

1984

Session Law 84-363

Florida Senate & House of Representatives

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DOCUMENTATION LIST

Chapter 84-363, *Laws of Florida, 1984*

PRELIMINARY DOCUMENTS

1. President's Task Force on Victims of Crime *Final Report Recommendations for Federal and State Action*, dated December 1982.
2. American Bar Association. Undated document entitled "ABA Guidelines for Fair Treatment of Victims and Witnesses in the Criminal Justice System. *Note: Typed note reads: American Bar Association, 1983.*
3. National Judicial College, University of Nevada Undated document entitled "Statement of Recommended Judicial Practices [re: victims of crime]. *Note: On the bottom of page 6 is the following statement: "Adopted at the Plenary Session of the National Conference of the Judiciary on the Rights of Crime at the National Judicial College, Reno, Nevada, December 2, 1983 "*

1983 LEGISLATION

4. Joint Legislative Management Committee. Legislative Information Division. *History of Legislation, 1983*, pp. 69-70 ("History of House Bills," HB 212).
5. House Bill 212 (1983).

1984 LEGISLATION

6. Joint Legislative Management Committee. Legislative Information Division. *History of Legislation, 1984*, pp. 83-84, 212 ("History of Senate Bills," SB 238 and SB 611, respectively) and pp 19-20, 46, 243, 252 ("History of House Bills," HB 58, HB 133, HB 743 and HB 774, respectively).
7. Senate Bill 238 (1984, original version)
8. Senate Committee on Judiciary – Criminal. Staff analysis of SB 238, dated February 24, 1984, prepared by D. Dugger.
9. Senate Committee on Judiciary – Criminal Staff analysis of proposed committee substitute for SB 238, dated February 24, revised March 6, 1984, prepared by D. Dugger.
10. Committee Substitute for SB 238 (1984).
11. Senate Committee on Judiciary – Criminal Staff analysis of CS/SB 238, dated March 6, revised April 11, 1984, prepared by D. Dugger.
12. Senate Committee on Judiciary – Criminal. Final staff analysis of CS/SB 238, dated July 5, 1984, prepared by D. Dugger.
13. Senate Bill 611 (1984). *Note: This bill was never agendaed, and no staff analysis was prepared*
14. House Bill 58 (1984).

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- 15 House Committee on Criminal Justice Bill analysis of HB 58, dated December 27, 1983, prepared by J. Thomas Wright.
- 16 House Committee on Criminal Justice. Subcommittee on Criminal Code. Notice of meeting on January 9, 1984. *Note: HB 58 is listed third on the agenda, but there is not action noted.*
- 17 House Committee on Criminal Justice. Subcommittee on Criminal Code. Notice of meeting on February 6, 1984. *Note: HB 58 is listed first on the agenda; action is listed as "favorable with one amendment "*
18. House Committee on Criminal Justice. Subcommittee I (Criminal Code). Bill action record on HB 58 *Note: Found in February 6, 1984 meeting file*
- 19 [House Committee on Criminal Justice. Subcommittee I.] Proposed amendment to HB 58. *Note: Found in February 6, 1984 meeting file.*
House Committee on Criminal Justice. Notice of meeting on April 18, 1984 [see item 51, below]. *Note: HB 58 is listed last on the agenda for the 6:00-7:00 session; it is marked as "t p " meaning "temporarily passed," a procedural move designed to delay action on the bill without killing it.*
Committee substitute for CS/HBs 774, 58 and 743 (see item 53, below).
20. House Bill 133 (1984).
21. House Committee on Criminal Justice. Bill analysis of HB 113, dated January 24, 1984, prepared by J. Thomas Wright.
- 22 House Bill 743 (1984). *Note: HB 743 is listed first on the April 9 agenda (see item 26, below. This bill was subsequently combined with HB 774*
23. House Committee on Criminal Justice. Subcommittee on Criminal Code Subcommittee report on HB 743, dated April 9, 1984. *Note: Action listed "t.p." means "temporarily passed," a procedural move designed to delay action on the bill without killing it.*
Committee substitute for CS/HBs 774, 58 and 743 (see item 53, below)
24. House Bill 774 (1984, original version).
- 25 House Committee on Criminal Justice. Bill analysis of HB 774, dated April 6, 1984, prepared by Marie A. Mattox.
- 26 House Committee on Criminal Justice. Subcommittee on Criminal Code. Notice of meeting on April 9, 1984. *Note: HB 774 is listed third on the agenda; action listed as "Passed with 20 amendments "*
27. House Committee on Criminal Justice Subcommittee on Criminal Code Subcommittee report on HB 774, dated April 9, 1984

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28. House Committee on Criminal Justice. Subcommittee on Criminal Code. Bill action record on HB 774 [found in meeting file of April 9, 1984]. *Note: This document is not complete, it covers only amendments #1 through #7 (without votes) and amendments #18 through #21 (with votes).*
29. Amendment #1 to HB 774.
30. Amendment #2 to HB 774.
31. Amendment #3 to HB 774.
32. Amendment #4 to HB 774.
33. Amendment #5 to HB 774.
34. Amendment #6 to HB 774
35. Amendment #7 to HB 774.
36. Amendment #8 to HB 774.
37. Amendment #9 to HB 774.
38. Amendment #10 to HB 774
39. Amendment #11 to HB 774.
40. Amendment #12 to HB 774.
41. Amendment #13 to HB 774
42. Amendment #14 to HB 774
43. Amendment #15 to HB 774.
44. Amendment #16 to HB 774.
45. Amendment #17 to HB 774
46. Amendment #18 to HB 774
47. Amendment #19 to HB 774
48. Amendment #20 to HB 774.
49. Amendment #21 to HB 774.
50. [House Committee on Criminal Justice.] Third draft (dated April 9) of a document entitled "Victim and Witness Rights and Protection: Provisions of HB 774, as amended, by Lehtinen, Ros, Titone, Combee and Others."
51. House Committee on Criminal Justice. Notice of meeting on April 18, 1984. *Note: HB 774 is listed as second on the agenda for the 6:00-7:00 session, it is marked as approved as a committee substitute.*
52. House Committee on Criminal Justice. Committee information record on HB 774, dated April 18, 1984.
53. Committee substitute for HBs 774, 58 and 743.

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54. House Committee on Appropriations. Fiscal note on CS/HBs 774, 58 and 743, dated May 21, 1984
55. House Committee on Appropriations. Committee information record on CS/HBs 774, 58 and 743, dated May 25, 1984.
56. *Laws of Florida, 1984*, vol. I, part 2, pp. 2143-2157 (Chapter 84-363).

LEGISLATIVE SUPPLEMENT "B" - SESSION LAW ABSTRACT

Year 1984	Session Law No. 84-363	LOF Cite Vol. I, pt. 2, pp 2143 -	#pp
Prime Bill# CS/SB 238	Sponsor Weinstein	Comp./Sim. Bills CS/HB 774 (Lehtinen)	
JLMC Hist. Leg. Cites	Senate pp.#s 83-84 (SB 238)	House pp.#s 252 (HB 774)	#pp
Committee of Ref.	Senate JUDICIARY-CRIMINAL	Previous versions?	
	House CRIMINAL JUSTICE		

Committee Records

H/S	Committee	Year	Record Series: Folder Title, etc.	Location Cite	#pp
S	Jud.-CRIM	84	BILL FILE SB 238	18/1391	
			Mtg. FILE 4/11/84	18/1390	
H	CRIM-Jst.	84	BILL FILE, HB 774 - No Bill FILE		
			Mtg. FILE, sub-cmt on crim. code 4/9/84	19/1346	
			Mtg. FILE, Full cmt. 4/18/84	19/1346	
H	Approp.	84	BILL FILE, HB 774	19/1170	
			Mtg. FILE, 5/25/84	19/1175	

Senate/House Journals

Page	?	Date	#pp	Page	?	Date	#pp

Tape Recordings

H/S	Floor	Committee/subcommittee	Date	# Tapes	Location Cite
S		Jud.-CRIM	4/11/84	2	5.625/301
					<small>last part of tape 1 + first part of tape 2</small>
H		CRIM JUST / CRIM CODE SUB CMT	4/9/84	2	414/512
					<small>not indexed</small>
H		CRIM JUSTICE, Full CMT.	4/18/84	2	414/512
					<small>not indexed</small>

Other Documentation

Record series title, folder title, etc.	Location Cite	#pp

57-303

look at

SB 611 - SJR (not heard)

