

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 Appropriations Subcommittee on Criminal and Civil Justice

BILL: PCS/SB 1530 (549558)

INTRODUCER: Appropriations Subcommittee on Criminal and Civil Justice; Criminal Justice Committee; and Senator Book

SUBJECT: Victims of Sexual Offenses

DATE: April 8, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cellon</u>	<u>Jones</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	<u>Dale</u>	<u>Harkness</u>	<u>ACJ</u>	<u>Recommend: Fav/CS</u>
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1530 establishes that the purpose of a Sexual Assault Response Team (SART) is to ensure a coordinated multidisciplinary response to sexual violence. The bill requires all county health departments, or a designee for the department, to participate in the local SART if one exists. If no local SART exists, the certified rape crisis center serving the county may coordinate with community partners to establish a local or a regional team.

The bill provides that local SARTs will be coordinated by the certified rape crisis center serving the county, who will select the SART membership in collaboration with community partners. The SARTs membership should include the members listed in the bill, at a minimum. Each SART must create written protocols to govern the SARTs response to sexual assault.

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. The Florida Council Against Sexual Violence (FCASV) will provide technical assistance relating to the development and implementation of the SARTs.

The bill requires the Criminal Justice Standards and Training Commission (CJSTC), in consultation with the FCASV, to establish minimum standards for basic and advanced career development training programs for law enforcement officers that include a culturally responsive

trauma-informed response to sexual assault. The bill specifies the timing of the implementation of the training.

The bill may have a fiscal impact on the Florida Department of Law Enforcement (FDLE). See Section V. Fiscal Impact Statement.

The bill becomes effective July 1, 2021.

II. Present Situation:

The Offense of 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; however, sexual battery does not include an act done for a bona fide medical purpose.

Generally, it is a second degree felony¹ for a person to commit one of the acts described in s. 794.011(1)(h), F.S., without the victim's consent, where:

- The perpetrator is 18 years of age or older;
- The victim is 18 years of age or older, and
- In the process the perpetrator does not use physical force and violence likely to cause serious personal injury.²

The penalties for committing a sexual battery increase as the circumstances of the criminal act change. For example, a person commits a first degree felony³ when a person 18 years of age or older commits sexual battery upon:

- A person 12 years of age or older but younger than 18 years of age, without that person's consent, and
- In the process does not use physical force and violence likely to cause serious personal injury.⁴

Sexual Battery Victim Services

The Florida Department of Health (DOH) requires that any licensed facility which provides emergency room services shall arrange for the rendering of 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

¹ A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. Sections 775.082 and 775.083, F.S.

² Section 775.011(5)(b), F.S.

³ A first degree felony is punishable by up to 30 years imprisonment and a \$10,000 fine. Sections 775.082 and 775.083, F.S.

⁴ Section 794.011(5)(a), F.S.

- The training of medical support personnel competent to provide the medical services and treatment.⁵

Section 794.052, F.S., requires the law enforcement officer investigating the 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 sexual battery victims of their legal rights and remedies;
- Assist them 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 the officer's final report by a victim and an opportunity for a statement about the report by the victim; and
- Advise sexual battery victims that they can contact a certified rape crisis center about services,⁶ including the presence of a victim advocate from a certified rape crisis center at any forensic medical examination.⁷

Services in the aftermath of a sexual battery are generally provided locally by certified Rape Crisis Centers and volunteers. A "Rape Crisis Center" is any public or private agency that offers assistance to victims of sexual assault or sexual battery and their families.⁸ 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. The FCASV certifies Rape Crisis Centers.⁹

Sexual Assault Response Teams

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 (SANEs), 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, offender-focused approach to review sexual assault case files.¹⁰ The FCASV currently coordinates the Statewide SART Advisory Committee.¹¹

Law Enforcement Officer Training

In compliance with s. 943.13, F.S., applicants must complete the 770-hour law enforcement basic recruit training program to meet the qualifications for becoming a certified law

⁵ Section 395.1021, F.S.

⁶ Section 794.052, F.S.

⁷ See s. 960.001(1)(u), F.S.

⁸ Section 90.5035(1)(a), F.S.

⁹ FCASV, *About FCASV*, available at <https://www.fcasv.org/about-fcasv> (last visited March 16, 2021).

¹⁰ Sexual Assault Kit Initiative and RTI International, *A Multidisciplinary Approach to Cold Case Sexual Assault: Guidance for Establishing an MDT or a SART*, available at <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 March 16, 2021).

¹¹ The Statewide SART Advisory Committee is a statewide group coordinated by the FCASV and comprised of representatives from a broad range of disciplines whose work brings them into contact with rape survivors. The committee works to assess and improve Florida's response to survivors of sexual violence at the state and local level. FCASV, SART, available at <https://www.fcasv.org/new-statewide-sart-advisory-committee> (last visited March 16, 2021).

enforcement officer. In order to maintain their certification, law enforcement officers must satisfy continuing training and education requirements.¹²

Currently, s. 943.17295, F.S., requires the CJSTC to incorporate the subject of sexual abuse and assault investigations, with an emphasis on cases involving child victims or juvenile offenders, into the curriculum required for continuous employment or appointment as a law enforcement officer. The FDLE developed an on-line course that satisfies this requirement and is available at no cost to law enforcement officers or the employing agencies.¹³

Additionally, the CJSTC has authorized an advanced training course related to sexual crime investigations since July 1985. In 2017, the CJSTC approved adult and child sex crimes investigations advanced training courses (#1170 and #1171, respectively). These courses include information produced by the FCASV. As of February 2021, 581 law enforcement officers have completed #1170 and 429 law enforcement officers have completed #1171.¹⁴

III. Effect of Proposed Changes:

Sexual Assault Response Teams

The bill establishes that the purpose of the SART is to ensure a coordinated multidisciplinary response to sexual violence. The bill requires county health departments, or a designee for the department, to participate in a local SART if one exists. It specifies that SARTs will be coordinated by the local certified rape crisis center. If no local SART exists, the local certified rape crisis center serving the county may coordinate with community partners to establish a local or regional team. The FCASV must provide technical assistance relating to the development and implementation of the SARTs.

