

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1189 Victims of Sexual Offenses

**SPONSOR(S):** Criminal Justice & Public Safety Subcommittee, Fine and others

**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice & Public Safety Subcommittee	18 Y, 0 N, As CS	Padgett	Hall
2) Health & Human Services Committee	21 Y, 0 N	Guzzo	Calamas
3) Judiciary Committee			

### SUMMARY ANALYSIS

A sexual assault response team (SART) is a community-based team that convenes regularly and coordinates the local response to sexual assault victims. SARTs are often comprised of sexual assault nurse examiners, sexual assault victim advocates, law enforcement officials, and prosecutors. These teams work to develop a stronger understanding of victimization and the positive effects of trauma-informed training. SARTs support victims, provide expertise for prosecution, and maintain a victim-centered approach to review sexual assault case files.

CS/HB 1189 establishes duties and functions for SART in Florida. It requires a SART to:

- Meet at least quarterly to ensure a coordinated multidisciplinary response to sexual violence;
- Develop a written protocol to govern the team's response to a reported sexual assault, including, but not limited to, procedures for law enforcement investigation, evidence retention, and victim services; and
- Promote and support the use of sexual assault forensic examiners who have received a minimum of 40 hours of specialized training in the provision of trauma-informed medical care and in the collection of evidence for sexual assault victims.

Under the bill, a SART must include the following members or their designees:

- The director of the local certified rape crisis center;
- A representative from the local county health department;
- The state attorney;
- The chief of a police department located in the county;
- The county sheriff;
- A forensic sexual assault nurse examiner; and
- A representative from a local hospital emergency department in the county or region.

The bill requires each county health department, or a county health department's designee, to participate in a SART coordinated by the certified rape crisis center serving a county or region, if a SART exists. The bill specifies that a certified rape crisis center serving a county may coordinate with community partners to establish a SART in a county or region if a SART does not currently exist. It requires the Florida Council Against Sexual Violence (FCASV) to provide technical assistance relating to the development and implementation of the SARTs.

The bill has an insignificant negative fiscal impact on state and local governments.

The bill provides an effective date of July 1, 2021.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Background

##### Sexual Battery

Sexual battery is defined in s. 794.011(1)(h), F.S., as oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object. The felony offense level for sexual battery varies based on the offender's age, the victim's age, and other specified circumstances, as follows:

Offender's Age	Victim's Age	Special Circumstances Present	Felony Level
≥ 18 yrs.	< 12 yrs.	Injures the victim's sexual organs	Capital
< 18 yrs.	< 12 yrs.	Injures the victim's sexual organs	Life
No age requirement	≥ 12 yrs.	Uses or threatens to use a deadly weapon or uses actual physical force likely to cause serious personal injury	Life
≥ 18 yrs.	≥ 12 yrs., but < 18 yrs.	Any circumstance listed in s. 794.011(4)(e), F.S.	First
≥ 18 yrs.	≥ 18 yrs.	Any circumstance listed in s. 794.011(4)(e), F.S.	First
< 18 yrs.	≥ 12 yrs.	Any circumstance listed in s. 794.011(4)(e), F.S.	First
No age requirement	≥ 12 yrs.	Any circumstance listed in s. 794.011(4)(e), F.S., and offender was previously convicted of an enumerated sexually motivated offense against a child	First
≥ 18 yrs.	≥ 12 yrs., but < 18 yrs.	No physical force or violence likely to cause serious personal injury	First
≥ 18 yrs.	≥ 18 yrs.	No physical force or violence likely to cause serious personal injury	Second
< 18 yrs.	≥ 12 yrs.	No physical force or violence likely to cause serious personal injury	Second
No age requirement	≥ 12 yrs.	No physical force or violence likely to cause serious personal injury but offender was previously convicted of an enumerated sexually motivated offense against a child	First

##### Sexual Battery Victim Services

Current law requires any licensed facility which provides emergency room services to arrange for appropriate medical attention and treatment of victims of sexual assault through:

