

By the Committee on Criminal Justice; and Senator Fasano

591-2356-07

1 A bill to be entitled
2 An act relating to victims of crime; amending
3 s. 960.001, F.S.; providing that alleged
4 victims of sexual offenses may not be required
5 to submit to a polygraph or other truth-telling
6 examination as a condition of proceeding with
7 the investigation of such an offense; providing
8 that an alleged victim's refusal to submit to
9 such examination does not preclude
10 investigation, charging, or prosecution of the
11 alleged offense; providing for the presence of
12 victim advocates during forensic medical
13 examinations; amending s. 960.003, F.S.;
14 requiring the court to order HIV testing of
15 certain defendants within a specified period
16 after a request by the victim; amending s.
17 960.03, F.S.; redefining the term "crime" to
18 include criminal acts committed outside the
19 state in another jurisdiction; amending s.
20 960.28, F.S.; revising provisions concerning
21 payment of initial forensic examinations of
22 alleged victims of certain sexual offenses;
23 providing an effective date.

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25 Be It Enacted by the Legislature of the State of Florida:

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27 Section 1. Paragraphs (t) and (u) are added to
28 subsection (1) of section 960.001, Florida Statutes, to read:
29 960.001 Guidelines for fair treatment of victims and
30 witnesses in the criminal justice and juvenile justice
31 systems.--

1 (1) The Department of Legal Affairs, the state
2 attorneys, the Department of Corrections, the Department of
3 Juvenile Justice, the Parole Commission, the State Courts
4 Administrator and circuit court administrators, the Department
5 of Law Enforcement, and every sheriff's department, police
6 department, or other law enforcement agency as defined in s.
7 943.10(4) shall develop and implement guidelines for the use
8 of their respective agencies, which guidelines are consistent
9 with the purposes of this act and s. 16(b), Art. I of the
10 State Constitution and are designed to implement the
11 provisions of s. 16(b), Art. I of the State Constitution and
12 to achieve the following objectives:

13 (t) Use of a polygraph examination or other
14 truth-telling device with victim.--A law enforcement officer,
15 prosecuting attorney, or other government official may not ask
16 or require an adult, youth, or child victim of an alleged
17 sexual battery as defined in chapter 794 or other sexual
18 offense to submit to a polygraph examination or other
19 truth-telling device as a condition of proceeding with the
20 investigation of such an offense. The refusal of a victim to
21 submit to such an examination does not prevent the
22 investigation, charging, or prosecution of the offense.

23 (u) Presence of victim advocates during forensic
24 medical examination.--At the request of the victim or the
25 victim's parent, guardian, or lawful representative, a victim
26 advocate from a certified rape crisis center shall be
27 permitted to attend any forensic medical examination.

28 Section 2. Paragraphs (a) and (b) of subsection (2) of
29 section 960.003, Florida Statutes, are amended to read:

30 960.003 Human immunodeficiency virus testing for
31 persons charged with or alleged by petition for delinquency to

1 | have committed certain offenses; disclosure of results to
2 | victims.--

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

5 | (a) In any case in which a person has been charged by
6 | information or indictment with or alleged by petition for
7 | delinquency to have committed any offense enumerated in s.
8 | 775.0877(1)(a)-(n), which involves the transmission of body
9 | fluids from one person to another, upon request of the victim
10 | or the victim's legal guardian, or of the parent or legal
11 | guardian of the victim if the victim is a minor, the court
12 | shall order such person to undergo HIV testing within 48 hours
13 | after the court order.

14 | (b) However, when a victim of any sexual offense
15 | enumerated in s. 775.0877(1)(a)-(n) is under the age of 18 at
16 | the time the offense was committed or when a victim of any
17 | sexual offense enumerated in s. 775.0877(1)(a)-(n) or s.
18 | 825.1025 is a disabled adult or elderly person as defined in
19 | s. 825.1025 regardless of whether the offense involves the
20 | transmission of bodily fluids from one person to another, then
21 | upon the request of the victim or the victim's legal guardian,
22 | or of the parent or legal guardian, the court shall order such
23 | person to undergo HIV testing within 48 hours after the court
24 | order. The testing shall be performed under the direction of
25 | the Department of Health in accordance with s. 381.004. The
26 | results of an HIV test performed on a defendant or juvenile
27 | offender pursuant to this subsection shall not be admissible
28 | in any criminal or juvenile proceeding arising out of the
29 | alleged offense.