WA . HB 58 - HCMJ (comb w/ HB 774)
4/3 - 4/26/84 (?) 4/12/84 Full

HB 133 - MJ (not heard)

HB 743 - HCMJ (comb w/ HB 774)
4/7 - 4/26/84

HB 774 4/5 - 4/26

S. 414/ 511, 512, 513

LEGISLATIVE SUPPLEMENT "B" - SESSION LAW ABSTRACT

Sess. Law #		Sec. #	LOF cite
Prime Bill #		Comp./Sim. Bills	
JLHC Hist. Cites	Senate	Comms. of Ref.	Senate
	House		House

COMMITTEE RECORDS

H/S	Committee	Year	Record Series: Folder title, etc.	Loc. Cite	✓
H	Crim J	1981	General info files: Victim/Witness Report ^(APP)	19/852	
"	"	"	" " Sup Ct. cases (80-81)	" X	
"	"	1983	Bill files: AB 212	no file listed	
"	"	1984	" " HJR 73 (research unit)	19/1345	
"	"	"	Meeting file, (full)	19/1346	
"	"	"	" " (Sublaw Conf)	"	
"	"	"	Bill - ... this year	19/1240	✓
<input checked="" type="checkbox"/> continued on reverse					

Senate/House Journals

Page #	?	Date	Page #	?	Date

Committee/Floor Tapes

H/S	c/f	Committee/subcommittee name	Date	#	Location Cite

Other Documentation

Record Series Title, folder title, etc.	Location Cite

PRESIDENT'S
TASK FORCE ON
VICTIMS OF CRIME

FINAL REPORT

DECEMBER 1982

Recommendations for Federal and State Action

1. Legislation should be proposed and enacted to ensure that addresses of victims and witnesses are not made public or available to the defense, absent a clear need as determined by the court.
 2. Legislation should be proposed and enacted to ensure that designated victim counseling is legally privileged and not subject to defense discovery or subpoena.
 3. Legislation should be proposed and enacted to ensure that hearsay is admissible and sufficient in preliminary hearings, so that victims need not testify in person.
 4. Legislation should be proposed and enacted to amend the bail laws to accomplish the following:
 - a. Allow courts to deny bail to persons found by clear and convincing evidence to present a danger to the community;
 - b. Give the prosecution the right to expedited appeal of adverse bail determinations, analogous to the right presently held by the defendant;
 - c. Codify existing case law defining the authority of the court to detain defendants as to whom no conditions of release are adequate to ensure appearance at trial;
 - d. Reverse, in the case of serious crimes, any standard that presumptively favors release of convicted persons awaiting sentence or appealing their convictions;
 - e. Require defendants to refrain from criminal activity as a mandatory condition of release; and
 - f. Provide penalties for failing to appear while released on bond or personal recognizance that are more closely proportionate to the penalties for the offense with which the defendant was originally charged.
 5. Legislation should be proposed and enacted to abolish the exclusionary rule as it applies to Fourth Amendment issues.
 6. Legislation should be proposed and enacted to open parole release hearings to the public.
 7. Legislation should be proposed and enacted to abolish parole and limit judicial discretion in sentencing.
 8. Legislation should be proposed and enacted to require that school officials report violent offenses against students or teachers, or the possession of weapons or narcotics on school grounds. The knowing failure to make such a report to the police, or deterring others from doing so, should be designated a misdemeanor.
 9. Legislation should be proposed and enacted to make available to businesses and organizations the sexual assault, child molestation, and pornography arrest records of prospective and present employees whose work will bring them in regular contact with children.
 10. Legislation should be proposed and enacted to accomplish the following:
 - a. Require victim impact statements at sentencing;
 - b. Provide for the protection of victims and witnesses from intimidation;
 - c. Require restitution in all cases, unless the court provides specific reasons for failing to require it;
 - d. Develop and implement guidelines for the fair treatment of crime victims and witnesses; and
 - e. Prohibit a criminal from making any profit from the sale of the story of his crime. Any proceeds should be used to provide full restitution to his victims, pay the expenses of his prosecution, and finally, assist the crime victim compensation fund.
 11. Legislation should be proposed and enacted to establish or expand employee assistance programs for victims of crime employed by government.
 12. Legislation should be proposed and enacted to ensure that sexual assault victims are not required to assume the cost of physical examinations and materials used to obtain evidence.
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ABA GUIDELINES FOR FAIR TREATMENT OF VICTIMS AND WITNESSES IN THE CRIMINAL JUSTICE SYSTEM

1. Victims¹ or their representatives² should be provided appropriate information about:
 - (a) availability of social and medical services, especially emergency services; and
 - (b) availability of crime victim compensation and restitution.
2. Victims and witnesses should be provided information about their role in the criminal justice process, including what they can reasonably expect from the system and what the system expects from them.
3. Victims and witnesses should be advised of available protections against unlawful intimidation.
4. Victims and witnesses should be notified as soon as practicable of scheduling changes which will affect their required attendance at criminal justice proceedings, or be given access to a system providing up-to-date scheduling information.
5. Victims and witnesses who request it should be provided with employer and creditor intercession to seek employer cooperation in minimizing employees' loss of pay and other benefits resulting from their participation in the criminal justice process, and to seek consideration from creditors if the victim is unable, temporarily, to continue payments.
6. Victims of serious crimes should be given the opportunity to enter a standing request for and receive timely advance notice of the date, time and place of the defendant's initial appearance before a judicial officer, submission to the court of plea

agreements, the trial, and sentencing. It is, however, the responsibility of the victim to provide a current address and telephone number to the appropriate official.

7. As soon after arrest as possible, victims or their representatives in serious cases should be given the opportunity to enter a standing request and subsequently receive timely notification of the case disposition, including the trial and sentencing. It is, however, the responsibility of the victim to provide a current address and telephone number to the appropriate official.
8. As soon after arrest as possible, victims or their representatives in serious cases should be given the opportunity to enter a standing request for and subsequently receive prompt notification of any decision or action in the case which results in the defendant's provisional or final release from state custody. It is, however, the responsibility of the victim to provide a current address and telephone number to the appropriate official.
9. At any time from the commission of the crime to final disposition or release of the defendant or offender, victims and witnesses who request it should be provided with information about the status of their case.
10. Victims or their representatives in serious cases should have the opportunity to consult with the prosecutor prior to dismissal of the case or filing of a proposed plea negotiation with the court, and should be advised of this opportunity as soon as feasible.
11. Prior to the sentencing of an offender in a serious case, victims or their representatives should have the opportunity to inform the sentencing body of the crime's physical, psychological, and financial repercussions on the victim or on the victim's family. Jurisdictions may do this in one or several ways, including
 - (a) written statement prepared by the victim to be included in the probation department's presentence report on the offender,
 - (b) written statement prepared by the probation department after consultation with the victim or the victim's representative, and/or
 - (c) oral statement by the victim or the victim's representative before the sentencing body. In utilizing this alternative, courts or jurisdictions shall fully evaluate the conflicting considerations, on the one hand, of citizen participation,

public confidence in law enforcement, and the victim's understandable interest, and, on the other, the potentially inflammatory impact in some matters of the victim's courtroom statement and appearance.

12. Victims of a crime involving economic loss, loss of earnings, or earning capacity should be able to expect the sentencing body to give priority consideration to restitution as a condition of probation.
13. Victims of property crimes should have their property returned as expeditiously as possible, e.g., through photographing such property for use in evidence.

AMERICAN BAR ASSOCIATION, 1983

¹In these guidelines, "victim" means any natural person against whom any crime as defined under state laws or United States law is being or has been perpetrated or attempted to be perpetrated.

²A representative is appropriate in homicide cases or cases where the victim is seriously injured or impaired, is a minor, or otherwise needs representation.



ERNST JOHN WATTS *Dean*

V. ROBERT PAJANT *Associate Dean*

*Approved by NSC Judicial
Conference 11/21/83*
American Bar Association

THE NATIONAL JUDICIAL COLLEGE

University of Nevada • Reno, Nevada 89557 • Telephone (702) 784-6747

STATEMENT OF RECOMMENDED JUDICIAL PRACTICES

INTRODUCTION

Victims of crime often receive serious physical, psychological and financial injuries as a result of their victimization. Victims of and witnesses to crime frequently must take time off from work and make other personal sacrifices, possibly subjecting themselves to risk of intimidation and injury, in the performance of their civic duty. The criminal justice system depends on the willing cooperation of victims and witnesses in order to perform its primary function of protecting all citizens in this country.

