

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 Committee on Criminal and Civil Justice

BILL: SB 1104

INTRODUCER: Senator Wright

SUBJECT: Victim Compensation Claims

DATE: April 12, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cellon</u>	<u>Stokes</u>	<u>CJ</u>	Favorable
2.	<u>Atchley</u>	<u>Harkness</u>	<u>ACJ</u>	Pre-meeting
3.	_____	_____	<u>FP</u>	_____

I. Summary:

SB 1104 amends s. 960.07, F.S., to extend the time a victim may file a claim for compensation under the Florida Crimes Compensation Act. Specifically, the bill provides that upon a showing that a delay in filing a claim occurred because of a delay in the testing of, or delay in the DNA profile matching from, a sexual assault forensic examination kit or biological material collected as evidence related to a sexual offense, a person who is eligible for compensation may receive a waiver from the Department of Legal Affairs (DLA) of any claim filing deadline.

The bill may have an indeterminate negative impact on available revenues in the DLA's Crimes Compensation Trust Fund, as more victims will be eligible for compensation. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2023.

II. Present Situation:

Florida Crimes Compensation Act

The Florida Crimes Compensation Act¹ 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.²

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

¹ Sections 960.01-960.28, F.S.

² Attorney General, *Victim Compensation Brochure*, available at: [http://myfloridalegal.com/webfiles.nsf/WF/MRAY-8CVP5T/\\$file/BVCVictimCompensationBrochure.pdf](http://myfloridalegal.com/webfiles.nsf/WF/MRAY-8CVP5T/$file/BVCVictimCompensationBrochure.pdf) (last visited March 20, 2023).

- 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.³

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 (HFO), habitual violent offender, or violent career criminal; or
- Has been adjudicated guilty of a forcible felony offense.⁴

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.⁵

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.⁶ Payments under ch. 960, F.S., are considered payments "of last resort," that follow all other payments.⁷

Payment of claims are made from the Crimes Compensation Trust Fund (Trust Fund). The Trust Fund was created for the purpose of providing, in part, for the payment of claims. The funds placed in the Trust Fund consist of moneys:

- Appropriated by the Legislature;
- Recovered on behalf of the DLA by subrogation or other action, recovered through restitution;
- Received from additional court costs, or fines;
- Received from the Federal Government; or
- Received from any other public or private source.⁸

³ Section 960.065(1), F.S.

⁴ Section 960.065(2), F.S.

⁵ Section 960.065(3), F.S.

⁶ Section 960.13(2), F.S.

⁷ Section 960.13(3), F.S.

⁸ Section 960.21, F.S.

Filing of Claims for Compensation

A claim for compensation may be filed by an eligible person. If such person is a minor, or is mentally incompetent, a claim may be filed by the person's parent, or guardian, as appropriate.

Claims arising from a crime occurring before October 1, 2019, must be filed within 1 year after:

- The occurrence of the crime upon which the claim is based.
- The death of the victim or intervenor.
- The death of the victim or intervenor is determined to be the result of a crime, and the crime occurred after June 30, 1994.

The DLA may extend the time for filing a claim for a crime occurring before October 1, 2019, by up to 2 years, upon a showing of good cause.⁹

Claims arising from a crime occurring on or after October 1, 2019, must be filed within 3 years after the later of:

- The occurrence of the crime upon which the claim is based;
- The death of the victim or intervenor; or
- The death of the victim or intervenor is determined to be the result of the crime.

The DLA may extend the time for filing a claim for a crime occurring on or after October 1, 2019, by up to 5 years, upon a showing of good cause.¹⁰

There are exceptions to the time limitations mentioned above for a victim or intervenor who was under the age of 18 at the time the crime upon which the claim is based occurred.¹¹ These exceptions include:

- The victim's or intervenor's parent or guardian may file a claim on behalf of the victim or intervenor while the victim or intervenor is less than 18 years of age;
- For a claim arising from a crime that occurred before October 1, 2019, when a victim or intervenor who was under the age of 18 at the time of the crime occurred reaches the age of 18, the victim or intervenor has 1 year to file a claim; or
- For a claim arising from a crime occurring on or after October 1, 2019, when a victim or intervenor who was under the age of 18 at the time the crime occurred reaches the age of 18, the victim or intervenor has 3 years to file a claim.¹²

Upon a showing of good cause, the DLA may extend the time for filing a claim for an additional period up to 1 year for a crime occurring before October 1, 2019, if the victim or intervenor was less than 18 years of age. Additionally, upon a showing of good cause, the DLA may extend the time for filing a claim for an additional 2 years for a crime occurring on or after October 1, 2019, if the victim or intervenor was less than 18 years of age.¹³

⁹ Section 960.07(2)(a), F.S.

¹⁰ Section 960.07(2)(b), F.S.

¹¹ Section 960.07(3), F.S.

¹² Section 960.07(3)(a)-(c), F.S.

¹³ *Id.*

Additionally, there are exceptions to the time limitations mentioned above for victims of sexually violent offenses.¹⁴ Such victims may file a claim for compensation for counseling or other mental health services within:

- One year after the filing of a petition to involuntarily civilly commit the individual who perpetrated the sexually violent offense, if the claim arises from a crime committed before October 1, 2019; or
- Three years after the filing of a petition to involuntarily civilly commit the individual who perpetrated the sexually violent offense, if the claim arises from a crime committed on or after October 1, 2019.¹⁵

III. Effect of Proposed Changes:

The bill amends s. 960.07, F.S., to extend the time a victim may file a claim for compensation under the Florida Crimes Compensation Act. Specifically, the bill provides that upon a showing that a delay in filing a claim occurred because of a delay in the testing of, or delay in the DNA profile matching from, a sexual assault forensic examination kit or biological material collected as evidence related to a sexual offense, a person who is eligible for compensation may receive a waiver from the DLA of any claim filing deadline.

The bill is effective July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹⁴ Section 394.912, F.S., provides that a “sexually violent offense” means: murder of a human being while engaged in sexual battery in violation of s. 782.04(1)(a)2, F.S.; kidnapping of a child under the age of 13 and, in the course of that offense, committing sexual battery or a lewd, lascivious, or indecent assault or act upon or in the presence of the child; committing the offense of false imprisonment upon a child under the age of 13 and, in the course of that offense, committing sexual battery or a lewd, lascivious, or indecent assault or act upon or in the presence of the child; sexual battery in violation of s. 794.011, F.S.; lewd, lascivious, or indecent assault or act upon or in presence of the child in violation of s. 800.04 or s. 847.0135(5), F.S.; an attempt, criminal solicitation, or conspiracy, in violation of s. 777.04, F.S., of a sexually violent offense; any conviction for a felony offense in effect at any time before October 1, 1998, which is comparable to a sexually violent offense under paragraphs (a)-(f) or any federal conviction or conviction in another state for a felony offense that in this state would be a sexually violent offense; any criminal act that, either at the time of sentencing for the offense or subsequently during civil commitment proceedings under this part, has been determined beyond a reasonable doubt to have been sexually motivated; or a criminal offense in which the state attorney refers a person to the DOC for civil commitment proceedings.

¹⁵ Section 960.07(4), F.S.

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 bill may have an indeterminate negative impact on available revenues in the DLA's Crimes Compensation Trust Fund, as more victims will be eligible for compensation due to the expansion of eligibility to file claims. It is uncertain how many individuals may be eligible due to the expansion under the bill or how many of the newly eligible individuals will file claims.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 960.07 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.