

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: Judiciary Committee

BILL: CS/SB 642

INTRODUCER: Criminal Justice Committee and Senators Fasano and Crist

SUBJECT: Victims of Crime

DATE: April 23, 2007

REVISED: 4/23/07

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

Please see last section for Summary of Amendments

- Technical amendments were recommended
- Amendments were recommended
- Significant amendments were recommended

I. Summary:

This bill expands the rights and services for victims of sexual offenses, including sexual battery and lewd or lascivious offenses. Several of the proposed changes to ch. 960, F.S., are necessary to receive federal grant funding for law enforcement programs, victim advocacy services, and enhanced prosecution through the Violence Against Women Act.¹ The bill expands the rights and services for victims of sexual offenses as follows:

- Allows a victim advocate to be present (at a sexual offense victim's request) during the forensic medical exam;
- Provides that a criminal justice official (law enforcement officer, prosecuting attorney, or other government official) may not ask for or require a lie detector test to be taken by a victim before a law enforcement agency will investigate a sexual offense allegation;
- Requires the court to order prescribed defendants to undergo an HIV test within 48 hours after the court orders such testing (there is currently no required time limitation);
- Requires reimbursement from the Crime Victims' Services Office for the victim's initial forensic medical exam, regardless of whether the sexual offense victim reported the offense or cooperated with the investigation (which is currently required);

¹ 18 U.S.C.A. §§ 2261-2262 (West 2007).

- Increases the forensic medical exam reimbursement maximum amount from \$250 to \$500; and
- Permits a crime victim, who is a Florida resident, to be compensated when the crime occurs outside Florida, whether in another state or outside the United States, if such crime would otherwise be compensable had it occurred in Florida.

This bill substantially amends the following sections of the Florida Statutes: 960.001, 960.003, 960.03, and 960.28.

II. Present Situation:

Chapter 960, F.S., provides guidelines for the fair treatment of victims and witnesses in the criminal justice and juvenile justice systems. The chapter requires law enforcement to provide information concerning services available to crime victims, witnesses, and their families. There are also provisions regarding victim compensation for expenses incurred as a result of a crime.

Section 960.001, F.S., specifies the rights, services, and procedures associated with crime victims. Currently, law enforcement must inform victims of the availability of the crime victim compensation fund, crisis intervention services, support programs, their role in the criminal process, their right to be heard during stages of the proceedings, and their right to a timely disposition of the case. Victims, upon request, have the right to have a victim advocate present during a discovery deposition. There are also provisions for notification of next of kin, protection services, court scheduling, and notice to employers regarding assistance with the prosecution, as well as provisions for consultations concerning plea agreements, sentencing, and returning property.

Another protection under s. 960.003(2)(a), F.S., is allowing the victim or victim's parent or legal guardian to request that the court order an HIV test of the accused, if the accused has been charged with certain enumerated offenses involving the transmission of body fluids. Paragraph (b) of this section also allows such request, without requiring the offense to involve the transmission of body fluids, if the victim was under 18 years of age or was a disabled adult or elderly person.

Currently, the Crime Victims' Services Office of the Department of Legal Affairs pays for medical expenses associated with an initial forensic physical examination of a victim who reports the commission of a sexual battery or a lewd or lascivious offense to a law enforcement officer. The payment may not exceed \$250 and requires law enforcement to certify that the initial forensic physical examination is needed to aid in the investigation of an alleged sexual offense.²

III. Effect of Proposed Changes:

This bill expands the rights and services for victims of sexual offenses, including sexual battery and lewd or lascivious offenses. Several of the proposed changes to ch. 960, F.S., are necessary to receive federal grant funding for law enforcement programs, victim advocacy services, and enhanced prosecution through the Violence Against Women Act.³

² Section 960.28(2), F.S.

³ 18 U.S.C.A. §§ 2261-2262 (West 2007).

The bill provides for a victim advocate to be present during the forensic medical exam when requested by the victim, or the victim's parent, guardian, or lawful representative. The bill also amends the definition of "crime" under s. 960.03(3), F.S., which determines whether a person is a victim who may be eligible for compensation under ch. 960, F.S. The bill deletes a provision that currently includes certain acts of mass violence or intentional terrorism committed outside the United States upon a resident of Florida in the definition of "crime." However, the deleted provision appears to be subsumed by the bill language that expands the definition of crime. The bill expands the definition of crime to include criminal acts committed outside Florida, whether in another state (the current law) or outside the United States, if such crime would otherwise be compensable had it occurred in Florida.

Requirements Related to Federal Funding

The bill also prohibits a law enforcement officer, prosecuting attorney, or other government official from asking for or requiring a lie detector test to be taken by a victim before a law enforcement agency will investigate a sexual offense allegation. This provision is necessary to comply with a requirement for certain federal grants related to combating violent crimes against women.⁴

The bill requires the court to order prescribed defendants to undergo an HIV test within 48 hours after the court orders such testing (there is currently no required time limitation). This provision is necessary to comply with a requirement for certain federal grants related to policies and programs to encourage arrest and the enforcement of protection orders.⁵

The bill requires reimbursement from the Crime Victims' Services Office for the victim's initial forensic medical exam, regardless of whether the sexual offense victim reported the offense or cooperated with the investigation. Current law requires the sexual offense victim to report the offense and to cooperate with the investigation. The bill also increases the forensic medical exam reimbursement maximum amount from \$250 to \$500. These provisions are necessary to comply with a requirement for certain federal grants related to combating violent crimes against women.⁶

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

⁴ See 42 U.S.C.A. § 3796gg-8 (West 2007).

⁵ See 42 U.S.C.A. § 3796hh (West 2007).

⁶ See 42 U.S.C.A. §§ 3796gg-1, 3796gg-4 (West 2007).

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:

According to the Crime Victims' Services Office within the Department of Legal Affairs (department), the bill will result in increasing the amount reimbursed for victims' initial forensic physical examinations from about \$1.2 million to approximately \$2.4 million per year. The department further states that the Crimes Compensation Trust Fund has sufficient funds to cover this increased expenditure. The department is unable to determine, however, what the impact will be upon the trust fund as a result of the expanded coverage for victims not reporting sexual battery incidents.

According to the Florida Council Against Sexual Violence, this bill will continue to make Florida eligible for receiving federal funding under the Violence Against Women Act.⁷ The Florida Council Against Sexual Violence indicated that Florida currently receives approximately \$6.1 million annually to support law enforcement and prosecutorial domestic violence and sexual assault special projects.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

⁷ 18 U.S.C.A. §§ 2261-2262 (West 2007).

VIII. Summary of Amendments:

Barcode 652156 by Judiciary:

Adds missing descriptor “asked or” to the bill title. (TITLE AMENDMENT)

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