30 | Section 3. Subsection (3) of section 960.03, Florida
31 | Statutes, is amended to read:

1 960.03 Definitions; ss. 960.01-960.28.--As used in ss.
2 960.01-960.28, unless the context otherwise requires, the
3 term:

4 (3) "Crime" means:

5 (a) A felony or misdemeanor offense committed by
6 either an adult or a juvenile which results in physical injury
7 or death. The term also includes any such criminal act ~~which~~
8 ~~is~~ committed within this state ~~but~~ which falls exclusively
9 within federal jurisdiction.

10 (b) A violation of s. 316.193, s. 316.027(1), s.
11 327.35(1), s. 782.071(1)(b), or s. 860.13(1)(a) which results
12 in physical injury or death; however, any ~~no~~ other act
13 involving the operation of a motor vehicle, boat, or aircraft
14 which results in injury or death does not ~~shall~~ constitute a
15 crime under ~~for the purpose of~~ this chapter unless the injury
16 or death was intentionally inflicted through the use of such
17 vehicle, boat, or aircraft or unless such vehicle, boat, or
18 aircraft is an implement of a crime to which this act applies.

19 (c) A criminal act committed outside of this state
20 against a resident of this state which would have been
21 compensable if it had occurred in this state and which
22 occurred in a jurisdiction ~~state~~ that does not have an
23 eligible crime victim compensation program as the term is
24 defined in the federal Victims of Crime Act of 1984.

25 ~~(d) An act of mass violence or an act of international~~
26 ~~terrorism, as defined in 18 U.S.C. s. 2331, which is committed~~
27 ~~outside of the territorial boundaries of the United States~~
28 ~~upon a resident of this state, when such act results in~~
29 ~~physical injury or death and the person is not eligible for~~
30 ~~compensation under Title VIII of the Omnibus Diplomatic~~
31 ~~Security and Antiterrorism Act of 1986.~~

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

3 960.28 Payment for victims' initial forensic physical
4 examinations.--

5 (2) The Crime Victims' Services Office of the
6 department shall pay for medical expenses connected with an
7 initial forensic physical examination of a victim ~~who reports~~
8 ~~a violation of sexual battery as defined in chapter 794 or a~~
9 ~~lewd or lascivious offense as defined in chapter 800 to a law~~
10 ~~enforcement officer~~. Such payment shall be made regardless of
11 whether ~~or not~~ the victim is covered by health or disability
12 insurance and whether the victim participates in the criminal
13 justice system or cooperates with law enforcement. The payment
14 shall be made only out of moneys allocated to the Crime
15 Victims' Services Office for the purposes of this section, and
16 the payment may not exceed ~~\$500~~\$250 with respect to any
17 violation. ~~Payment may not be made for an initial forensic~~
18 ~~physical examination unless the law enforcement officer~~
19 ~~certifies in writing that the initial forensic physical~~
20 ~~examination is needed to aid in the investigation of an~~
21 ~~alleged sexual offense and that the claimant is the alleged~~
22 ~~victim of the offense~~. The department shall develop and
23 maintain separate protocols for the initial forensic physical
24 examination of adults and children. Payment under this section
25 is limited to medical expenses connected with the initial
26 forensic physical examination, and payment may be made to a
27 medical provider using an examiner qualified under part I of
28 chapter 464, excluding s. 464.003(5); chapter 458; or chapter
29 459. Payment made to the medical provider by the department
30 shall be considered by the provider as payment in full for the
31 initial forensic physical examination associated with the

1 collection of evidence. The victim may not be required to pay,
2 directly or indirectly, the cost of an initial forensic
3 physical examination performed in accordance with this
4 section.

5 Section 5. This act shall take effect July 1, 2007.

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7 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
8 COMMITTEE SUBSTITUTE FOR
9 Senate Bill 642

- 10 1. Deletes the section of the bill expanding domestic
11 violence victim relocation assistance to sexual offense
12 2. Deletes language allowing victim advocates to be present
13 in law enforcement interviews.
14 3. Adds language allowing crime victims, who are Florida
15 citizens, to be compensated when the crime occurs outside
16 the country, providing such victims would otherwise be
17 eligible to receive such compensation if the crime had
18 occurred in Florida.
19 4. Clarifies that a HIV test, if requested by the victim,
20 would be administered within 48 hours of a court order
21 requiring the defendant to submit to such testing.
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