

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 Criminal Justice

BILL: CS/SB 288

INTRODUCER: Criminal Justice Committee and Senator Rouson

SUBJECT: Victims of Reform School Abuse

DATE: January 26, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stokes	Jones	CJ	Fav/CS
2.			ATD	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 288 creates the “Arthur G. Dozier School for Boys and Okeechobee School Abuse Victim Certification Act” which provides a process for former students from these schools who were abused to be certified as victims. The bill defines “victim of Florida reform school abuse,” as a living person who was confined at the Arthur G. Dozier School for Boys or the Okeechobee School at any time between 1940 and 1975 and who was subjected to mental, physical, or sexual abuse perpetrated by school personnel during the period of confinement. More than 500 former students have come forward with reports of physical, mental, and sexual abuse by school staff.

The bill requires a person seeking to be certified as a victim of Florida reform school abuse to submit an application to the Department of State (DOS) by September 1, 2021. The DOS must notify the applicant of its determination within five business days after processing and reviewing the application. If the DOS determines that an application meets the requirements of the act, the DOS must certify the applicant as a victim of Florida reform school abuse. The DOS must also submit a list of all certified victims to the President of the Senate and the Speaker of the House of Representatives by December 31, 2021.

The bill also provides that a victim of Florida reform school abuse may file a claim under ch. 960, F.S., which governs victim assistance, including victim compensation. The bill defines “crime,” for purposes of filing a claim and requires that a claim must be brought within 1 year of the effective date of the bill.

This bill may have an indeterminate fiscal impact on the DOS. Additionally, this bill may have an indeterminate negative fiscal impact on the Office of the Attorney General (OAG) for claims filed under ch. 960. See Section V. Fiscal Impact Statement.

This act is effective upon becoming law.

II. Present Situation:

The Dozier School

From January 1, 1900, to June 30, 2011, the state operated the Florida State Reform School in Marianna.¹ Over the years, the school has operated under several different names: Florida State Reform School, Florida Industrial School for Boys, Florida School for Boys, and Arthur G. Dozier School for Boys (hereinafter, Dozier School). The school originally housed children as young as five years old, who had committed minor criminal offenses, such as incorrigibility and truancy. Additionally, many children who had not been charged with a crime were committed to the school as wards of the state and orphans.²

As early as 1901, reports surfaced of children being chained to walls in irons, brutal whippings, and peonage (involuntary servitude).³ In the first 13 years of operation, six state-led investigations took place. Those investigations found that children as young as five years old were being hired out for labor, unjustly beaten, and were without education or proper food and clothing.⁴

In 1955, the state opened a new reform school in Okeechobee to address overcrowding at the Dozier School.⁵ Staff members of the Dozier School were transferred to the Florida School for Boys at Okeechobee (hereinafter, Okeechobee School), where they instituted the same degrading policies and abusive practices as those implemented at the Dozier School.⁶

In 2005, former students of the Dozier School began to publish accounts of the abuse they experienced at the school.⁷ These stories prompted Governor Charlie Crist to direct the Florida Department of Law Enforcement to investigate the Dozier School and the deaths that were alleged and occurred at the school.⁸

¹ Erin H. Kimmerle, Ph.D., E. Christian Wells, Ph.D., and Antoinette Jackson, Ph.D.; Florida Institute for Forensic Anthropology & Applied Sciences, University of South Florida, *Report on the Investigation into the Deaths and Burials at the Former Arthur G. Dozier School for Boys in Marianna, Florida*, pg. 22 (January 18, 2018), available at: [usf-final-dozier-summary-2016.pdf](https://www.floridalegal.org/ufc/wp-content/uploads/2016/06/ufsf-final-dozier-summary-2016.pdf) ([publicbroadcasting.net](https://www.floridalegal.org/publicbroadcasting.net)) (last visited January 13, 2021).

² *Id.*

³ *Id.* at 12.

⁴ *Id.* at 27.

⁵ *Id.* at 22.

⁶ *Id.*

⁷ *Id.* at 30.

