

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Judiciary

BILL: SB 1362

INTRODUCER: Senator Simmons

SUBJECT: Department of Legal Affairs

DATE: March 9, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Caldwell	Cibula	JU	Pre-meeting
2.			ACJ	
3.			AP	

I. Summary:

SB 1362 makes changes to laws enforced by or governing the Office of the Attorney General, also known as the Department of Legal Affairs and includes the Office of Statewide Prosecution.

The bill:

- Revises the list of offenses to include kidnapping, false imprisonment, luring or enticing a child, or custody offenses facilitated by or connected to the use of the Internet that may be investigated and prosecuted by the Office of Statewide Prosecution.
- Provides authority to purchase promotional materials and basic refreshments for public training and information sessions.
- Allows the Medicaid Fraud unit to use a percentage of the recovered funds, deposited into the Operating Trust Fund, to fund investigations and enforcement actions.
- Updates references of federal consumer protection laws that are incorporated into the statutes.
- Revises Victim Assistance awards criteria to:
 - provide for maximum lifetime amounts,
 - expand definitions to broaden coverage for elderly persons or disabled adults who suffer a property loss, and
 - provide for relocation assistance for human trafficking victims.
- Makes necessary conforming and technical changes.

This bill may have a fiscal impact.

II. Present Situation:

For discussion of the provisions of ss. 16.56, 409.9203, 501.203, 501.204, 960.03, 960.13, 960.195, 960.198, and 960.199, F.S., that are amended and ss. 16.62 and 960.196, F.S., that are created by the bill, see the “effect of Proposed Changes” section of this analysis.

III. Effect of Proposed Changes:

Attorney General

Section 16.56, F.S., creates within the Department of Legal Affairs (department) a separate entity of the Office of Statewide Prosecution and provides for its authority and duties that include investigating and prosecuting certain offenses.

Section 1 amends s. 16.56, F.S., to authorize the Office of Statewide Prosecution to investigate and prosecute kidnapping, false imprisonment, luring or enticing a child, or custody offenses facilitated by or connected to the use of the internet. Technical changes are also made in this section.

The department conducts public training and informational sessions from time to time. **Section 2** creates s. 16.62, F.S., to authorize the department to expend not more than \$20,000 annually to purchase and distribute promotional materials or items that serve to advance with dignity and integrity the goodwill of the state and the department and to provide basic refreshments at official functions, seminars, or meetings of the department in which dignitaries or representatives from the federal government, other states, or nations, or other agencies are in attendance.

A Medicaid Fraud Control Unit is created in the department to investigate all violations of Medicaid Provider Fraud.¹ The Department of Law Enforcement or the director of the Medicaid Provider Fraud unit are required to pay rewards for reporting Medicaid fraud if certain requirements are met. Section 68.082, F.S., provides for actions of false claims against the state. Section 68.085, F.S., provides for awards to certain plaintiffs from proceeds of an action or settlement of a claim. Section 409.9203, F.S., provides for rewards to a person who furnishes original information relating to and reports a violation of the state's Medicaid fraud laws. The award must be paid from the Operating Trust Fund moneys collected pursuant to s. 68.085, F.S. Section 68.085(3), F.S., provides for 10 percent of the remaining proceeds be deposited into the Operating Trust Fund for payment of rewards.

Section 3 amends s. 409.9203, F.S., to add a new subsection that requires 50 percent of the 10 percent of the remaining proceeds described in s. 68.085(3), F.S., be used to fund rewards for reporting Medicaid fraud and authorizes the Medicaid Fraud Control Unit to use the remaining 50 percent to fund its investigations of potential violations for false claims against the state² and any related civil actions.

Consumer Protection

Chapter 501, F.S., provides for the protection of Florida's consumers. In addition to the laws prescribed by the Legislature, rules of the Federal Trade Commission (FTC), standards of unfairness and deception set forth and interpreted by the FTC or the federal courts, and any law, statute, rule regulation, or ordinance which proscribes unfair methods of competition, or unfair, deceptive, or unconscionable acts or practices as of July 1, 2013, are incorporated by reference in the definition of the term "violation of this part." In construing the unfair methods of

¹ Section 409.920, F.S.

² Section 68.082, F.S.

competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce that are unlawful, due consideration and weight must be given to the interpretations of the FTC and federal courts relating to certain provisions³ of the Federal Trade Commission Act as of July 1, 2013. **Sections 4 and 5** amend ss. 501.203 and 501.204, F.S., change the date of July 1, 2013, to July 1, 2015, thereby updating the federal law the department may use to protect Florida consumers.

Victim Assistance

The provisions of ss. 960.01 - 960.28, F.S., are known as the “Florida Crimes Compensation Act.” Section 960.03, F.S., provides for definitions, including the terms “crime” and “disabled adult.” Victims who suffer personal physical injury or death as a direct result of a crime are eligible for awards.