- Gynecological, psychological, and medical services as are needed by the victim;
- The gathering of forensic medical evidence required for investigation and prosecution from a victim who has reported a sexual battery to a law enforcement agency or who requests that such evidence be gathered for a possible future report; and
- The training of medical support personnel competent to provide such medical services and treatment.<sup>1</sup>

The Office of the Attorney General (OAG) reimburses medical providers up to \$1,000 for an initial forensic examination.<sup>2</sup> Additionally, relocation assistance for victims of sexual battery can be provided

by the OAG up to \$1,500 on any one claim and a lifetime maximum of \$3,000.<sup>3</sup> Section 794.052, F.S., requires the law enforcement officer investigating a sexual battery to:

- Provide or arrange for transportation of a victim of sexual battery to an appropriate facility for medical treatment or forensic examination;
- Immediately notify a sexual battery victim of his or her legal rights and remedies;
- Assist a victim in obtaining any necessary medical treatment resulting from the alleged incident, a forensic examination, and crisis-intervention services from a certified rape crisis center;
- Provide for a review of a law enforcement officer's final report by a victim and an opportunity for a statement about the report by the victim; and
- Advise a sexual battery victim of the contact information of a certified rape crisis center and the services a rape crisis center provides.<sup>4</sup>

Services in the aftermath of a sexual battery are generally provided locally by certified rape crisis centers and volunteers. A "rape crisis center" is a public or private agency that offers assistance to victims of sexual assault or sexual battery and their families.<sup>5</sup> The Florida Council Against Sexual Violence (FCASV) is a statewide nonprofit organization that offers training and technical assistance to agencies seeking to improve the services they provide to sexual assault victims.<sup>6</sup> The FCASV certifies rape crisis centers.<sup>7</sup>

### Sexual Assault Response Teams

The Florida Council Against Sexual Violence (FCASV) is "a statewide nonprofit organization committed to victims and survivors of sexual violence and the sexual assault crisis programs that serve them".<sup>8</sup> The FCASV certifies rape crisis centers to ensure core services are provided throughout the state.<sup>9</sup> System coordination, including establishing or participating in a local sexual assault response team (SART), is a core service.<sup>10</sup>

A SART is a community-based team that convenes regularly and coordinates the local response to sexual assault victims. SARTs are often comprised of sexual assault nurse examiners<sup>11</sup>, sexual assault victim advocates, law enforcement officials, and prosecutors. These teams work to develop a stronger understanding of victimization and the positive effects of trauma-informed training. SARTs support victims, provide expertise for prosecution, and maintain a victim-centered approach to review sexual assault case files.<sup>12</sup>

There are currently 31 certified rape crisis centers in Florida<sup>13</sup> convening and coordinating local SARTs in their service area, which include 65 of Florida's 67 counties.<sup>14</sup> Currently, there is not a certified rape crisis center in Monroe County but the FCASV has posted an employee there to serve as the SART coordinator/advocate.<sup>15</sup> Citrus County is the only county without a SART operating in its jurisdiction.<sup>16</sup>

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<sup>2</sup> S. 960.28(2), F.S.

<sup>3</sup> S. 960.199(1), F.S.

<sup>4</sup> Ss. 794.052 and 960.001(1)(u), F.S.

<sup>5</sup> S. 90.5035(1)(a), F.S.

<sup>6</sup> Florida Coalition Against Sexual Violence, *About FCASV*, <https://www.fcasv.org/about-fcasv> (last visited April 11, 2021).

<sup>7</sup> *Id.*

<sup>8</sup> Florida Council Against Sexual Violence, *About FCASV*, available at <https://www.fcasv.org/about-fcasv> (last visited April 11, 2021).

<sup>9</sup> Florida Department of Health, *Agency Bill Analysis of 2021 HB 1189*, (April 12, 2021).

<sup>10</sup> *Id.* System coordination is defined as the development of working relationships and agreements (formal and informal) among programs and providers with a role in the provision of sexual violence services, in order to ensure a survivor's access to the full array of both core and enhanced services.