⁸ *Id.*

University of South Florida Forensic Investigation

From 2013-2016, the University of South Florida conducted a forensic investigation, funded by the Legislature, into the deaths and burials at the Dozier School.⁹ The purpose of the investigation was to determine the location of the missing children buried at the Dozier School.¹⁰

The investigation found records of nearly 100 deaths from 1900-1973.¹¹ Of those 100 deaths recorded in documents maintained by the school, two deaths were staff members, and the remaining were boys ranging in age from 6 to 18 years old. The investigation noted that the historical records are incomplete and the causes and manners of death for the majority of cases are unknown. The investigation also found that there are at least 22 deaths in the records for which no burial location is documented.¹²

The investigation noted that while other state-run institutions kept detailed records of burials made on the property of the institution, the Dozier School did not keep any records showing the location of specific graves, nor did the school mark the graves.¹³ The investigation implied that this lack of record keeping suggests an intent to cloud the true number of burials located at the school and potentially hinder later investigations into the true causes of individual's deaths.¹⁴

Additionally, the investigation revealed that the Dozier School consistently underreported the number of deaths that occurred in their bi-annual reports to the state.¹⁵

Legislative Resolutions Addressing Florida Reform School Abuse at the Dozier School and the Okeechobee School

During the 2017 Legislative Session, the Legislature unanimously issued a formal apology to the victims of reform school abuse and their families with the passage of CS/HR 1335 and CS/SR 1440. In those resolutions, the Legislature acknowledged that the treatment of boys who were sent to the Dozier School and the Okeechobee School was cruel, unjust, and a violation of human decency. The resolutions expressed regret for the treatment of boys at the schools and apologized to the victims for the wrongs committed against them by state employees. The resolutions also expressed commitment to ensuring that children who have been placed in the state's care will be protected from abuse and violations of fundamental human decency.¹⁶

Florida Crimes Compensation Act

The Florida Crimes Compensation Act¹⁷ authorizes the Florida Attorney General's Division of Victim Services to administer a compensation program to ensure financial assistance for victims

⁹ *Id.* at 4.

¹⁰ *Id.* at 11.

¹¹ *Id.* at 14.

¹² *Id.*

¹³ *Id.* at 15.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ See CS/HR 1335 and CS/SR 1440 (2017).

¹⁷ Sections 960.01-960.28, F.S.

of crime. Injured victims of crime may file for compensation for financial assistance such as treatment costs, economic loss, disability, or loss of support.¹⁸

Section 960.065, F.S., provides that the following persons are eligible for compensation under ch. 960, F.S.:

- A victim.
- An intervenor.
- A surviving spouse, parent or guardian, sibling, or child of a deceased victim or intervenor.
- Any other person who is dependent for his or her principal support upon a deceased victim or intervenor.¹⁹

Claims will generally be denied if filed for or on behalf of a person who:

- Committed or added in the commission of the crime upon which the claim for compensation was based;
- Was engaged in an unlawful activity at the time of the crime upon which the claim for compensation is based, unless the victim was engaged in prostitution as a result of being a victim of human trafficking;
- Was in custody or confined, regardless of conviction, in a county or municipal detention facility, a state or federal correctional facility, or a juvenile detention or commitment facility at the time of the crime upon which the compensation is based;
- Has been adjudicated as a habitual felony offender (HFO), habitual violent offender, or violent career criminal; or
- Has been adjudicated guilty of a forcible felony offense.²⁰

Claims filed by or on behalf of a person who was in custody or confined, who are adjudicated as a HFO or found guilty of a forcible felony may be eligible upon a finding by the Crime Victim's Service Office of mitigating or special circumstances that would render a disqualification unjust.²¹

Any award granted, must be granted on an "actual need" basis. An award is provided only after all benefits provided by primary insurance carriers, including, but not limited to, health and accident insurers, workers' compensation, and automobile accident coverage.²² Payments under ch. 960, F.S., are considered payments "of last resort," that follow all other payments.²³

III. Effect of Proposed Changes:

The bill creates the "Arthur G. Dozier School for Boys and Okeechobee School Abuse Victim Certification Act." The bill provides numerous whereas clauses explaining the schools' history of abuse, the investigations that followed, and the Legislature's formal apology in 2017.