Section 6 amends s. 960.03, F.S., by adding the offense “a forcible felony committed by an adult or juvenile which directly results in psychiatric or psychological injury” to the definition of the term “crime.” A driver of a vehicle involved in a crash occurring on public or private property which results in injury to a person other than serious bodily injury, in serious bodily injury to a person, or in the death of a person,⁴ or fleeing or attempting to elude a law enforcement officer⁵ are also added to the elements of that definition. Finally, the element of a crime involving the operation of a motor vehicle, boat, or aircraft which results in another person’s injury or death, is clarified to require the act to be “intentionally inflicted through the use of the vehicle, boat, or aircraft.” The amendment adds that “no other act involving the operation of a motor vehicle, boat, or aircraft constitutes a crime for purposes of the chapter.”

The term “disabled adult” means a person 18 years of age or older who suffers from a condition of physical or mental incapacitation due to a developmental disability or organic brain damage or mental limitation that restrict the person’s ability to perform the normal activities of daily living. The term is expanded to include “mental illness” or “who has one or more physical limitations.”

Section 960.13, F.S., provides for awards of compensation to victims. The department must find that a crime was committed, that the crime directly resulted in personal injury to, psychiatric or psychological injury to, or death of, the victim or intervenor, and the crime was promptly reported to the proper authorities to make an award. Any award made pursuant to the chapter must be reduced by the amount of any payments or services received or to be received as a result of the injury or death from certain sources that provide services. An exception is made for an award for loss of support in that it will not be reduced. **Section 7** adds to the reduction exception awards for catastrophic injury.

Section 960.195, F.S., provides awards to elderly persons or disabled adults for property loss that causes a substantial diminution of the quality of life. The department may award a maximum of \$500 when:

- There is proof that a criminal or delinquent act was committed,

³ Section 5(a)(1) of 15 U.S.C. s. 45(a)(1).

⁴ Section 316.027(2), F.S.

⁵ Section 316.1935, F.S.

- The criminal or delinquent act is reported to law enforcement authorities within 72 hours,
- The victim cooperates with law enforcement authorities in the investigation,
- There is proof that the tangible personal property in question belonged to the claimant,
- The claimant did not contribute to the criminal or delinquent act,
- There is no other source of reimbursement or indemnification available to the claimant, and
- The claimant would not be able to replace the tangible personal property in question without incurring a serious financial hardship.

Section 8 amends s. 960.195, F.S., to limit the amount of the claim to \$500 on any one claim and a lifetime maximum of \$1,000 for all claims. The department may waive the 72 hour requirement if it finds that the delay was justified by good cause shown. The department is authorized to deny, reduce, or withdraw any award if it finds that a claimant or award recipient has not cooperated with the state attorney, all law enforcement agencies, and the department.

Section 960.07, F.S., provides the general process and criteria for filing of claims for compensation by an eligible person and s. 960.13, F.S., provides generally for awards. In addition to this award and compensation, **section 9** creates s. 960.196, F.S., relating to relocation assistance for victims of human trafficking. This new section authorizes the department to award a one-time payment of up to \$1,500 for any one claim and a lifetime maximum of \$3,000 to a victim of human trafficking who needs urgent assistance to escape from an unsafe environment directly related to the human trafficking offense. For the victim to be awarded the compensation:

- There must be proof that a human trafficking offense⁶ was committed.
- The crime must be reported to the proper authorities and the claim must be filed within 1 year, or 2 years with good cause, after the date of the last human trafficking offense.⁷
 - A certified domestic violence or rape crisis center in the state must certify the victim's need to escape from an unsafe environment. The center must assert in its certification that the victim is cooperating with the proper authorities and must include documentation that the victim has developed a safety plan.
 - A state attorney, statewide prosecutor, or federal prosecutor may certify in writing that a human trafficking victim's need to relocate from an unsafe environment due to the threat of future violence which is directly related to the human trafficking offense in a case that exceeds the 2-year requirement.

The department must deny relocation payments for a human trafficking claim if it has previously approved or paid out a domestic violence or sexual battery relocation claim under s. 960.198, F.S., or s. 960.199, F.S.

Section 960.198, F.S., provides for relocation assistance for victims of domestic violence. Under this section, the department may award a one-time payment of up to \$1,500 on any one claim and a lifetime maximum of \$3,000 to a victim of domestic violence who needs immediate assistance to escape from a domestic violence environment. Certain criteria must be met to receive the reward and when the claim must be denied by the department. **Section 10** amends this section to add human trafficking to the list of claims that should not be paid out if a claim has already been paid by the department for the same incident.

⁶ See s. 787.06(3)(b), (d), (f), or (g), F.S.

⁷ *Id.*

Section 960.199, F.S., provides for relocation assistance for victims of sexual battery or human trafficking. **Section 11** amends this section to remove references to human trafficking that are now addressed in s. 960.196, F.S.

Section 12 provides that the act takes effect July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

If award for victim assistance benefits are capped, citizens are limited in the amount of lifetime awards that they may receive.

C. Government Sector Impact:

Because awards for victim assistance are capped in certain instances, cost to the state will be less by an indeterminate amount.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 16.56, 409.9203, 501.203, 501.204, 960.03, 960.13, 960.195, 960.198, and 960.199.

This bill creates sections 16.62 and 960.196 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

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