

# FLORIDA HOUSE OF REPRESENTATIVES

## BILL ANALYSIS

*This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.*

**BILL #:** [CS/HB 285](#)

**TITLE:** Required Notice of Intent to Contact a Victim

**SPONSOR(S):** Daley

**COMPANION BILL:** [SB 1490](#) (Garcia)

**LINKED BILLS:** None

**RELATED BILLS:** None

### Committee References

[Criminal Justice](#)

14 Y, 0 N, As CS

## SUMMARY

### Effect of the Bill:

The bill requires an attorney, investigator, or other agent acting on behalf of a criminal defendant who intends to contact a victim for the purpose of obtaining information relating to a pending criminal proceeding to file a notice within 72 hours before making, or attempting to make, contact with the victim. The bill specifies that the requirement does not apply to contact with a victim during a court proceeding or deposition.

The bill requires the state attorney in each judicial circuit to develop and make available a standard form to be used to provide the notice required under the bill.

### Fiscal or Economic Impact:

The bill may have an indeterminate negative fiscal impact on state government.

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## ANALYSIS

### EFFECT OF THE BILL:

Under the bill, before any attorney, investigator, or other agent acting on behalf of a criminal defendant may contact a victim for the purpose of obtaining information relating to a pending criminal proceeding, he or she must file a notice of intent to contact a victim within 72 hours before making, or attempting to make, contact with the victim. The bill specifies that the notice requirement does not apply to contact with a victim that occurs during a court proceeding or [deposition](#). (Section [1](#))

The bill requires the notice be filed on a standard form that is developed and made available by the state attorney in each judicial circuit. (Section [1](#))

The effective date of the bill is July 1, 2026. (Section [2](#))

### FISCAL OR ECONOMIC IMPACT:

#### STATE GOVERNMENT:

The bill requires the state attorney in each judicial circuit to develop and make available a standard form to be used to provide the notice required under the bill, which may have an indeterminate negative fiscal impact.

**STORAGE NAME:** h0285.CRM

**DATE:** 2/5/2026

## RELEVANT INFORMATION

### SUBJECT OVERVIEW:

#### Victim Rights

[Section 960.001, F.S.](#), provides a list of services and rights provided to victims in the criminal justice system. One such right provided to victims is the right to candor, which requires each victim to be notified that he or she has the right, if contacted to obtain information relating to a criminal proceeding by an attorney, investigator, or any other agent acting on behalf of the criminal defendant to be informed of:

- The person's name and employer.
- The fact that such person is acting on behalf of the defendant.<sup>1</sup>

#### Depositions

A deposition is out-of-court testimony that is made under oath by a party or witness in response to oral or written questions and that is recorded by an authorized officer for later use in court.<sup>2</sup> Generally, in a felony criminal proceeding, a party may take depositions at any time after the filing of the charging document.<sup>3</sup> Depositions are not allowed in cases where a defendant is charged with a misdemeanor or criminal traffic offense unless good cause is shown to the trial court.<sup>4</sup> In determining whether to allow a deposition in such cases, a court may consider the:

- Consequences to the defendant;
- Complexity of the issues involved;
- Complexity of the witness' testimony; and
- Other opportunities available to the defendant to discover the information sought by deposition.<sup>5</sup>

The ability to depose a witness is also limited by the role of the person to be deposed in the criminal proceeding.<sup>6</sup> Generally, a defendant may, without leave of court, depose any witness listed by the prosecutor as a Category A witness<sup>7</sup> or listed by a co-defendant as a witness to be called at trial. No party may take the deposition of a Category B<sup>8</sup> witness except upon leave of court with good cause shown.<sup>9</sup> In determining whether to allow a deposition, a court may consider the same factors for determining whether good cause exists to depose a witness in a misdemeanor or criminal traffic case.<sup>10</sup> A Category C<sup>11</sup> witness may not be deposed unless the court determines that the witness should be listed in another category.<sup>12</sup>

<sup>1</sup> [S. 960.001\(1\)\(w\), F.S.](#)

<sup>2</sup> Merriam-Webster, [Deposition](#) (last visited Feb. 5, 2026).

<sup>3</sup> [Fla. R. Crim. P. 3.220\(b\)\(1\), F.S.](#)

<sup>4</sup> [Fla. R. Crim. P. 3.220\(b\)\(1\)\(D\), F.S.](#)

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> Category A witnesses include:

- Eye witnesses;
- Alibi witnesses and rebuttal to alibi witnesses;
- Witnesses who were present when a recorded or unrecorded statement was taken from or made by a defendant or codefendant, which shall be separately identified within this category;
- Investigating officers;
- Witnesses known by the prosecutor to have any material information that tends to negate the guilt of the defendant as to any offense charged;
- Child hearsay witnesses;
- Expert witnesses who have not provided a written report and a curriculum vitae or who are going to testify; and
- Informant witnesses, whether in custody, who offer testimony concerning the statements of a defendant about the issues for which the defendant is being tried. [Fla. R. Crim. P. 3.220\(b\)\(1\)\(A\)\(i\), F.S.](#)

<sup>8</sup> Category B witnesses include all witnesses not listed in Category A or Category C. [Fla. R. Crim. P. 3.220\(b\)\(1\)\(A\)\(ii\), F.S.](#)

<sup>9</sup> [Fla. R. Crim. P. 3.220\(b\)\(1\)\(B\), F.S.](#)

<sup>10</sup> *Id.*

<sup>11</sup> Category C witnesses include all witnesses who perform only ministerial functions or whom the prosecutor does not intend to call at trial and whose involvement with and knowledge of the case is fully set out in a police report or other statement furnished to the defense. [Fla. R. Crim. P. 3.220\(b\)\(1\)\(A\)\(iii\), F.S.](#)

**Substantive v. Procedural Law**

Generally, the Legislature has the power to enact substantive law while the Supreme Court has the power to enact procedural law.<sup>13</sup> Substantive law includes laws which define, create, or regulate rights.<sup>14</sup> Procedural law is the form, manner, or means by which substantive law is implemented, including the rules governing the parties, their counsel, and the court throughout a legal proceeding.<sup>15</sup> In cases where a law is considered both substantive and procedural, the law is generally considered to be substantive unless the procedural aspects of the law overwhelm the substantive ones.<sup>16</sup>

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**BILL HISTORY**

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
<a href="#">Criminal Justice Subcommittee</a>	14 Y, 0 N, As CS	2/5/2026	Hall	Padgett
THE CHANGES ADOPTED BY THE COMMITTEE:	<ul style="list-style-type: none"> <li>Required specified persons acting on behalf of a criminal defendant who contact a victim for the purpose of obtaining information related to a criminal proceeding to file notice within 72 hours before making, or attempting to make, such contact.</li> <li>Removed a provision specifying that a victim may refuse to communicate with the defendant's attorney.</li> <li>Removed a provision authorizing a victim to require that the prosecutor be notified of and present for any and all communications between the defendant's attorney and the victim.</li> <li>Removed a requirement for the courts to advise crime victims of specified rights.</li> </ul>			

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**THIS BILL ANALYSIS HAS BEEN UPDATED TO INCORPORATE ALL OF THE CHANGES DESCRIBED ABOVE.**  
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<sup>12</sup> [Fla. R. Crim. P 3.220\(h\)\(1\)\(C\), F.S.](#)

<sup>13</sup> *DeLisle v. Crane Co.*, 258 So. 3d 1219, 1224 (Fla. 2018).

<sup>14</sup> *Id.* at 1224-1225.

<sup>15</sup> *Id.* at 1225.

<sup>16</sup> *Id.*