

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

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

SPONSOR(S): Judiciary Committee, 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	20 Y, 0 N, As CS	Padgett	Kramer

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

- Meet at least quarterly to ensure a coordinated multidisciplinary response to sexual assault;
- Develop written protocols to govern the team's response to sexual assault, including, but not limited to, procedures for law enforcement response, 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 in sexual assault cases.

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 requires the Criminal Justice Standards and Training Commission, in consultation with FCASV, to establish minimum standards for basic skills and continued education training for law enforcement officers that includes a culturally responsive trauma-informed response to sexual assault by July 1, 2022. The bill also requires each new recruit or currently employed law enforcement officer to complete such training before July 1, 2024.

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

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 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.¹

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

¹ S. 395.1021, F.S.
STORAGE NAME: h1189c.JDC
DATE: 4/19/2021

by the OAG up to \$1,500 on any one claim and a lifetime maximum of \$3,000.³ Section 794.052, F.S., requires the law enforcement officer investigating a sexual battery to:

- Provide or arrange for transportation of a sexual battery victim 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 for, and services provided by, a certified rape crisis center.⁴

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.⁵ 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.⁶ The FCASV certifies rape crisis centers.⁷

Sexual Assault Response Teams

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

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,¹¹ 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.¹²

There are currently 31 certified rape crisis centers in Florida¹³ convening and coordinating local SARTs in their service area, which include 65 of Florida's 67 counties.¹⁴ 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.¹⁵ Citrus County is the only county without a SART operating in its jurisdiction.¹⁶

² S. 960.28(2), F.S.

³ S. 960.199(1), F.S.

⁴ Ss. 794.052 and 960.001(1)(u), F.S.

⁵ S. 90.5035(1)(a), F.S.

⁶ Florida Coalition Against Sexual Violence, *About FCASV*, <https://www.fcasv.org/about-fcasv> (last visited April 19, 2021).

⁷ *Id.*

⁸ Florida Council Against Sexual Violence, *About FCASV*, <https://www.fcasv.org/about-fcasv> (last visited April 19, 2021).

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

¹⁰ *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.

¹¹ 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.

¹² 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. 19, 2021).

¹³ Florida Coalition Against Sexual Violence, *Find Your Local Center*, <https://fcasv.org/find-your-local-center> (last visited on April 19, 2021).

¹⁴ *Supra* note 9.

¹⁵ *Id.*

¹⁶ *Id.*

Law Enforcement Training

Criminal Justice Standards and Training Commission

The Criminal Justice Standards and Training Commission (CJSTC) was established for the purpose of ensuring criminal justice officers in Florida are ethical, qualified, and well-trained.¹⁷ The CJSTC is comprised of:

- Three sheriffs.
- Three chiefs of police.
- Five law enforcement officers who are neither sheriffs nor chiefs, who are the rank of Sergeant or below.
- Two correctional officers, one of which is an administrator of a state correctional institution and one who is of the rank of sergeant or below.
- One Florida resident who falls into none of the above categories.
- The Attorney General or his or her designated proxy.
- The Secretary of Department of Corrections or his or her designated proxy.
- The Director of the Florida Highway Patrol.¹⁸

The primary responsibilities of the CJSTC are to:

- Establish uniform minimum standards for employment and training of full-time, part-time, and auxiliary law enforcement, and correctional and correctional probation officers.
- Establish and maintain officer training programs, curricula requirements, and certification of training schools and training school instructors.
- Certify officers who complete a Florida Basic Recruit Training Program, or who are diversely qualified through experience and training, and who meet minimum employment standards.
- Review and administer appropriate administrative sanctions in instances when an officer, a training school instructor, or a training school is found in violation of law or CJSTC standards.
- Promulgate rules and procedures to administer the requirements of ss. 943.085–943.257, F.S., relating to standards and training for officers.
- Conduct studies of compensation, education, and training for the correctional, correctional probation, and law enforcement disciplines.
- Maintain a central repository of records of all certified officers.
- Conduct quarterly meetings to discuss issues and approve rules that relate to officer standards and training.
- Develop, maintain, and administer the State Officer Certification Examination for criminal justice officers.¹⁹

Law Enforcement Officer Training

CJSTC is required to design, implement, maintain, evaluate, and revise entry requirements and job-related curricula and performance standards for the basic recruit training program.²⁰ The basic recruit training program for a law enforcement officer is 770 hours and consists of the following topics:

- Introduction to law enforcement;
- Legal;
- Interactions in a diverse community;
- Interviewing and report writing;
- Fundamentals of patrol;
- Calls for service;
- Criminal investigations;
- Crime scene to courtroom;
- Critical incidents;

¹⁷ Florida Department of Law Enforcement, *Criminal Justice Standards & Training Commission*, <https://www.fdle.state.fl.us/CJSTC/Commission/CJSTC-Home.aspx> (last visited Apr. 19, 2021).

¹⁸ S. 943.11, F.S.

¹⁹ *Id.*

²⁰ S. 943.17, F.S.