We, as trial judges from the United States, the District of Columbia and the Commonwealth of Puerto Rico, have concluded that a number of steps can be taken to help victims of crime and strengthen the protection from harm for all persons in our society. Because the criminal justice system is composed of separate independent agencies, including the police, prosecutors, practicing defense bar, courts and parole boards, all must work together to accomplish this goal. Moreover, some of our recommendations would require new legislation. We have concluded that it is our responsibility as trial judges not only to make improvements within the judicial system, but to take the initiative in coordinating the various elements of the criminal justice system and take the leadership role that is consistent with the doctrine of separation of powers.

We are confident that our recommendations will greatly help victims of and witnesses to crime by improving the necessary information and services provided, afford them additional protection from harm, and create increased respect for the judicial process by improving their participation in the criminal justice system.

We believe that all of this can be accomplished without impairing the constitutional and statutory safeguards appropriately afforded all persons charged with crime. Our goal is not to reduce the rights guaranteed defendants but rather to assure the rights of victims and witnesses.

Adopted by Judicial Conference Nov. 12, 1983

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I. FAIR TREATMENT OF VICTIMS AND WITNESSES

JUDGES SHOULD PLAY A LEADERSHIP ROLE IN ENSURING THAT VICTIMS AND WITNESSES ARE TREATED WITH COURTESY, RESPECT, AND FAIRNESS.

A. INFORMATION ABOUT COURT PROCEDURES AND FACILITIES

ALL VICTIMS AND WITNESSES IN CRIMINAL CASES SHOULD BE PROVIDED ESSENTIAL INFORMATION ABOUT COURT PROCEDURES AND COURTHOUSE FACILITIES. JUDGES SHOULD ENCOURAGE THE FOLLOWING PRACTICES:

1. That victims and witnesses be provided with information regarding the rights and privileges available to victims and witnesses, and about the physical layout of the courthouse, parking areas, public transportation routes, witness fees, state compensation funds, and other available financial assistance;
2. That court administrators establish reception areas and provide victims and witnesses information about public and community services;
3. That prosecutors explain to victims the criminal justice system insofar as it relates to the victims' cases and what is expected of the victims in the prosecution of the cases.

B. NOTICE TO VICTIMS AND WITNESSES

VICTIMS AND WITNESSES SHOULD BE FULLY INFORMED ABOUT THE CRIMINAL JUSTICE PROCEEDINGS IN THEIR CASES. JUDGES SHOULD ENCOURAGE:

1. That the victims should be able to obtain from appropriate court personnel information concerning the status of their cases;
2. That, if requested, prosecutors inform victims of serious crimes that they may obtain, if possible, timely notice of all bail, pre-trial, trial and post-trial hearings, if the victims provide a current address or telephone number;
3. That if requested, appropriate officials, if possible, give timely notice to victims of serious crimes about the release of the defendant from custody, pre-trial and post-trial, if they provide a current address and phone number;
4. That victims be informed by prosecutors of the disposition of their cases.

THE NATIONAL JUDICIAL COLLEGE

C. SPECIAL SERVICES

JUDGES SHOULD RECOGNIZE THAT VICTIMS AND WITNESSES MAY REQUIRE SPECIAL SERVICES AND SUPPORT, BOTH MATERIAL AND PSYCHOLOGICAL. JUDGES SHOULD ENCOURAGE THE FOLLOWING PRACTICES:

1. Separate waiting areas for defense and prosecution witnesses;
2. Interpreter and translator services for victims and witnesses while they are in the courthouse;
3. An "on call" system to minimize unnecessary trips to court;
4. The expeditious return of evidence;
5. The availability of special transportation and protection to and from the courthouse when witnesses' safety is a consideration;
6. Informing the public generally of the importance of supporting the witnesses' participation in court proceedings and encouraging the adoption of legislation to accord witnesses the same protection from adverse actions by employers as are customarily given jurors and members of the National Guard;
7. Child care services for witnesses,
8. Crisis intervention, counseling and other support services for victims;
9. Ensuring the victim is not charged for rape examinations or other costs of collecting and preserving evidence;
10. Establishing fair and appropriate witness fees.

D RESTITUTION

JUDGES SHOULD ORDER RESTITUTION IN ALL CASES UNLESS THERE IS AN ARTICULATED REASON FOR NOT DOING SO, WHETHER THE OFFENDER IS INCARCERATED OR PLACED ON PROBATION.

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II. VICTIM PARTICIPATION

VICTIMS SHALL BE ALLOWED TO PARTICIPATE AND, WHERE APPROPRIATE, TO GIVE INPUT THROUGH THE PROSECUTOR OR TO TESTIFY IN ALL STAGES OF JUDICIAL PROCEEDINGS.

- A. PARTICIPATION MAY INCLUDE BUT IS NOT LIMITED TO THE FOLLOWING:
 - 1. Pre-trial release or bail hearings;
 - 2. The propriety and conditions of diversion;
 - 3. The scheduling of court proceedings;
 - 4. Continuances or delays; judges should state on the record the reason for granting a continuance;
 - 5. Plea and sentence negotiations;
 - 6. Sentencing;
 - 7. Victim/offender mediation in non-violent cases, when appropriate.

- B. TO ASSIST VICTIM PARTICIPATION:
 - 1. A victim's advisor should be permitted to remain in the courtroom with the victim, but not participate in the judicial proceedings;
 - 2. Victim impact statements prior to sentencing should be encouraged and considered;
 - 3. The victim or the victim's family should be allowed to remain in the courtroom when permitted by law and when it will not interfere with the right of the defendant to a fair trial.

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III. PROTECTION

JUDGES SHOULD USE THEIR JUDICIAL AUTHORITY TO PROTECT VICTIMS AND WITNESSES FROM HARASSMENT, THREATS, INTIMIDATION, AND HARM.

A. THIS SHOULD INCLUDE:

1. Encouraging that separate waiting rooms be provided for defense and prosecution witnesses;
2. Requiring that bail be conditioned on the defendants having no access to victims or prosecution witnesses;
3. On showing of good cause, limiting access to the addresses of victims and witnesses;
4. Encouraging that victims and witnesses be advised that if they agree to be interviewed prior to trial by opposing counsel or investigators, they may insist that the interviews be conducted at neutral locations;
5. Encouraging legislation or rules which would require parole boards to advise the judge, the prosecutor, the public, and the victim where appropriate, prior to any hearing on the release of an offender convicted of a serious crime.

B. JUDGES IN PROTECTING SENSITIVE VICTIMS (MINORS, VICTIMS OF SEXUAL ABUSE, FAMILIES OF HOMICIDE VICTIMS, THE ELDERLY, AND THE HANDICAPPED) MAY CONSIDER THE FOLLOWING:

1. Expediting trials of cases involving sensitive victims;
2. Encouraging specially designed or equipped courtrooms to protect sensitive victims, provided that the right of confrontation is not abridged;
3. Permitting the use of videotaped depositions in cases involving sensitive victims, provided that the right of confrontation is not abridged;
4. Allowing sensitive victims to have an individual of their choice accompany them in closed juvenile proceedings, closed criminal proceedings, and in camera proceedings.

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IV. JUDICIAL EDUCATION

JUDGES AT THE TRIAL AND APPELLATE LEVELS SHOULD BE ENCOURAGED TO PARTICIPATE IN TRAINING PROGRAMS DEALING WITH THE NEEDS, COMFORTS AND LEGAL INTERESTS OF CRIME VICTIMS.

State, regional and national programs and conferences for judges and non-judges should be held on methods to improve the treatment of victims and witnesses and to develop solutions to the problems suggested.

V. ALL THESE RECOMMENDED JUDICIAL PRACTICES ARE SUBJECT TO EXISTING RULES OF COURT, STATUTES AND CONSTITUTIONAL PROVISIONS.

CONCLUSION

Judges have a role in improving the treatment of victims and witnesses by reason of their position in the American Judicial system and their positions in their communities.

Judges believe that fair treatment of victims and witnesses can, consistent with constitutional limitations, be brought about by changes in the law, rules of procedure and legislation. Judges believe that they can influence the actions of others, including officers of the court and public officials, in the treatment of witnesses and victims. Judges also can encourage community support for change in the treatment of witnesses and victims. By their attitude and the attitudes of their staff, judges can set examples in the treatment of witnesses and victims

We urge that our fellow judges exercise their leadership role in improving the treatment of victims and witnesses. Victims of crime should not be victims of the criminal justice system.