<sup>11</sup> A sexual assault nurse examiner is a medical professional who has completed a 40 hour training course on conducting a forensic medical examination on a sexual assault victim.

<sup>12</sup> Sexual Assault Kit Initiative and RTI International, *A Multidisciplinary Approach to Cold Case Sexual Assault: Guidance for Establishing an MDT or a SART*, <https://www.sakitta.org/toolkit/docs/A-Multidisciplinary-Approach-to-Cold-Case-Sexual-Assault-Guidance-for-Establishing-an-MDT-or-a-SART.pdf> (last visited Apr. 1, 2021).

<sup>13</sup> Florida Coalition Against Sexual Violence, *Find Your Local Center*, available at <https://fcasv.org/find-your-local-center> (last visited on April 11, 2021).

<sup>14</sup> *Supra* note 9.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

## Effect of Proposed Changes

HB 1189 codifies SARTs and established duties and functions for SARTs. Each SART must develop a written protocol to govern the team's response to sexual assault that includes:

- The role and responsibilities of each team member;
- Procedures following a report of a sexual assault, including:
  - Law enforcement and immediate crisis response;
  - Health care treatment for a sexual assault victim; and
  - Follow-up services provided to a sexual assault victim;
- Procedures for the preservation, secure storage, and destruction of evidence from a sexual assault evidence kit, including length of storage, site of storage, and chain of custody; and
- Procedures for maintaining the confidentiality of the sexual assault victim during a forensic medical examination.

The bill requires each SART to promote and support the use of sexual assault forensic examiners who have received a minimum of 40 hours of specialized training in the provision of trauma-informed medical care and in the collection of evidence for sexual assault victims.

Under the bill, the certified rape crisis center serving a county, in collaboration with community partners, determines the membership of each SART. A SART must include, at a minimum, the following members or their designees:

- The director of the local certified rape crisis center;
- A representative from the local county health department;
- The state attorney;
- The chief of a police department located in the county;
- The county sheriff;
- A forensic sexual assault nurse examiner; and
- A representative from a local hospital emergency department in the county or region.

CS/HB 1189 requires each county health department, or a county health department's designee, to participate in a SART coordinated by the certified rape crisis center serving a county or region, if a SART exists.

The membership of a regional SART that serves more than one county must include members from each county for the above positions which are enumerated in the bill. The bill specifies that a certified rape crisis center serving a county may coordinate with community partners to establish a SART in a county or region if one does not currently exist. The bill requires the FCASV to provide technical assistance relating to the development and implementation of the SARTs.

Finally, the bill requires a SART to meet at least quarterly to ensure a coordinated multidisciplinary response to sexual violence.

The bill provides an effective date of July 1, 2021.

### B. SECTION DIRECTORY:

**Section 1:** Creates s. 154.012, F.S., relating to sexual assault response teams; membership; duties.

**Section 2:** Provides an effective date of July 1, 2021.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

An entity required to participate in a SART may incur indeterminate administrative and operational costs; however, any such costs are insignificant. Many entities required by the bill to participate in SARTs are likely already doing so without statutory direction.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On April 1, 2021, the Criminal Justice & Public Safety Subcommittee adopted a proposed committee substitute (PCS) and reported the bill favorably as a committee substitute. The PCS differed from the original bill as it:

- Deleted a provision authorizing a sexual battery or cyberstalking victim, a state attorney, or a law enforcement agency to petition the Attorney General to review a sexual battery or cyberstalking case to determine if criminal charges should be filed and, if so, requiring the Attorney General to prosecute the case.
- Deleted a provision requiring a SART to publish an annual report.
- Deleted a provision requiring a health insurer to establish an alternative method of delivery for an explanation of benefits for a health insurance claim relating to a sexual assault.
- Deleted provisions requiring the Criminal Justice Standards and Training Commission to develop a culturally responsive trauma-informed sexual assault investigation course as part of the basic skills and continued employment training for law enforcement officers.

This analysis is drafted to the committee substitute as passed by the Criminal Justice & Public Safety Subcommittee.