- Traffic stops;
- DUI traffic stops;
- Traffic crash investigations;
- Law enforcement vehicle operations;
- First aid for criminal justice officers;
- Firearms;
- Defensive tactics;
- Dart-firing stun gun; and
- Criminal justice officer physical fitness training.²¹

Currently, as a condition of continued employment or appointment, s. 943.135, F.S., requires law enforcement officers to receive at least 40 hours of continued employment training every four years. Current law requires CJSTC to develop continued education training relating to several topics, such as training for diabetic emergencies,²² juvenile sexual offender investigations,²³ and interpersonal skills relating to diverse populations.²⁴ The employing agency must document that the continued employment training is job-related and consistent with the needs of the employing agency and report training completion to CJSTC.

Effect of Proposed Changes

Sexual Assault Response Teams

CS/CS/HB 1189 creates s. 154.012, F.S., to codify SARTs and establish duties and functions for SARTs. Each SART must develop written protocols 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 in sexual assault cases.

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.

²¹ Florida Department of Law Enforcement, *Florida Law Enforcement Academy (Version 2020.07) #2000*, <http://www.fdle.state.fl.us/CJSTC/Curriculum/Active-Courses/2000.aspx> (last visited Apr. 19, 2021).

²² S. 943.1726, F.S.

²³ S. 943.17295, F.S.

²⁴ S. 943.1716, F.S.

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 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 assault.

Law Enforcement Training

Criminal Justice Standards and Training Commission

The bill amends s. 943.17, F.S., to require CJSTC, in consultation with FCASV, to establish minimum standards for basic skills and continued education training for law enforcement officers that include a culturally responsive trauma-informed response to sexual assault by July 1, 2022.

A culturally responsive trauma-informed approach to sexual assault ensures services are provided to a victim in a relevant and accessible way and in a manner that does not retraumatize the victim.²⁵ A culturally responsive trauma-informed approach includes:

- Integrating accessibility as a fundamental goal;
- Normalizing the human response to individual and collective trauma;
- Offering a holistic approach to treatment;
- Nurturing empathic connections;
- Fostering understanding of our own responses and their potential impact;
- Recognizing the role of culture, social context, and structural violence;
- Recognizing the pervasiveness and impact of trauma and victimization;
- Recognizing ongoing and historical experiences of discrimination and oppression, and working to address social conditions that perpetuate abuse, trauma, discrimination, and disparities; and
- Supporting resilience, healing, and well-being.²⁶

Law Enforcement Officer Training

The bill creates s. 943.1724, F.S., to require, by July 1, 2022, each basic skills course required for a law enforcement officer to obtain initial certification to incorporate culturally responsive trauma-informed training on interviewing victims of sexual assault and investigations of incidents of sexual assault. Under the bill, each law enforcement officer must complete training on sexual assault, with an emphasis on culturally responsive trauma-informed training on interviewing victims of sexual assault and investigations of incidents of sexual assault as part of basic recruit training, training required for an officer who is temporarily appointed or employed, or continued education training before July 1, 2024. A law enforcement officer who fails to complete such training by July 1, 2024 must be placed on inactive status until the officer completes the required training.

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

²⁵ National Center for Domestic Violence, *Tools for Transformation: Becoming Accessible, Culturally Responsive, and Trauma-Informed Organizations*, http://www.nationalcenterdvtraumamh.org/wp-content/uploads/2018/04/NCDVTMH_2018_ToolsforTransformation_WarshawTinnonCave.pdf (last visited Apr. 19, 2021).

²⁶ SMI Adviser, *How can you be culturally responsive in a trauma-informed approach?*, https://smiadviser.org/knowledge_post/how-can-you-be-culturally-responsive-in-a-trauma-informed-approach#:~:text=A%20toolkit%20from%20the%20National,responsive%20trauma%20informed%20approach%20includes%3A&text=Recognizing%20ongoing%20and%20historical%20experiences,%2C%20trauma%2C%20discrimination%2C%20and%20disparities (last visited Apr. 19, 2021).

B. SECTION DIRECTORY:

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

Section 2: Amends s. 943.17, F.S., relating to basic recruit, advanced, and career development training programs; participation; cost; evaluation.

Section 3: Creates s. 943.1724, F.S., relating to sexual assault investigation training.

Section 4: 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 likely to be insignificant. Many entities required by the bill to participate in SARTs are likely already doing so without statutory direction. FDLE may incur costs in developing the training required by the bill, however such costs are likely to be insignificant.

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:

FDLE has sufficient rule-making authority to implement the provisions of the bill.

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.

On April 19, 2021, the Judiciary Committee adopted a proposed committee substitute (PCS) and reported the bill favorably as a committee substitute. The PCS differed from the bill as it:

- Required CJSTC, in consultation with FCASV, to establish minimum standards for basic skills and continued education training for law enforcement officers that includes a culturally responsive trauma-informed response to sexual assault by July 1, 2022.
- Required each new recruit or currently employed law enforcement officer to complete specified sexual assault training before July 1, 2024.

This analysis is drafted to the committee substitute as passed by the Judiciary Committee.