Adopted at the Plenary Session of the National Conference of the Judiciary on the Rights of Victims of Crime at The National Judicial College, Reno, Nevada, December 2, 1983.

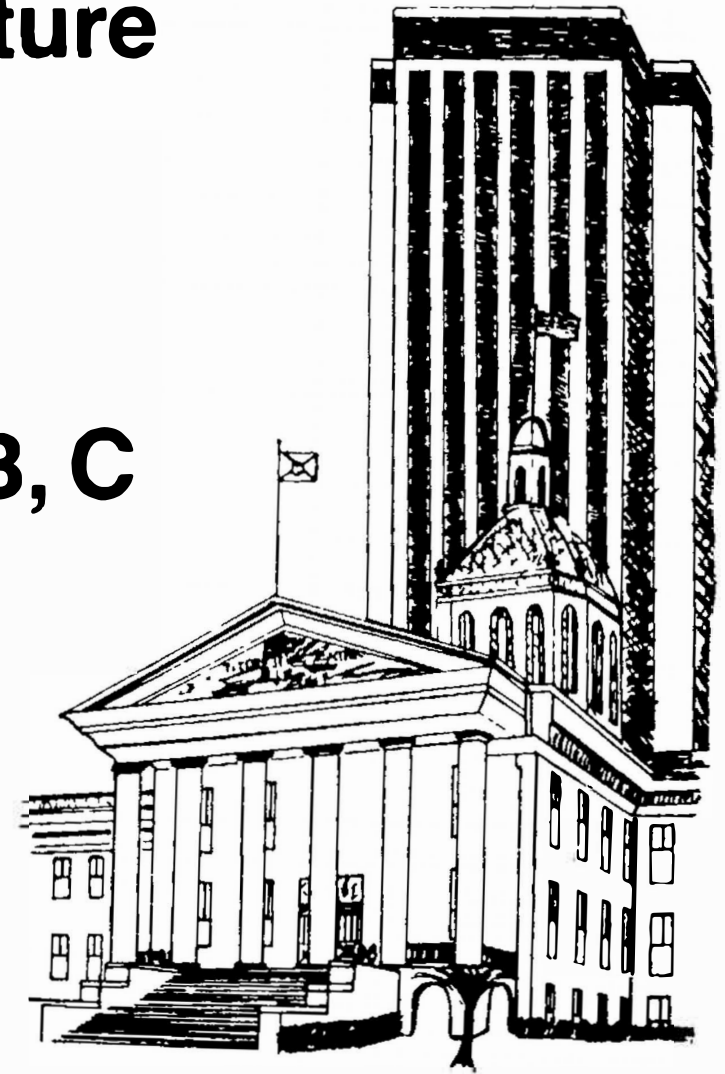
Florida Legislature

History of Legislation

1983 Regular Session

1983 Special Sessions A, B, C

1982 Special Session H



prepared by:

Joint Legislative Management Committee

Legislative Information Division

Capitol Building, Room 826—488-4371

02/21/83 HOUSE SUBREFERRED TO SUBCOMMITTEE ON HEALTH CARE AND LIFE AND HEALTH INSURANCE
 04/05/83 HOUSE INTRODUCED, REFERRED TO COMMERCE, HEALTH & REHABILITATIVE SERVICES -HJ 00031; SUBREFERRED TO SUBCOMMITTEE ON HEALTH CARE AND LIFE AND HEALTH INSURANCE
 06/03/83 HOUSE INDEFINITELY POSTPONED & W/D (SCR 1209); WAS IN COMMITTEE ON COMMERCE
 06/24/83 REFER TO SB 28-B (CH. 83-342)

- H 0210 GENERAL BILL/CS BY FINANCE & TAXATION, WEBSTER (SIMILAR S 0327)
GAS TAX DISTRIBUTION; REQUIRES STATE BOARD OF ADMINISTRATION TO DISTRIBUTE CERTAIN SURPLUS CONSTITUTIONAL GAS TAX FUNDS TO COUNTIES; REPEALS PROVISION WHICH REQUIRES COMPTROLLER OF TRANSPORTATION DEPT. TO MAINTAIN SEPARATE ACCOUNTS FOR EACH COUNTY, ETC. AMENDS 206.47; REPEALS 354.19(4), 339.06(5). EFFECTIVE DATE: 07/01/83.
 02/11/83 HOUSE PREFILED
 02/25/83 HOUSE REFERRED TO TRANSPORTATION, FINANCE & TAXATION, APPROPRIATIONS
 03/11/83 HOUSE ON COMMITTEE AGENDA-- TRANSPORTATION, 21 HOB, 1:00 PM, 03/28/83
 03/29/83 HOUSE COMM. REPORT: FAVORABLE BY TRANSPORTATION; NOW IN FINANCE & TAXATION
 04/05/83 HOUSE INTRODUCED, REFERRED TO TRANSPORTATION, FINANCE & TAXATION, APPROPRIATIONS -HJ 00031; COMM. REPORT: FAVORABLE BY TRANSPORTATION -HJ 00076; NOW IN FINANCE & TAXATION
 04/11/83 HOUSE ON COMMITTEE AGENDA-- FOR SUBREFERRAL, 21 HOB, 3:00 PM, 04/13/83
 04/13/83 HOUSE SUBREFERRED TO SUBCOMMITTEE ON SALES TAX AND GENERAL LEGISLATION
 04/25/83 HOUSE ON COMMITTEE AGENDA-- SUBCOMM., F. & T., 16 HOB, 1:30 PM, 04/27/83
 05/16/83 HOUSE ON COMMITTEE AGENDA-- F. & T., 21 HOB, 1:00 PM, 05/18/83
 05/24/83 HOUSE COMM. REPORT: C/S BY FINANCE & TAXATION -HJ 00567; NOW IN APPROPRIATIONS; WITHDRAWN FROM APPROPRIATIONS -HJ 00566; PLACED ON CALENDAR
 05/30/83 HOUSE C/S READ FIRST AND SECOND TIMES; READ THIRD TIME; C/S PASSED; YEAS 112 NAYS 0 -HJ 00794
 05/30/83 SENATE IN MESSAGES
 05/31/83 SENATE RECEIVED, REFERRED TO APPROPRIATIONS, FINANCE, TAXATION AND CLAIMS -SJ 00532
 06/03/83 SENATE INDEFINITELY POSTPONED & W/D (SCR 1209); WAS IN COMMITTEE ON APPROPRIATIONS
- H 0211 GENERAL BILL BY LEHTINEN (SIMILAR CS/S 0229, COMPARE ENG/S 0395)
BAIL; EXPANDS PROHIBITION OF BAIL FOLLOWING ADJUDICATION OF GUILT OF CERTAIN FELONIES. AMENDS 903.133. EFFECTIVE DATE: UPON BECOMING LAW.
 02/11/83 HOUSE PREFILED
 02/25/83 HOUSE REFERRED TO CRIMINAL JUSTICE
 04/05/83 HOUSE INTRODUCED, REFERRED TO CRIMINAL JUSTICE -HJ 00031
 04/14/83 HOUSE ON COMMITTEE AGENDA-- IF SUBREFERRED, 314 H, AFTER CRIM JUST ADJ, 04/16
 04/18/83 HOUSE SUBREFERRED TO SUBCOMMITTEE ON CRIMINAL CODE
 04/21/83 HOUSE ON COMMITTEE AGENDA-- CRIMINAL JUSTICE, 314 HOB, 3:00 PM, 04/25/83
 04/27/83 HOUSE COMM. REPORT: FAVORABLE, PLACED ON CALENDAR BY CRIMINAL JUSTICE -HJ 00285
 06/03/83 HOUSE INDEF. POSTPONED & W/D (SCR 1209); WAS ON CAL; ISC BILL PASSED, SEE SB 395 (CH. 83-83)
- H 0212 GENERAL BILL BY LEHTINEN AND OTHERS
VICTIMS/WITNESSES OF CRIME; PROVIDES LIST OF RIGHTS & DUTIES RE VICTIMS & WITNESSES OF CRIME, INCLUDING DUTY OF STATE TO PROTECT SUCH WITNESSES & VICTIMS & SUCH RIGHTS & DUTIES OF VICTIMS & WITNESSES AS DUTY TO COOPERATE WITH LAW ENFORCEMENT AGENCIES, ETC. CREATES 960.025. EFFECTIVE DATE: 10/01/83.
 02/11/83 HOUSE PREFILED
 CONTINUED ON NEXT PAGE