¹⁸ Attorney General, *Victim Compensation Brochure*, available at: [2019 Victims brochure v8 - Nov 12 2019.ai \(myfloridalegal.com\)](#) (last visited January 14, 2021).

¹⁹ Section 960.065(1), F.S.

²⁰ Section 960.065(2), F.S.

²¹ Section 960.065(3), F.S.

²² Section 960.13(2), F.S.

²³ Section 960.13(3), F.S.

The bill defines a “victim of Florida reform school abuse” as a living person who was confined at the Arthur G. Dozier School for Boys or the Okeechobee School at any time between 1940 and 1975 and who was subjected to mental, physical, or sexual abuse perpetrated by personnel of the school during the period of confinement.

The bill requires a person seeking to be certified as a victim of Florida reform school abuse to submit an application to the DOS by September 1, 2021. The application must include:

- An affidavit stating:
 - That the applicant was confined at the Dozier School or the Okeechobee School;
 - The beginning and ending days of the confinement; and
 - That the applicant was subjected to mental, physical, or sexual abuse perpetrated by school personnel during the confinement.
- Documentation from the State Archives of Florida, the Dozier School, or the Okeechobee School, demonstrating that the applicant was confined at the school for any length of time between 1940 and 1975; and
- Proof of identification, including a current form of photo ID.

The bill requires the DOS to examine an application within 30 days of receipt and notify the applicant of any errors or omissions or request any additional information relevant to the review of the application. If the DOS notifies the applicant of any errors or omissions, or requests additional information, the applicant has 15 days after such notification to complete or modify the application.

The bill prohibits the DOS from denying an application due to the applicant’s failure to correct an error or submit additional information requested by the DOS if the DOS failed to timely notify the applicant of the error.

The bill requires the DOS to notify the applicant of its determination within five business days after processing and reviewing the application. If the DOS determines that an application meets the requirements of the act, the DOS must certify the applicant as a victim of Florida reform school abuse.

The bill requires the DOS to process and review all completed applications within 90 days after receipt of the application. By December 31, 2021, the DOS must have reviewed and processed all applications submitted by September 1, 2021, and submit a list of all certified victims to the President of the Senate and the Speaker of the House of Representatives.

The bill, notwithstanding s. 960.07, F.S., which provides timelines for filing a claim, provides that victims of Florida reform school abuse are eligible to file a claim under ch. 960, F.S. A victim or an intervenor must file a claim under this act within 1 year after the effective date of the bill.

The bill defines “crime,” for purposes of filing a claim under ch. 960, F.S., as a felony or misdemeanor offense committed by an adult or a juvenile which results in a mental or physical injury or death. A mental injury must be verified by a psychologist, a physician who has completed a residency in psychiatry, or by a physician who has obtained certification as an expert witness.

The act is effective upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

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:

This bill provides that the DOS is responsible for processing applications for persons seeking to be certified as a victim of Florida reform school abuse. While it is unknown how many persons will seek this certification, the bill indicates that there are over 500 people who have come forward as victims. This bill may have a negative indeterminate fiscal impact on the DOS due to the processing of applications.

Additionally, this bill may have a negative indeterminate fiscal impact on the OAG for additional claims filed under ch. 960, F.S. The benefits for claims are payable from the Crimes Compensation Trust Fund (CCTF). During FY 2019-20, the OAG paid on average \$3,691.56 per payout, for a total of \$7,519,710. While it is unknown how many

persons will file a claim, the bill indicates that there are over 500 people who have come forward as victims.²⁴

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates an undesignated section of the Florida Statutes.

IX. Additional Information:

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

CS by Criminal Justice on January 26, 2021:

The committee substitute:

- Adds a reference to s. 459.0066, F.S., to include osteopathic physicians to the list of doctors who can verify a mental injury.
- Makes technical changes including the addition of missing quotation marks and a reference to s. 960.03(9), F.S., for the definition of “intervenor.”

- B. **Amendments:**

None.

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

²⁴ Email from Daniel Olson, Government Affairs Director (January 21, 2021)(on file with Senate Criminal Justice Committee).