

1 A bill to be entitled
 2 An act relating to crime victims; amending s. 960.001,
 3 F.S.; providing that alleged victims of sexual offenses
 4 shall not be required to submit to a polygraph or other
 5 truth-telling examination as a condition of proceeding
 6 with the investigation of such an offense; providing that
 7 refusal of the alleged victim to submit to such
 8 examination does not preclude investigation, charging, or
 9 prosecution of the alleged offense; providing for the
 10 presence of victim advocates during forensic medical
 11 examinations; amending s. 960.003, F.S.; requiring that
 12 HIV testing of certain defendants be ordered within a
 13 specified period; amending s. 960.03, F.S.; revising the
 14 definition of "crime" for specified purposes; amending s.
 15 960.28, F.S.; revising provisions relating to payment of
 16 initial forensic examinations of alleged victims of
 17 certain sexual offenses; providing an effective date.

18
 19 Be It Enacted by the Legislature of the State of Florida:

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 21 Section 1. Paragraphs (t) and (u) are added to subsection
 22 (1) of section 960.001, Florida Statutes, to read:

23 960.001 Guidelines for fair treatment of victims and
 24 witnesses in the criminal justice and juvenile justice
 25 systems.--

26 (1) The Department of Legal Affairs, the state attorneys,
 27 the Department of Corrections, the Department of Juvenile
 28 Justice, the Parole Commission, the State Courts Administrator

29 and circuit court administrators, the Department of Law
 30 Enforcement, and every sheriff's department, police department,
 31 or other law enforcement agency as defined in s. 943.10(4) shall
 32 develop and implement guidelines for the use of their respective
 33 agencies, which guidelines are consistent with the purposes of
 34 this act and s. 16(b), Art. I of the State Constitution and are
 35 designed to implement the provisions of s. 16(b), Art. I of the
 36 State Constitution and to achieve the following objectives:

37 (t) Use of a polygraph examination or other truth-telling
 38 device with victim.--No law enforcement officer, prosecuting
 39 attorney, or other government official shall ask or require an
 40 adult, youth, or child victim of an alleged sexual battery as
 41 defined in chapter 794 or other sexual offense to submit to a
 42 polygraph examination or other truth-telling device as a
 43 condition of proceeding with the investigation of such an
 44 offense. The refusal of a victim to submit to such an
 45 examination shall not prevent the investigation, charging, or
 46 prosecution of the offense.

47 (u) Presence of victim advocates during forensic medical
 48 examination.--At the request of the victim or the victim's
 49 parent, guardian, or lawful representative, a victim advocate
 50 from a certified rape crisis center shall be permitted to attend
 51 any forensic medical examination.

52 Section 2. Subsection (2) of section 960.003, Florida
 53 Statutes, is amended to read:

54 960.003 HIV ~~Human immunodeficiency virus~~ testing for
 55 persons charged with or alleged by petition for delinquency to

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56 have committed certain offenses; disclosure of results to
57 victims.--

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

60 (a) In any case in which a person has been charged by
61 information or indictment with or alleged by petition for
62 delinquency to have committed any offense enumerated in s.
63 775.0877(1)(a)-(n), which involves the transmission of body
64 fluids from one person to another, upon request of the victim or
65 the victim's legal guardian, or of the parent or legal guardian
66 of the victim if the victim is a minor, the court shall order
67 such person to undergo HIV testing within 48 hours of the court
68 order.

69 (b) However, when a victim of any sexual offense
70 enumerated in s. 775.0877(1)(a)-(n) is under the age of 18 at
71 the time the offense was committed or when a victim of any
72 sexual offense enumerated in s. 775.0877(1)(a)-(n) or s.
73 825.1025 is a disabled adult or elderly person as defined in s.
74 825.1025 regardless of whether the offense involves the
75 transmission of bodily fluids from one person to another, then
76 upon the request of the victim or the victim's legal guardian,
77 or of the parent or legal guardian, the court shall order such
78 person to undergo HIV testing within 48 hours of the court
79 order. The testing shall be performed under the direction of the
80 Department of Health in accordance with s. 381.004. The results
81 of an HIV test performed on a defendant or juvenile offender
82 pursuant to this subsection shall not be admissible in any

83 criminal or juvenile proceeding arising out of the alleged
84 offense.

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

87 960.03 Definitions; ss. 960.01-960.28.--As used in ss.
88 960.01-960.28, unless the context otherwise requires, the term:

89 (3) "Crime" means:

90 (a) A felony or misdemeanor offense committed by either an
91 adult or a juvenile which results in physical injury or death.
92 The term also includes any such criminal act which is committed
93 within this state but which falls exclusively within federal
94 jurisdiction.

95 (b) A violation of s. 316.193, s. 316.027(1), s.
96 327.35(1), s. 782.071(1)(b), or s. 860.13(1)(a) which results in
97 physical injury or death; however, no other act involving the
98 operation of a motor vehicle, boat, or aircraft which results in
99 injury or death shall constitute a crime for the purpose of this
100 chapter unless the injury or death was intentionally inflicted
101 through the use of such vehicle, boat, or aircraft or unless
102 such vehicle, boat, or aircraft is an implement of a crime to
103 which this act applies.

104 (c) A criminal act committed outside of this state against
105 a resident of this state which would have been compensable if it
106 had occurred in this state and which occurred in a jurisdiction
107 ~~state~~ that does not have an eligible crime victim compensation
108 program as the term is defined in the federal Victims of Crime
109 Act of 1984.

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

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

119 960.28 Payment for victims' initial forensic physical
120 examinations.--

121 (2) The Crime Victims' Services Office of the department
122 shall pay for medical expenses connected with an initial
123 forensic physical examination of a victim of sexual battery as
124 defined in ~~who reports a violation of~~ chapter 794 or a lewd or
125 lascivious offense as defined in chapter 800 ~~to a law~~
126 ~~enforcement officer~~. Such payment shall be made regardless of
127 whether ~~or not~~ the victim is covered by health or disability
128 insurance and whether the victim participates in the criminal
129 justice system or cooperates with law enforcement. The payment
130 shall be made only out of moneys allocated to the Crime Victims'
131 Services Office for the purposes of this section, and the
132 payment may not exceed \$500 ~~\$250~~ with respect to any violation.
133 ~~Payment may not be made for an initial forensic physical~~
134 ~~examination unless the law enforcement officer certifies in~~
135 ~~writing that the initial forensic physical examination is needed~~
136 ~~to aid in the investigation of an alleged sexual offense and~~
137 ~~that the claimant is the alleged victim of the offense. The~~

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138 department shall develop and maintain separate protocols for the
139 initial forensic physical examination of adults and children.
140 Payment under this section is limited to medical expenses
141 connected with the initial forensic physical examination, and
142 payment may be made to a medical provider using an examiner
143 qualified under part I of chapter 464, excluding s. 464.003(5);
144 chapter 458; or chapter 459. Payment made to the medical
145 provider by the department shall be considered by the provider
146 as payment in full for the initial forensic physical examination
147 associated with the collection of evidence. The victim may not
148 be required to pay, directly or indirectly, the cost of an
149 initial forensic physical examination performed in accordance
150 with this section.

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