02/25/83 HOUSE REFERRED TO CRIMINAL JUSTICE, APPROPRIATIONS
 04/05/83 HOUSE INTRODUCED, REFERRED TO CRIMINAL JUSTICE,
 APPROPRIATIONS -HJ 00031
 04/18/83 HOUSE SUBREFERRED TO SUBCOMMITTEE ON LAW ENFORCEMENT, DRUGS
 AND MISCELLANEOUS
 04/28/83 HOUSE ON COMMITTEE AGENDA-- SUBCOMM, CRIM. JUSTICE, 16 HOB,
 1:00PM, 05/02
 06/03/83 HOUSE INDEFINITELY POSTPONED & W/D (SCR 1209); WAS IN
 COMMITTEE ON CRIMINAL JUSTICE

H 0213 GENERAL BILL BY GOVERNMENTAL OPERATIONS (SIMILAR S 0249)
WORKERS' COMPENSATION; MODIFIES CURRENT METHOD OF DERIVING
 ADMINISTRATIVE COSTS; ETC. REENACTS 440.56(6); AMENDS 440.51.
 EFFECTIVE DATE: 07/01/83.
 02/15/83 HOUSE PREFILED
 02/25/83 HOUSE REFERRED TO COMMERCE, APPROPRIATIONS
 02/28/83 HOUSE SUBREFERRED TO SUBCOMMITTEE ON PROPERTY AND CASUALTY
 INSURANCE
 04/05/83 HOUSE INTRODUCED, REFERRED TO COMMERCE, APPROPRIATIONS
 -HJ 00031; SUBREFERRED TO SUBCOMMITTEE ON PROPERTY AND
 CASUALTY INSURANCE; ON COMMITTEE AGENDA, PENDING
 SUBCOMMITTEE ACTION-- COMMERCE, 21 HOB, 1:00 PM,
 04/05/83
 04/06/83 HOUSE COMM. REPORT: FAVORABLE BY COMMERCE -HJ 00099; NOW IN
 APPROPRIATIONS
 04/21/83 HOUSE WITHDRAWN FROM APPROPRIATIONS -HJ 00215; PLACED ON
 CALENDAR
 05/17/83 HOUSE PLACED ON SPECIAL ORDER CALENDAR
 05/25/83 HOUSE READ SECOND TIME; AMENDMENT PENDING -HJ 00598
 05/27/83 HOUSE PENDING AMENDMENT WITHDRAWN; READ THIRD TIME; PASSED;
 YEAS 112 NAYS 0 -HJ 00724
 05/27/83 SENATE IN MESSAGES
 05/31/83 SENATE RECEIVED, REFERRED TO COMMERCE, APPROPRIATIONS
 -SJ 00532
 06/02/83 SENATE WITHDRAWN FROM COMMERCE, APPROPRIATIONS; SUBSTITUTED
 FOR SB 249 -SJ 00753; PASSED AS AMENDED; YEAS 35 NAYS
 0 -SJ 00756
 06/02/83 HOUSE IN MESSAGES
 06/03/83 HOUSE INDEFINITELY POSTPONED & W/D (SCR 1209); WAS IN
 MESSAGES
 06/24/83 REFER TO HB 17-B (VETOED BY GOVERNOR - 07/06/83)

H 0214 GENERAL BILL BY BRANTLEY
PUBLIC SERVICE COMMISSION; PROVIDES FOR MERIT RETENTION OF COMMISSIONERS
 & FOR COMPLETION OF TERMS BY CURRENT MEMBERS; PROVIDES PROCEDURE FOR
 QUALIFICATION FOR RETENTION IN GENERAL ELECTION NEXT PRECEDING
 EXPIRATION OF TERM; PROVIDES FOR FILLING OF VACANCIES & LENGTH OF TERMS,
 ETC. AMENDS 350.01. EFFECTIVE DATE: 07/01/83.
 02/15/83 HOUSE PREFILED
 02/25/83 HOUSE REFERRED TO REGULATED INDUSTRIES & LICENSING,
 APPROPRIATIONS
 04/05/83 HOUSE INTRODUCED, REFERRED TO REGULATED INDUSTRIES &
 LICENSING, APPROPRIATIONS -HJ 00032; ON COMMITTEE
 AGENDA-- REGULATED IND., 21 HOB, 9AM, 04/06
 04/06/83 HOUSE COMM. REPORT: UNFAVORABLE, LAID ON TABLE UNDER RULE BY
 REGULATED INDUSTRIES & LICENSING -HJ 00099

H 0215 GENERAL BILL/CS BY COMMERCE, PAJIC AND OTHERS (COMPARE S 0230)
TRUST FUNDS; AMENDS PROVISION RE VOTING RIGHTS EXERCISED BY THE
 TREASURER WITH RESPECT TO SECURITIES OWNED BY RETIREMENT SYSTEM &
 SURVIVOR BENEFIT TRUST FUNDS, ETC. AMENDS 215.50. EFFECTIVE DATE:
 UPON BECOMING LAW.
 02/15/83 HOUSE PREFILED
 02/25/83 HOUSE REFERRED TO COMMERCE, APPROPRIATIONS
 02/28/83 HOUSE SUBREFERRED TO SUBCOMMITTEE ON BANKING AND COMMERCE
 04/05/83 HOUSE INTRODUCED, REFERRED TO COMMERCE, APPROPRIATIONS
 -HJ 00032; SUBREFERRED TO SUBCOMMITTEE ON BANKING AND
 COMMERCE
 04/15/83 HOUSE ON COMMITTEE AGENDA-- SUBCOMM., COMMERCE, 16 HOB, 1:00
 CONTINUED ON NEXT PAGE

By Representative Lehtinen

A bill to be entitled

An act relating to standards for fair treatment for victims and witnesses of crime; creating s. 960.025, Florida Statutes, providing a list of rights and duties related to victims and witnesses of crime, including the duty of the state to protect such witnesses and victims and including such rights and duties of victims and witnesses as the duty to cooperate with law enforcement agencies, the right to access to financial and social service assistance and the right to receive needed medical services, the right to certain restitution or compensation, the right to receive certain information concerning protection by law enforcement agencies, concerning the presence of an advocate or representative at prosecutory investigative interviews, concerning scheduling or postponement of criminal proceedings, and concerning witness fees, the right to certain security at criminal proceedings, the right to certain information concerning investigations, the right to be advised of certain court actions and to be notified of the release or change in status of a defendant convicted of a violent crime who has been committed to care of the Department of Health and Rehabilitative Services, the right to the expeditious return of personal property held as evidence, the right to have the perpetrator of a crime prevented from being enriched at a victim's

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1	expense, the right to employer-intercession	1.26
2	services, the right to provide extended rights	
3	to families of homicide victims, and the right	1.28
4	to provide victim impact statements; providing	
5	an effective date.	
6		
7	WHEREAS, Florida has taken positive steps in the	1.30
8	direction of crime reduction and the restoration of fairness	1.31
9	and effectiveness to the administration of justice through the	
10	Florida Crimes Compensation Act and its leadership role in the	1.32
11	field of victim/witness programs, NOW, THEREFORE,	1.33
12		
13	Be It Enacted by the Legislature of the State of Florida:	1:enc
14		
15	Section 1. Section 960.025, Florida Statutes, is	1.35
16	created to read:	1.36
17	960.025 Standards for fair treatment for victims and	1.36
18	witnesses of crime.--Law abiding citizens, as victims or	1.37
19	witnesses of crime, shall have the following treatment:	1.38
20	(1) To be protected from criminal violence and crime.	1.39
21	The state has a duty to protect its citizens from violent	1.40
22	attacks and crime, and the victim or witness has a duty to	1.41
23	cooperate with law enforcement agencies.	
24	(2) To be informed of, and to have immediate access	1.42
25	to, financial and social service assistance and to receive	1.43
26	medical services as needed as a result of a crime. This	1.45
27	includes the right to receive information on how to apply for	
28	such assistance and services.	1.46
29	(3) To be made whole through restitution, as provided	1.46
30	in ss. 775.089 and 947.181, as may be ordered by the courts,	1.47
31	or by civil recovery and, where this is not possible, to	1.48

