and every sheriff's department, police department, or other law enforcement agency as defined in s. 943.10(4) shall develop and implement guidelines for the use of their respective agencies, which guidelines are consistent with the purposes of this act and s. 16(b), Art. I of the

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1 State Constitution and are designed to implement the  
2 provisions of s. 16(b), Art. I of the State Constitution and  
3 to achieve the following objectives:

4       (t) Use of a polygraph examination or other  
5 truth-telling device with victim.--A law enforcement officer,  
6 prosecuting attorney, or other government official may not ask  
7 or require an adult, youth, or child victim of an alleged  
8 sexual battery as defined in chapter 794 or other sexual  
9 offense to submit to a polygraph examination or other  
10 truth-telling device as a condition of proceeding with the  
11 investigation of such an offense. The refusal of a victim to  
12 submit to such an examination does not prevent the  
13 investigation, charging, or prosecution of the offense.

14       (u) Presence of victim advocates during forensic  
15 medical examination.--At the request of the victim or the  
16 victim's parent, guardian, or lawful representative, a victim  
17 advocate from a certified rape crisis center shall be  
18 permitted to attend any forensic medical examination.

19       Section 2. Paragraph (a) of subsection (2) of section  
20 960.003, Florida Statutes, is amended to read:

21       960.003 Human immunodeficiency virus testing for  
22 persons charged with or alleged by petition for delinquency to  
23 have committed certain offenses; disclosure of results to  
24 victims.--

25       (2) TESTING OF PERSON CHARGED WITH OR ALLEGED BY  
26 PETITION FOR DELINQUENCY TO HAVE COMMITTED CERTAIN OFFENSES.--

27       (a) In any case in which a person has been charged by  
28 information or indictment with or alleged by petition for  
29 delinquency to have committed any offense enumerated in s.  
30 775.0877(1)(a)-(n), which involves the transmission of body  
31 fluids from one person to another, upon request of the victim

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1 or the victim's legal guardian, or of the parent or legal  
2 guardian of the victim if the victim is a minor, the court  
3 shall order such person to undergo HIV testing within 48  
4 hours.

5 Section 3. Subsection (3) of section 960.03, Florida  
6 Statutes, is amended to read:

7 960.03 Definitions; ss. 960.01-960.28.--As used in ss.  
8 960.01-960.28, unless the context otherwise requires, the  
9 term:

10 (3) "Crime" means:

11 (a) A felony or misdemeanor offense committed by  
12 either an adult or a juvenile which results in physical injury  
13 or death. The term also includes any such criminal act ~~which~~  
14 ~~is~~ committed within this state ~~but~~ which falls exclusively  
15 within federal jurisdiction.

16 (b) A violation of s. 316.193, s. 316.027(1), s.  
17 327.35(1), s. 782.071(1)(b), or s. 860.13(1)(a) which results  
18 in physical injury or death; however, any ~~no~~ other act  
19 involving the operation of a motor vehicle, boat, or aircraft  
20 which results in injury or death does not ~~shall~~ constitute a  
21 crime under ~~for the purpose of~~ this chapter unless the injury  
22 or death was intentionally inflicted through the use of such  
23 vehicle, boat, or aircraft or unless such vehicle, boat, or  
24 aircraft is an implement of a crime to which this act applies.

25 (c) A criminal act committed outside of this state  
26 against a resident of this state which would have been  
27 compensable if it had occurred in this state and which  
28 occurred in a state that does not have an eligible crime  
29 victim compensation program as the term is defined in the  
30 federal Victims of Crime Act of 1984.

31 ~~(d) An act of mass violence or an act of international~~

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1 ~~terrorism, as defined in 18 U.S.C. s. 2331, which is committed~~  
 2 ~~outside of the territorial boundaries of the United States~~  
 3 ~~upon a resident of this state, when such act results in~~  
 4 ~~physical injury or death and the person is not eligible for~~  
 5 ~~compensation under Title VIII of the Omnibus Diplomatic~~  
 6 ~~Security and Antiterrorism Act of 1986.~~

7 Section 4. Subsection (2) of section 960.28, Florida  
 8 Statutes, is amended to read:

9 960.28 Payment for victims' initial forensic physical  
 10 examinations.--

11 (2) The Crime Victims' Services Office of the  
 12 department shall pay for medical expenses connected with an  
 13 initial forensic physical examination of a victim ~~who reports~~  
 14 ~~a violation of sexual battery as defined in chapter 794 or a~~  
 15 ~~lewd or lascivious offense as defined in chapter 800 to a law~~  
 16 ~~enforcement officer.~~ Such payment shall be made regardless of  
 17 whether ~~or not~~ the victim is covered by health or disability  
 18 insurance ~~and whether the victim participates in the criminal~~  
 19 ~~justice system or cooperates with law enforcement.~~ The payment  
 20 shall be made only out of moneys allocated to the Crime  
 21 Victims' Services Office for the purposes of this section, and  
 22 the payment may not exceed ~~\$500~~ ~~\$250~~ with respect to any  
 23 violation. ~~Payment may not be made for an initial forensic~~  
 24 ~~physical examination unless the law enforcement officer~~  
 25 ~~certifies in writing that the initial forensic physical~~  
 26 ~~examination is needed to aid in the investigation of an~~  
 27 ~~alleged sexual offense and that the claimant is the alleged~~  
 28 ~~victim of the offense.~~ The department shall develop and  
 29 maintain separate protocols for the initial forensic physical  
 30 examination of adults and children. Payment under this section  
 31 is limited to medical expenses connected with the initial

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1 forensic physical examination, and payment may be made to a  
 2 medical provider using an examiner qualified under part I of  
 3 chapter 464, excluding s. 464.003(5); chapter 458; or chapter  
 4 459. Payment made to the medical provider by the department  
 5 shall be considered by the provider as payment in full for the  
 6 initial forensic physical examination associated with the  
 7 collection of evidence. The victim may not be required to pay,  
 8 directly or indirectly, the cost of an initial forensic  
 9 physical examination performed in accordance with this  
 10 section.

11 Section 5. This act shall take effect July 1, 2007.  
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14 ===== T I T L E A M E N D M E N T =====

15 And the title is amended as follows:

16 Delete everything before the enacting clause  
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18 and insert:

19 A bill to be entitled  
 20 An act relating to victims of crime; amending  
 21 s. 960.001, F.S.; providing that alleged  
 22 victims of sexual offenses may not be required  
 23 to submit to a polygraph or other truth-telling  
 24 examination as a condition of proceeding with  
 25 the investigation of such an offense; providing  
 26 that an alleged victim's refusal to submit to  
 27 such examination does not preclude  
 28 investigation, charging, or prosecution of the  
 29 alleged offense; providing for the presence of  
 30 victim advocates during forensic medical  
 31 examinations; amending s. 960.003, F.S.;

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1 requiring the court to order HIV testing of  
2 certain defendants within a specified period  
3 after a request by the victim; amending s.  
4 960.03, F.S.; redefining the term "crime" to  
5 exclude certain acts of mass violence or  
6 intentional terrorism; amending s. 960.28,  
7 F.S.; revising provisions concerning payment of  
8 initial forensic examinations of alleged  
9 victims of certain sexual offenses; providing  
10 an effective date.

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