

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 Governmental Oversight and Accountability

BILL: SB 1046

INTRODUCER: Senators Rouson and Davis

SUBJECT: Victims of Reform School Abuse

DATE: April 4, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Limones-Borja</u>	<u>McVaney</u>	<u>GO</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>ATD</u>	_____
3.	_____	_____	<u>FP</u>	_____

I. Summary:

SB 1046 creates the “Arthur G. Dozier School for Boys and Okeechobee School Abuse Victim Certification Act,” to provide a process for former students of these schools who were abused to be certified as victims. The bill defines the term “victim of Florida reform school abuse.”

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, 2023. The DOS must notify the applicant of its determination within 5 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, 2023.

The bill also provides that a victim of Florida reform school abuse or an intervenor connected therewith 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 fiscal impact on the Office of the Attorney General (OAG) for claims filed under ch. 960, F.S.

This act is effective upon becoming law.

II. Present Situation:

Victims of Florida Reform School Abuse

This bill defines a “victim of Florida reform school abuse” to mean 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.

The Arthur G. Dozier School for Boys

From 1900 to 2011, the state operated the Florida State Reform School in Marianna. In 1967, the name was changed to the Arthur G. Dozier School for Boys (Dozier School).¹ Children were committed to the Dozier school for criminal offenses such as theft and murder, but later on the law was amended to allow for children with minor offenses such as truancy to be committed too. Additionally, many children who had not been charged with a crime were committed to the school as wards of the state and orphans.²

Beginning as early as 1901, there were reports of children being chained to walls in irons, brutal whippings, and peonage.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 2005, former students of the Dozier School began to publish accounts of the abuse they experienced at the school.⁵ These stories prompted Governor Charlie Crist to direct the Florida Department of Law Enforcement (FDLE) to investigate the Dozier School and the deaths that were alleged and occurred at the school. In 2008, Governor Charlie Crist directed the FDLE to investigate 32 unmarked graves located on the property surrounding the school in response to complaints lodged by former students at the Dozier School.⁶ The former students of Dozier alleged that students who died as a result of abuse were buried at the school cemetery.⁷

The Okeechobee School

Due to overcrowding at the Dozier School, the state opened a new reform school in Okeechobee. The first 50 boys were transferred to the Okeechobee campus from the Marianna campus along with 20 staff members.⁸ Interviews with former students in the school found that the former superintendent and deputy superintendent of the Florida School for Boys in Okeechobee

¹ David Built, *Arthur G. Dozier School for Boys*, Abandoned Florida, Sep. 29, 2015, available at <https://www.abandonedfl.com/arthur-g-dozier-school-for-boys/> (last visited Apr. 4, 2023).

² Erin H. Kimmerle, Ph.D. et al., *Report on the Investigation into the Deaths and Burials at the Former Arthur G. Dozier School for Boys in Marianna, Florida*, The University of South Florida, pg. 22, January 18, 2016, available at <http://mediad.publicbroadcasting.net/p/wusf/files/201601/usf-final-dozier-summary-2016.pdf> (last visited Apr. 4, 2023).

³ See *supra* note 2, at 12.

⁴ See *supra* note 2, at 27.

⁵ Office of Executive Investigations, Florida Department of Law Enforcement, *FDLE Investigative Report* (May 14, 2009), available at <http://thewhitehouseboys.com/fdlereport.html> (last visited Apr. 4, 2023)

⁶ *Id.*

⁷ *Id.*

⁸ Richard Marion, *OYDC closure brings an end to troubled history*, South Central Florida Life (Jul. 15, 2020), available at <https://www.southcentralfloridalife.com/stories/oydc-closure-brings-an-end-to-troubled-history,9159> (last visited Apr. 4, 2023).

(Okeechobee School), would administer corporal punishment himself.⁹ Several students at the Okeechobee School died in the 1960s, some of those under questionable circumstances. Two of them being a 13-year-old boy found floating face down in the school's sewage tank, and a teen shot dead during an alleged escape attempt.¹⁰

The Florida Crimes Compensation Act

The Florida Crimes Compensation Act¹¹ authorizes the Florida Attorney General's Division of Victim Services to administer a compensation program to ensure financial assistance for victims of crime. Injured victims of crime may file for compensation for financial assistance such as treatment costs, economic loss, disability, or loss of support.¹²