1	receive state-funded compensation as provided in this chapter.	
2	(4) To receive information, when inquiry is made,	1.49
3	regarding protection from harm and threats of harm arising out	
4	of cooperation with law enforcement and prosecution efforts,	1.51
5	and to be provided with information as to the levels of	1.53
6	protection available from law enforcement agencies, state	
7	attorneys or their employees, or victim or witness service	1.55
8	providers.	
9	(5) To be informed that the victim/witness is entitled	1.56
10	to have an advocate or representative present at all	
11	appearances and prosecutory investigative interviews of the	1.57
12	victim or witness, if reasonable and so requested, as	
13	determined by the investigation or prosecutory needs of the	1.58
14	case.	
15	(6) To be properly informed, as provided in Rule	1.59
16	3.050, Florida Rules of Criminal Procedure, in advance of	
17	court appearances and court cancellations.	1.60
18	(7) To be provided with adequate witness compensation	1.60
19	and to be informed of such compensation and the procedure to	1.61
20	be followed to obtain such witness fees expeditiously, as	1.62
21	provided in ss. 92.142 and 92.153.	
22	(8) To be provided, whenever possible, with a secure	1.63
23	waiting area, during court proceedings, that would insure	
24	minimum contact with defendants, or defendants' family members	1.64
25	and friends.	
26	(9) To be given information, at the time requested, by	1.66
27	a law enforcement agency, state attorney's office or	
28	victim/witness advocate program, as to the progress or results	1.67
29	of an investigation of a case, as long as such information is	1.68
30	not confidential and would not compromise the results of an	1.69
31	investigation or prosecution.	1.70

1	(10) To be advised by the court, state attorney's	1.70
2	office, or victim/witness service, as requested by the victim,	1.71
3	of any court discretionary disposition or dismissal of an	
4	accusatory instrument.	1.72
5	(11) To be advised by the Attorney General, if	1.72
6	requested, of any reversal or modification of a judgment by an	1.73
7	appellate court.	
8	(12) To be notified by the state attorney, after	1.74
9	notification is provided to the state attorney by the	
10	Department of Health and Rehabilitative Services, of any	1.76
11	change in the status of a defendant convicted of a violent	
12	crime who is committed to the custody of the department as a	1.78
13	result of being found not guilty by reason of insanity, being	1.79
14	found guilty but mentally ill, or being found unable to stand	
15	trial due to mental infirmity, where such change in status	1.80
16	results in transfer to a less secure facility or temporary or	1.81
17	permanent release from a department facility, and to be	
18	notified by the state attorney of any court-ordered change in	1.82
19	the defendant's status.	
20	(13) To have any stolen or other personal property	1.83
21	held by law enforcement authorities for evidentiary or other	2.1
22	purposes returned as expeditiously as possible after trial,	
23	where permitted by law.	2.2
24	(14) To have perpetrators prevented from being	2.2
25	enriched by their crimes at a victim's expense.	2.3
26	(15) To be provided with appropriate employer-	2.3
27	intercession services to ensure that employers of victims will	2.5
28	cooperate with the criminal justice process, in order to	
29	minimize an employee's loss of pay and other benefits	2.6
30	resulting from court appearances.	
31		

1	(16) To have the parents, spouses, brothers, sisters,	2.7
2	and children of all homicide victims afforded all of the	
3	rights and analogous services listed herein, whether or not	2.8
4	they are witnesses in any criminal proceedings.	2.9
5	(17) To have the right to provide victim impact	2.9
6	statements, as provided in s. 921.143.	2.10
7	Section 2. This act shall take effect October 1, 1983.	2.10

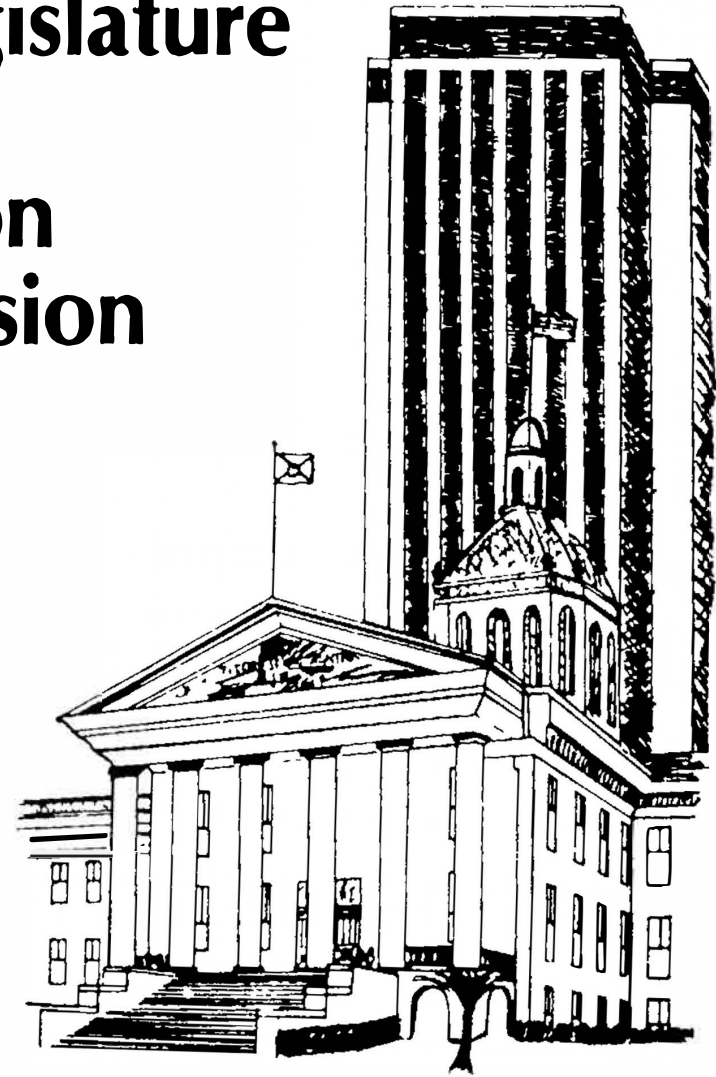
HOUSE SUMMARY

Provides standards for fair treatment for victims and witnesses, consisting primarily of a list of rights and duties of victims and witnesses of crime. See bill for details.

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Florida Legislature

History of Legislation 1984 Regular Session



prepared by:

Joint Legislative Management Committee

Legislative Information Division
Capitol Building, Room 826 — 488-4371

04/03/84 SENATE Introduced, referred to Transportation -SJ 00023; On Committee agenda-- Transportation, 04/05/84, 9:00 am, Rm. C

04/05/84 SENATE Comm. Report: Favorable, placed on Calendar by Transportation -SJ 00087

04/10/84 SENATE Withdrawn from Calendar, rereferred to Appropriations -SJ 00092

04/27/84 SENATE Extension of time granted Committee Appropriations

05/10/84 SENATE Extension of time granted Committee Appropriations

05/23/84 SENATE Extension of time granted Committee Appropriations

05/24/84 SENATE On Committee agenda-- Appropriations, Temporarily postponed -SJ 00389

06/01/84 SENATE Died in Committee on Appropriations

S 0236 GENERAL BILL by Carlucci (Compare CS/S 1040)

Water Management Districts; requires each water management district to employ an internal auditor; provides that such internal auditor shall report to governing board of water management district. Effective Date: 10/01/84.

01/31/84 SENATE Prefiled

02/14/84 SENATE Referred to Natural Resources and Conservation, Appropriations

04/03/84 SENATE Introduced, referred to Natural Resources and Conservation, Appropriations -SJ 00023

04/16/84 SENATE Extension of time granted Committee Natural Resources and Conservation

04/19/84 SENATE On Committee agenda-- Natural Res. & Cons., 04/19/84, No action

04/27/84 SENATE Extension of time granted Committee Natural Resources and Conservation

05/09/84 SENATE Extension of time granted Committee Natural Resources and Conservation

05/18/84 SENATE Extension of time granted Committee Natural Resources and Conservation

05/30/84 SENATE Extension of time granted Committee Natural Resources and Conservation

06/01/84 SENATE Died in Committee, Iden./Sim./Compare Bill passed, refer to CS/CS/SB 1040 (Ch. 84-341)

S 0237 GENERAL BILL by Dunn and others (Compare CS/H 0056, CS/S 0140)

Trials; expands applicability of provisions authorizing videotaping of testimony of certain minors; requires expedient consideration of request therefor. Amends 918.17. Effective Date: 07/01/84.

