

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 979 Sexual Battery
SPONSOR(S): Public Safety & Domestic Security Policy Committee; Roberson and others
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1312

| | REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|----|---|-----------------|----------------|-----------------------|
| 1) | Public Safety & Domestic Security Policy Committee | 7 Y, 0 N, As CS | Krol | Kramer |
| 2) | Criminal & Civil Justice Policy Council | 12 Y, 0 N | Krol | Havlicak |
| 3) | Criminal & Civil Justice Appropriations Committee | | | |
| 4) | Full Appropriations Council on General Government & Health Care | | | |
| 5) | | | | |

SUMMARY ANALYSIS

This bill requires law enforcement officers who investigate an alleged sexual battery to provide the victim with notice of their legal rights; assist the victim in obtaining medical treatment, if treatment is necessary as a result of the alleged incident, a forensic examination, and advocacy and crisis-intervention services; and advise the victim that he or she may contact a certified rape crisis center to receive services.

This bill requires the Florida Council Against Sexual Violence in conjunction with the Department of Law Enforcement to develop and distribute a standard form that explains victims' legal rights and remedies available.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Victim assistance is described within chapter 960, F.S. Law enforcement is currently required to provide victims of crime with a victim's rights information card or brochure at the crime scene, during the criminal investigation, or in any other appropriate manner. This includes information on the victim's role in the criminal justice process; crisis intervention services, supportive or bereavement counseling, social service support referrals, and community-based victim treatment programs; and the availability of crime victim compensation.¹

Statutorily, specific protections exist for victims of domestic violence.² Law enforcement is required to assist the victim in obtaining medical treatment if treatment is necessary as a result of the alleged incident, and to advise the victim of the location of domestic violence shelters where they can receive services. Law enforcement is also required to give the victim a copy of the "Legal Rights and Remedies Notice to Victims."³ The notice was developed by the Florida Department of Law Enforcement (department) and is distributed statewide to law enforcement agencies. The notice provides a general summary of the domestic violence statute, contact information, including phone number, for the area domestic violence shelter,⁴ and a copy of the following statement:

"IF YOU ARE THE VICTIM OF DOMESTIC VIOLENCE, you may ask the state attorney to file a criminal complaint. You also have the right to go to court and file a petition requesting an injunction for protection from domestic violence which may include, but need not be limited to, provisions which restrain the abuser from further acts of abuse; direct the abuser to leave your household; prevent the abuser from entering your residence, school, business, or place of employment; award you custody of your minor child or children; and direct the abuser to pay support to you and the minor children if the abuser has a legal obligation to do so."

Currently there are no such provisions in statute for victims of sexual violence.

¹ Section 960.001(1)(a), F.S.

² Section 741.29(1), F.S.

³ The notice is available in English and Spanish.

⁴ As designated by the Department of Children and Family Services.

CS/HB 979 requires law enforcement officers who investigate an alleged sexual battery to assist the victim in obtaining medical treatment, if treatment is necessary as a result of the alleged incident, a forensic examination, and advocacy and crisis-intervention services and to advise the victim that he or she may contact a certified rape crisis center to receive services.

The bill also requires law enforcement to give the victim immediate notice of their legal rights and remedies on a standardized form. The Florida Council on Sexual Violence in conjunction with the department will develop and distribute the standard form. The notice must include a resource listing, including phone number, for the area certified rape crisis center as designated by the Florida Council Against Sexual Violence.

B. SECTION DIRECTORY:

Section 1. Creates 794.052, F.S., relating to sexual battery; notification of victim's rights and services.

Section 2. Provides an effective date of July 1, 2009.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See "Fiscal Comments."

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See "Fiscal Comments."

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Rape crisis centers may see an increase in the number of victims served.

D. FISCAL COMMENTS:

According to the Florida Council Against Sexual Violence, any fiscal impact that results from developing the standardized legal notice form for sexual battery victims will be insignificant.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 17, 2009, the Public Safety & Domestic Security Policy Committee adopted an amendment that amends the bill as follows:

- Deletes the requirement that the Department of Law Enforcement must develop, distribute, and revise the standardized legal notice to sexual battery victims.
- Requires the Florida Council Against Sexual Violence, in conjunction with the Department of Law Enforcement, to develop and distribute the standardized legal notice.
- Provides that a law enforcement officer will assist a sexual battery victim in obtaining a forensic examination and advocacy and crisis-intervention services from a certified rape crisis center.
- Specifies that the certified rape crisis centers will be designated for areas by the Florida Council Against Sexual Violence instead of the Department of Health.