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

- A victim.
- An intervenor, defined as any person who goes to the aid of another and suffers bodily injury or death as a result of acting, not recklessly, to prevent the commission of a crime, to apprehend a person suspected of having committed a crime, or to the aid of a crime victim.¹³
- 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.¹⁴

The Department of Legal Affairs cannot award compensation pursuant ch. 960, F.S., unless it finds that a crime was committed and that it resulted in personal injury, psychiatric or psychological injury, or death to the victim or intervenor. Any award granted, must be granted on an "actual need" basis and may be based on myriad other factors—including, but not limited to, the claimant's risk of serious financial hardship as a result of the injury, and other claimants' rights to compensation based on the same claim.¹⁵ 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.¹⁶ Payments under ch. 960, F.S., are considered payments "of last resort," that follow all other payments.¹⁷

⁹ *Id.*

¹⁰ WPBF News, *Investigation uncovers deaths of boys at Okeechobee Florida School for Boys* (April 10, 2015), available at <https://www.wpbf.com/article/investigation-uncovers-deaths-of-boys-at-okeechobee-florida-school-for-boys/1325188#> (Last visited Mar. 30, 2023).

¹¹ Sections 960.01-960.28, F.S.

¹² Attorney General, *Victim Compensation Brochure*, available at: [http://myfloridalegal.com/webfiles.nsf/WF/MRAY8CVP5T/\\$file/BVCVictimCompensationBrochure.pdf](http://myfloridalegal.com/webfiles.nsf/WF/MRAY8CVP5T/$file/BVCVictimCompensationBrochure.pdf) (last visited Mar. 30, 2023).

¹³ Section 963.03(9), F.S.

¹⁴ Section 960.065(1), F.S.

¹⁵ Section 960.13, F.S.

¹⁶ Section 960.13(2), F.S.

¹⁷ Section 960.13(3), F.S.

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

- Committed or aided 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, habitual violent offender, or violent career criminal; or
- Has been adjudicated guilty of a forcible felony offense.¹⁸

Claims filed by or on behalf of a person who was in custody or confined, who are adjudicated as a habitual felony offender 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.¹⁹

III. Effect of Proposed Changes:

The bill provides that this Act may be cited as the "Arthur G. Dozier School for Boys and Okeechobee School Abuse Victim Certification Act." The bill provides numerous whereas clauses detailing the schools' histories of abuse, the investigations that followed, and the Legislature's formal apology in 2017.

Section 1 defines the term "victim of Florida reform school abuse" to mean 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.

Section 1 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, 2023. The estate, personal representative, next of kin, or lineal descendants may submit an application on behalf of the victim. 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.

¹⁸ Section 960.065(2), F.S.

¹⁹ Section 960.065(3), F.S.

The bill requires the DOS to examine an application within 30 days of receipt and to 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 5 business days after completing its processing and review. If the DOS determines that the applicant meets the requirement, the DOS must certify the applicant as a victim of Florida reform school abuse.

The bill requires the DOS to review and process all the applications submitted before September 1, 2023, by December 31, 2023. The bill also requires the DOS to submit a list of all certified victims to the President of the Senate and the Speaker of the House of Representatives.

Section 2 authorizes a victim of Florida reform school abuse or an intervenor²⁰ to file a claim for compensation under ch. 960, F.S. The claim must be based on a felony or misdemeanor offense committed by an adult or juvenile which results in a mental or physical injury or death. The 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 bill makes a victim of Florida reform school abuse eligible to receive an award despite the victim having been confined in a juvenile detention facility at the time of victimization.

The bill requires a victim of Florida reform school abuse or an intervenor to file a claim under ch. 960, F.S., within 1 year after the effective date of the bill, notwithstanding timeframes otherwise provided in s. 960.07.

Section 3 provides that the act takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

²⁰ "Intervenor" means any person who goes to the aid of another and suffers bodily injury or death as a direct result of acting, not recklessly, to prevent the commission of a crime, to lawfully apprehend a person reasonably suspected of having committed a crime, or to aid the victim of a crime. Section 960.03(9), 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:

There will be indeterminate negative fiscal impact to both the DOS and the OAG. The 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. As such, there may be a negative fiscal impact on the DOS due to the processing of applications.

Additionally, this bill will have a negative fiscal impact on the OAG for the additional claims filed under ch. 960, F.S. The benefits for claims are payable from the Crimes Compensation Trust Fund. While it is unknown how many applicants will file a claim, lines the bill indicates on line 78 that there are over 500 people who have come forward as victims.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates an unnumbered section 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.