01/31/84 SENATE Prefiled

02/14/84 SENATE Referred to Judiciary-Criminal, Judiciary-Civil

02/17/84 SENATE On Committee agenda-- Judiciary-Criminal, 03/06/84, 9:00 am, Rm. C

03/06/84 SENATE Comm. Report: Favorable by Judiciary-Criminal; Now in Judiciary-Civil

04/03/84 SENATE Introduced, referred to Judiciary-Criminal, Judiciary-Civil -SJ 00023; Comm. Report: Favorable by Judiciary-Criminal; Now in Judiciary-Civil -SJ 00053

04/10/84 SENATE On Committee agenda-- Judiciary-Civil, 04/12/84, 9:30 am, Rm. B

04/12/84 SENATE CS combines this bill and CS/140; Comm. Report: CS/CS placed on Calendar by Judiciary-Civil -SJ 00124

04/18/84 SENATE CS read first time -SJ 00132

04/25/84 SENATE Placed on Special Order Calendar; Laid on table under Rule, refer to CS/ CS/SB 140 (Ch. 84-36) -SJ 00178

S 0238 GENERAL BILL/CS by Judiciary-Criminal, Weinstein and others (Similar CS/H 0774, Compare H 0058, H 0073, H 0133, CS/H 0526, H 0743, S 0111, S 0611)

Victim & Witness Protection; expands provisions re victims' statements at sentencing proceedings; authorizes use in evidence of photographs of property wrongfully taken in crime; requires court to order restitution unless reasons exist not to order same, etc. Amends F.S.

Effective Date: 10/01/84.
01/31/84 SENATE Prefiled

CONTINUED ON NEXT PAGE

02/14/84 SENATE Referred to Judiciary-Criminal, Appropriations
 03/06/84 SENATE On Committee agenda-- Judiciary-Criminal, 3/6/84,
 Temporarily postponed
 04/03/84 SENATE Introduced, referred to Judiciary-Criminal,
 Appropriations -SJ 00023
 04/09/84 SENATE On Committee agenda-- Judiciary-Criminal, 04/11/84,
 9:00 am, Rm. C
 04/11/84 SENATE Comm. Report: CS by Judiciary-Criminal -SJ 00103; CS
 read first time 04/12/84 -SJ 00117
 04/12/84 SENATE Now in Appropriations -SJ 00103
 04/27/84 SENATE Extension of time granted Committee Appropriations
 05/10/84 SENATE Extension of time granted Committee Appropriations
 05/23/84 SENATE Extension of time granted Committee Appropriations
 05/24/84 SENATE Withdrawn from Appropriations -SJ 00406; Placed on
 Calendar
 05/30/84 SENATE Placed on Special Order Calendar; CS passed; YEAS 28
 NAYS 0 -SJ 00594
 05/30/84 HOUSE In Messages
 05/31/84 HOUSE Received, placed on Calendar -HJ 00920; Substituted for
 CS/HB 774; Read second time; Read third time; Passed;
 YEAS 110 NAYS 0 -HJ 00959
 05/31/84 Ordered enrolled -SJ 00625
 06/18/84 SENATE Signed by Officers and presented to Governor
 06/29/84 Approved by Governor Chapter No. 84-363

S 0239 GENERAL BILL by Dunn (Compare Eng/H 0360, H 0485, H 0535, S 0289,
 S 0469, S 1064)

Driving While Intoxicated; increases penalties for causing certain
 injuries to another by operation of a motor vehicle while intoxicated;
 expands provisions re certain damage caused by a person operating motor
 vehicle while under influence of certain chemical substances. Amends
 316.1931. Effective Date: 10/01/84.

01/31/84 SENATE Prefiled
 02/14/84 SENATE Referred to Judiciary-Criminal, Appropriations
 04/03/84 SENATE Introduced, referred to Judiciary-Criminal,
 Appropriations -SJ 00023
 04/13/84 SENATE On Committee agenda-- Judiciary-Criminal, 04/17/84,
 9:00 am, Rm. C
 04/16/84 SENATE Extension of time granted Committee Judiciary-Criminal
 04/17/84 SENATE CS combines this bill and 469,698&380; Comm. Report: CS
 by Judiciary-Criminal -SJ 00150; CS read first time
 04/20/84 -SJ 00155
 04/18/84 SENATE Now in Transportation -SJ 00150
 04/27/84 SENATE Extension of time granted Committee Transportation
 05/10/84 SENATE Extension of time granted Committee Transportation
 05/16/84 SENATE On Committee agenda-- Transportation, 05/18/84, 9:00
 am, Rm. C
 05/18/84 SENATE Comm. Report: CS/CS by Transportation -SJ 00340; CS
 read first time 05/23/84 -SJ 00341
 05/22/84 SENATE Now in Judiciary-Civil -SJ 00340
 05/23/84 SENATE Withdrawn from Judiciary-Civil -SJ 00388; Now in
 Appropriations
 05/24/84 SENATE On Committee agenda-- Appropriations, 05/24/84, 1:30
 pm, Not heard -SJ 00406
 05/30/84 SENATE Withdrawn from Appropriations -SJ 00571; Placed on
 Calendar
 06/01/84 SENATE Placed on Consent Calendar; Laid on table under Rule,
 refer to CS/ CS/SB 469 (Laid on table; see HB 360--Ch.
 84-359) -SJ 00725

S 0240 GENERAL BILL by Dunn

Aged/Disabled Persons; provides that person is not abused or neglected
 or in need of emergency or protective services solely because he is
 furnished or relies upon treatment by certain spiritual means alone;
 authorizes H.R.S. Dept. to subpoena person who reports abuse, etc.
 Amends Ch. 415. Effective Date: Upon becoming law.

01/31/84 SENATE Prefiled
 02/14/84 SENATE Referred to Health and Rehabilitative Services
 04/03/84 SENATE Introduced, referred to Health and Rehabilitative
 CONTINUED ON NEXT PAGE

04/13/84 SENATE Extension of time granted Committee Judiciary-Civil
 04/16/84 SENATE On Committee agenda-- Judiciary-Civil, 04/18/84, 2:00
 pm, Rm. B
 04/18/84 SENATE Comm. Report: Favorable, placed on Calendar by
 Judiciary-Civil -SJ 00149
 04/25/84 SENATE Placed on Special Order Calendar; Passed; YEAS 35 NAYS
 0 -SJ 00175
 05/01/84 HOUSE In Messages
 05/02/84 HOUSE Received, referred to Appropriations -HJ 00279
 05/07/84 HOUSE Withdrawn from Appropriations -HJ 00304; Placed on
 Calendar
 05/23/84 HOUSE Substituted for HB 903; Read second time; Read third
 time; Passed; YEAS 110 NAYS 0 -HJ 00563
 05/23/84 Ordered enrolled -SJ 00404
 05/31/84 SENATE Signed by Officers and presented to Governor -SJ 00685
 06/11/84 Approved by Governor Chapter No. 84-136

S 0610 JOINT RESOLUTION by Frank (Identical H 0412)

Property Tax Exemption for Widowers; constitutional amendment to extend
 property tax exemption for widows to widowers as well. Amends s. 3, Art.
 VII.

03/23/84 SENATE Prefiled
 04/04/84 SENATE Introduced, referred to Finance, Taxation and Claims,
 Rules and Calendar -SJ 00075
 04/17/84 SENATE On Committee agenda-- Finance, Tax. & Claims, 04/19/84,
 12 noon, Rm. 1C
 04/18/84 SENATE Extension of time granted Committee Finance, Taxation
 and Claims
 04/19/84 SENATE Comm. Report: Favorable by Finance, Taxation and Claims
 -SJ 00149
 04/20/84 SENATE Now in Rules and Calendar -SJ 00149
 05/02/84 SENATE Extension of time granted Committee Rules and Calendar
 05/11/84 SENATE Extension of time granted Committee Rules and Calendar
 05/23/84 SENATE Extension of time granted Committee Rules and Calendar
 05/24/84 SENATE Withdrawn from Rules and Calendar -SJ 00432; Placed on
 Calendar
 05/29/84 SENATE Placed on Special Order Calendar; Passed; YEAS 29 NAYS
 0 -SJ 00501
 05/29/84 HOUSE In Messages; Received, referred to Appropriations
 -HJ 00771
 06/01/84 HOUSE Died in Committee on Appropriations

S 0611 GENERAL BILL by Dunn (Compare H 0058, H 0073, H 0133, CS/H 0774,
S 0111, CS/S 0238)

Victims of Crime; creates Fla. Crime Witnesses' & Victims' Bill of
 Rights & Recovery Act; provides standards for fair treatment of
 witnesses & victims; grants certain victims right to appear & be heard
 in criminal proceedings; prescribes duties of state attorneys with
 respect to victims, etc. Effective Date: 10/01/84.