SART membership shall be determined by the certified rape crisis center in collaboration with community partners. Membership should include the following members or their designees, at a minimum:

- The director of the local certified rape crisis center;
- A representative from the local county health department;
- The state attorney;
- The chief of police;
- The county sheriff;
- Forensic sexual assault nurse examiners; and
- A representative from local hospital emergency departments.

¹² Section 943.135, F.S. The Department of Law Enforcement (FDLE) Legislative Bill Analysis, SB 1530, February 26, 2021 (on file with the Senate Criminal Justice Committee).

¹³ *Id.*

¹⁴ *Id.*

The 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;
- Procedural issues regarding the immediate crisis and health care and law enforcement responses and follow-up services provided to a 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 victim regarding the 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.

Law Enforcement Officer Training

The bill requires the CJSTC, in consultation with the FCASV, to establish minimum standards for basic and advanced career development training programs for law enforcement officers that include a culturally responsive trauma-informed response to sexual assault. After July 1, 2022, every basic skills course required for law enforcement officers to obtain initial and continuing education certification must include training on culturally responsive trauma-informed interviewing of sexual assault victims and investigations of alleged sexual assaults.

The bill creates s. 943.1724, F.S., requiring the CJSTC to incorporate a culturally responsive trauma-informed response to sexual assault into the course curriculum required for a law enforcement officer to obtain initial certification. Additionally, each law enforcement officer must complete training on sexual violence and interviewing of sexual assault victims and investigations of alleged sexual assaults as a part of basic recruit training,¹⁵ training for applicants who are exempt from the basic recruit training,¹⁶ or as part of continuing training or education¹⁷ before July 1, 2024. If an officer fails to complete the required training, his or her certification must be placed on inactive status until the employing agency notifies the commission that the officer has completed the training.

The bill is effective July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, Section 18 of the State Constitution.

¹⁵ Section 943.13(9), F.S.

¹⁶ Section 943.131(4)(a), F.S.

¹⁷ Section 943.135(1), F.S.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The FDLE expects that the fiscal impact of the bill will total \$45,779 non-recurring funds. This includes developing instruction as required in the bill (\$8,779), and necessary modifications to the Automated Training Management System (\$37,000).¹⁸

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 943.17 of the Florida Statutes.

This bill creates sections 154.012 and 943.1724 of the Florida Statutes.

¹⁸ The Florida Department of Law Enforcement (FDLE) Legislative Bill Analysis, SB 1530, February 26, 2021 (on file with the Senate Criminal Justice Committee).

IX. Additional Information:

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

Recommend CS/CS by Appropriations Subcommittee on Criminal and Civil Justice on April 8, 2021:

The committee substitute:

- Removes the section of the bill amending s. 27.14, F.S., regarding the Governor reassigning sexual battery or cyberstalking cases under certain circumstances.
- Deletes the requirement that a sexual assault response team meet at least quarterly and produce an annual report which will be published by The Florida Council Against Sexual Violence (FCASV).
- Requires the Criminal Justice Standards and Training Commission (CJSTC), in consultation with the FCASV, to establish minimum standards for basic and advanced career development training programs for law enforcement officers that include a culturally responsive trauma-informed response to sexual assault.
- Creates s. 943.1724, F.S., requiring the CJSTC to incorporate a culturally responsive trauma-informed response to sexual assault into the course curriculum required for a law enforcement officer to obtain initial certification. Additional times and opportunities to complete the training are offered or required.

CS by Criminal Justice on March 23, 2021:

The committee substitute:

- Deletes current Section 1 of the bill related to the AG, replacing it with an amendment to s. 27.14, F.S., which creates a mechanism by which the Governor can disqualify a state attorney (and appoint a different state attorney by executive order) if the victim of a sexual battery or cyberstalking petitions the Governor and presents sufficient evidence to show:
 - A willful disregard of the evidence and
 - The repeated failure of a state attorney to prosecute a particular crime.
- Changes a requirement in the bill that every county health department *establish* a local sexual assault response team (SART). The amendment requires the county health departments to *participate* if one (a local SART) exists.
- Specifies that SARTs will be coordinated by the certified rape crisis center serving the county, who will select the SART membership in collaboration with community partners.
- Specifies that if there is no SART in existence, the local certified rape crisis center may coordinate with community partners to establish a local or a regional team.
- Alters SART membership in the bill to include:
 - The director of the local certified rape crisis center;
 - A representative (not necessarily from physician or nursing leadership) from a local hospital emergency department;
 - Forensic sexual assault nurse examiners (rather than a forensic sexual assault nurse examiner or a designated health care provider who performs forensic medical examinations and collects evidence); and
 - A representative of the local county health department.

- Requires that SARTs submit their annual reports to the FCASV to be published on FCASV's website.
- Deletes Section 3 of the bill related to payment of insurance claims.
- Deletes the sections of the bill related to training of law enforcement.

B. Amendments:

None.

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