

ENROLLED  
CS/HB 989

2007 Legislature

1                                   A bill to be entitled  
2           An act relating to crime victims; amending s. 960.001,  
3           F.S.; providing that alleged victims of sexual offenses  
4           shall not be required to submit to a polygraph or other  
5           truth-telling examination as a condition of proceeding  
6           with the investigation of such an offense; providing that  
7           refusal of the alleged victim to submit to such  
8           examination does not preclude investigation, charging, or  
9           prosecution of the alleged offense; providing for the  
10          presence of victim advocates during forensic medical  
11          examinations; amending s. 960.003, F.S.; requiring that  
12          HIV testing of certain defendants be ordered within a  
13          specified period; amending s. 960.03, F.S.; revising the  
14          definition of "crime" for specified purposes; amending s.  
15          960.28, F.S.; revising provisions relating to payment of  
16          initial forensic examinations of alleged victims of  
17          certain sexual offenses; providing an effective date.

18  
19   Be It Enacted by the Legislature of the State of Florida:

20  
21           Section 1. Paragraphs (t) and (u) are added to subsection  
22           (1) of section 960.001, Florida Statutes, to read:

23           960.001 Guidelines for fair treatment of victims and  
24           witnesses in the criminal justice and juvenile justice  
25           systems.--

26           (1) The Department of Legal Affairs, the state attorneys,  
27           the Department of Corrections, the Department of Juvenile  
28           Justice, the Parole Commission, the State Courts Administrator

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29 and circuit court administrators, the Department of Law  
30 Enforcement, and every sheriff's department, police department,  
31 or other law enforcement agency as defined in s. 943.10(4) shall  
32 develop and implement guidelines for the use of their respective  
33 agencies, which guidelines are consistent with the purposes of  
34 this act and s. 16(b), Art. I of the State Constitution and are  
35 designed to implement the provisions of s. 16(b), Art. I of the  
36 State Constitution and to achieve the following objectives:

37 (t) Use of a polygraph examination or other truth-telling  
38 device with victim.--No law enforcement officer, prosecuting  
39 attorney, or other government official shall ask or require an  
40 adult, youth, or child victim of an alleged sexual battery as  
41 defined in chapter 794 or other sexual offense to submit to a  
42 polygraph examination or other truth-telling device as a  
43 condition of proceeding with the investigation of such an  
44 offense. The refusal of a victim to submit to such an  
45 examination shall not prevent the investigation, charging, or  
46 prosecution of the offense.

47 (u) Presence of victim advocates during forensic medical  
48 examination.--At the request of the victim or the victim's  
49 parent, guardian, or lawful representative, a victim advocate  
50 from a certified rape crisis center shall be permitted to attend  
51 any forensic medical examination.

52 Section 2. Subsection (2) of section 960.003, Florida  
53 Statutes, is amended to read:

54 960.003 HIV ~~Human immunodeficiency virus~~ testing for  
55 persons charged with or alleged by petition for delinquency to

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56 have committed certain offenses; disclosure of results to  
57 victims.--

58 (2) TESTING OF PERSON CHARGED WITH OR ALLEGED BY PETITION  
59 FOR DELINQUENCY TO HAVE COMMITTED CERTAIN OFFENSES.--

60 (a) In any case in which a person has been charged by  
61 information or indictment with or alleged by petition for  
62 delinquency to have committed any offense enumerated in s.  
63 775.0877(1)(a)-(n), which involves the transmission of body  
64 fluids from one person to another, upon request of the victim or  
65 the victim's legal guardian, or of the parent or legal guardian  
66 of the victim if the victim is a minor, the court shall order  
67 such person to undergo HIV testing within 48 hours of the court  
68 order.

69 (b) However, when a victim of any sexual offense  
70 enumerated in s. 775.0877(1)(a)-(n) is under the age of 18 at  
71 the time the offense was committed or when a victim of any  
72 sexual offense enumerated in s. 775.0877(1)(a)-(n) or s.  
73 825.1025 is a disabled adult or elderly person as defined in s.  
74 825.1025 regardless of whether the offense involves the  
75 transmission of bodily fluids from one person to another, then  
76 upon the request of the victim or the victim's legal guardian,  
77 or of the parent or legal guardian, the court shall order such  
78 person to undergo HIV testing within 48 hours of the court  
79 order. The testing shall be performed under the direction of the  
80 Department of Health in accordance with s. 381.004. The results  
81 of an HIV test performed on a defendant or juvenile offender  
82 pursuant to this subsection shall not be admissible in any

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83 criminal or juvenile proceeding arising out of the alleged  
84 offense.

85 Section 3. Subsection (3) of section 960.03, Florida  
86 Statutes, is amended to read:

87 960.03 Definitions; ss. 960.01-960.28.--As used in ss.  
88 960.01-960.28, unless the context otherwise requires, the term:

89 (3) "Crime" means:

90 (a) A felony or misdemeanor offense committed by either an  
91 adult or a juvenile which results in physical injury or death.  
92 The term also includes any such criminal act which is committed  
93 within this state but which falls exclusively within federal  
94 jurisdiction.

95 (b) A violation of s. 316.193, s. 316.027(1), s.  
96 327.35(1), s. 782.071(1)(b), or s. 860.13(1)(a) which results in  
97 physical injury or death; however, no other act involving the  
98 operation of a motor vehicle, boat, or aircraft which results in  
99 injury or death shall constitute a crime for the purpose of this  
100 chapter unless the injury or death was intentionally inflicted  
101 through the use of such vehicle, boat, or aircraft or unless  
102 such vehicle, boat, or aircraft is an implement of a crime to  
103 which this act applies.

104 (c) A criminal act committed outside of this state against  
105 a resident of this state which would have been compensable if it  
106 had occurred in this state and which occurred in a jurisdiction  
107 ~~state~~ that does not have an eligible crime victim compensation  
108 program as the term is defined in the federal Victims of Crime  
109 Act of 1984.

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110           ~~(d) An act of mass violence or an act of international~~  
111 ~~terrorism, as defined in 18 U.S.C. s. 2331, which is committed~~  
112 ~~outside of the territorial boundaries of the United States upon~~  
113 ~~a resident of this state, when such act results in physical~~  
114 ~~injury or death and the person is not eligible for compensation~~  
115 ~~under Title VIII of the Omnibus Diplomatic Security and~~  
116 ~~Antiterrorism Act of 1986.~~

117           Section 4. Subsection (2) of section 960.28, Florida  
118 Statutes, is amended to read:

119           960.28 Payment for victims' initial forensic physical  
120 examinations.--

121           (2) The Crime Victims' Services Office of the department  
122 shall pay for medical expenses connected with an initial  
123 forensic physical examination of a victim of sexual battery as  
124 defined in ~~who reports a violation of~~ chapter 794 or a lewd or  
125 lascivious offense as defined in chapter 800 ~~to a law~~  
126 ~~enforcement officer~~. Such payment shall be made regardless of  
127 whether ~~or not~~ the victim is covered by health or disability  
128 insurance and whether the victim participates in the criminal  
129 justice system or cooperates with law enforcement. The payment  
130 shall be made only out of moneys allocated to the Crime Victims'  
131 Services Office for the purposes of this section, and the  
132 payment may not exceed \$500 ~~\$250~~ with respect to any violation.  
133 ~~Payment may not be made for an initial forensic physical~~  
134 ~~examination unless the law enforcement officer certifies in~~  
135 ~~writing that the initial forensic physical examination is needed~~  
136 ~~to aid in the investigation of an alleged sexual offense and~~  
137 ~~that the claimant is the alleged victim of the offense. The~~

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138 | department shall develop and maintain separate protocols for the  
139 | initial forensic physical examination of adults and children.  
140 | Payment under this section is limited to medical expenses  
141 | connected with the initial forensic physical examination, and  
142 | payment may be made to a medical provider using an examiner  
143 | qualified under part I of chapter 464, excluding s. 464.003(5);  
144 | chapter 458; or chapter 459. Payment made to the medical  
145 | provider by the department shall be considered by the provider  
146 | as payment in full for the initial forensic physical examination  
147 | associated with the collection of evidence. The victim may not  
148 | be required to pay, directly or indirectly, the cost of an  
149 | initial forensic physical examination performed in accordance  
150 | with this section.

151 |       Section 5. This act shall take effect July 1, 2007.