03/23/84 SENATE Prefiled
 04/04/84 SENATE Introduced, referred to Judiciary-Criminal,
 Judiciary-Civil, Appropriations -SJ 00075
 04/16/84 SENATE Extension of time granted Committee Judiciary-Criminal
 04/27/84 SENATE Extension of time granted Committee Judiciary-Criminal
 05/09/84 SENATE Extension of time granted Committee Judiciary-Criminal
 05/18/84 SENATE Extension of time granted Committee Judiciary-Criminal
 05/30/84 SENATE Extension of time granted Committee Judiciary-Criminal
 06/01/84 SENATE Died in Committee, Iden./Sim./Compare Bill passed,
 refer to CS/SB 238 (Ch. 84-363)

S 0612 JOINT RESOLUTION/CS by Appropriations, Finance, Taxation and Claims,
Dunn

(CS/CS) Bonds; constitutional amendment to specify projects for which
 state general obligation bonds may be issued; provides an exception to
 limit imposed on total outstanding principal of such bonds; allows such
 bonds to be combined for purposes of sale, etc. Amends s. 11, Art. VII.

03/23/84 SENATE Prefiled
 04/04/84 SENATE Introduced, referred to Finance, Taxation and Claims,
 Appropriations, Rules and Calendar -SJ 00076

- 04/03/84 Appropriations -HJ 00015; Subreferred to Subcommittee on Water
- 06/01/84 HOUSE Died in Committee on Natural Resources
- H 0055 JOINT RESOLUTION by Healey and others (Similar H 0004, H 1093, Compare H 0144, H 0207, H 0273, H 1090, S 0071)
Homestead Exemption: constitutional amendment to provide that homestead tax exemptions not apply to first \$10,000 of assessed value of a homestead, unless owner has attained age 65. Amends s. 6, Art. VII.
- 10/11/83 HOUSE Prefiled
- 10/13/83 HOUSE Referred to Finance & Taxation, Appropriations
- 10/14/83 HOUSE On Committee agenda-- For subreferral, F. & T., 21 HOB, 11 am, 11/02/83
- 11/02/83 HOUSE Subreferred to Subcommittee on Ad Valorem Tax and Local Government
- 01/20/84 HOUSE On Committee agenda-- Subcomm, Finance & Tax, 21 HOB, 2:30 pm, 02/08/84
- 04/03/84 HOUSE Introduced, referred to Finance & Taxation, Appropriations -HJ 00015; Subreferred to Subcommittee on Ad Valorem Tax and Local Government
- 06/01/84 HOUSE Died in Committee on Finance & Taxation
- H 0056 GENERAL BILL/CS by Criminal Justice, Bell, Lippman and others (Similar CS/S 0140, Compare S 0237)
Trials: expands applicability of provisions authorizing videotaping of testimony of certain minors; authorizes Fla. Supreme Court to promulgate rules. Amends 918.17. Effective Date: 07/01/84.
- 10/11/83 HOUSE Prefiled
- 10/13/83 HOUSE Referred to Criminal Justice, Appropriations
- 12/19/83 HOUSE On Committee agenda-- Subcomm, Crim. Justice, 314 HOB, 1:30pm, 01/09/84
- 01/20/84 HOUSE On Committee agenda-- Criminal Justice, 314 HOB, 3:00 pm, 02/06/84
- 03/01/84 HOUSE Comm. Report: CS by Criminal Justice; Now in Appropriations
- 04/03/84 HOUSE Introduced, referred to Criminal Justice, Appropriations -HJ 00015; Comm. Report: CS by Criminal Justice -HJ 00113; Now in Appropriations
- 04/16/84 HOUSE Withdrawn from Appropriations -HJ 00212; Placed on Calendar
- 05/07/84 HOUSE Placed on Special Order Calendar; Iden./Sim. Senate Bill substituted; Laid on table under Rule, Iden./Sim./Compare Bill passed, refer to CS/CS/SB 140 (Ch. 84-36) -HJ 00305
- H 0057 JOINT RESOLUTION by Simon, Tobin and others (Similar H 0079, Compare H 0059, H 0892, S 0261)
Lotteries: constitutional amendment to authorize conducting of lotteries, the net proceeds of which are to be for public schools; specifies that casino gambling shall not be permitted. Amends s. 7, Art. X.
- 10/11/83 HOUSE Prefiled
- 10/13/83 HOUSE Referred to Regulated Industries & Licensing, Finance & Taxation, Appropriations
- 01/19/84 HOUSE Subreferred to Subcommittee on Pari-mutuels
- 01/20/84 HOUSE On Committee agenda-- Subcomm., R. I. & L., 413 C, 10:00 am, 02/08/84
- 04/03/84 HOUSE Introduced, referred to Regulated Industries & Licensing, Finance & Taxation, Appropriations -HJ 00015; Subreferred to Subcommittee on Pari-mutuels
- 06/01/84 HOUSE Died in Committee on Regulated Industries & Licensing
- H 0058 GENERAL BILL by Titone and others (Similar H 0133, Compare H 0073, H 0774, S 0111, CS/S 0238, S 0611)
Victims & Witnesses: provides findings & purpose; requires law enforcement agencies to provide certain assistance to victims & witnesses of crime; requires adoption of guidelines. Effective Date: 10/01/84.
- 10/11/83 HOUSE Prefiled

- 10/13/83 HOUSE Referred to Criminal Justice, Appropriations
 01/20/84 HOUSE On Committee agenda-- Subcomm., Crim. Justice, 314 HOB, 1 pm, 02/08/84
 02/15/84 HOUSE On Committee agenda-- Criminal Justice, 314 HOB, 1:30 pm, 03/05/84
 04/03/84 HOUSE Introduced, referred to Criminal Justice, Appropriations -HJ 00015
 04/12/84 HOUSE On Committee agenda-- Criminal Justice, 314 HOB, 1:15pm, 04/16/84
 04/16/84 HOUSE On Committee agenda-- Criminal Justice, 314 HOB, 6:00pm, 04/18/84
 04/26/84 HOUSE Comm. Report: CS by Criminal Justice; CS combines this bill and 774&743; Laid on table under Rule, refer to CS/ HB 774 (Laid on table; see CS/SB 238--Ch. 84-363) -HJ 00266
- H 0059 JOINT RESOLUTION by Shelley (Similar H 0079, Compare H 0057, H 0692, S 0261)
Lotteries; constitutional amendment to authorize conduct of lotteries in counties having a population over one million, under provisions of general law. Amends s. 7, Art. X.
 10/11/83 HOUSE Prefiled
 10/13/83 HOUSE Referred to Regulated Industries & Licensing, Finance & Taxation, Appropriations
 01/19/84 HOUSE Subreferred to Subcommittee on Pari-mutuels
 01/20/84 HOUSE On Committee agenda-- Subcomm., R. I. & L., 413 C, 10:00 am, 02/08/84
 04/03/84 HOUSE Introduced, referred to Regulated Industries & Licensing, Finance & Taxation, Appropriations -HJ 00015; Subreferred to Subcommittee on Pari-mutuels
 06/01/84 HOUSE Died in Committee on Regulated Industries & Licensing
- H 0060 GENERAL BILL by Simone and others (Identical S 0229)
Explosives; provides a first degree misdemeanor penalty for possession of an explosive without a license. Amends 552.22. Effective Date: 10/01/84.
 10/12/83 HOUSE Prefiled
 10/13/83 HOUSE Referred to Criminal Justice
 11/15/83 HOUSE On Committee agenda-- Subcomm., Criminal Just., 314 HOB, 1:30pm, 12/05
 12/19/83 HOUSE On Committee agenda-- Criminal Justice, 314 HOB, 3:30 pm, 01/09/84
 01/11/84 HOUSE Comm. Report: Favorable, placed on Calendar by Criminal Justice
 04/03/84 HOUSE Introduced, referred to Criminal Justice -HJ 00015; Comm. Report: Favorable, placed on Calendar by Criminal Justice -HJ 00112
 04/16/84 HOUSE Placed on Special Order Calendar
 04/17/84 HOUSE Iden./Sim. Senate Bill substituted; Laid on table under Rule, Iden./Sim./Compare Bill passed, refer to SB 229 (Ch. 84-17) -HJ 00224
- H 0061 GENERAL BILL/CS by Judiciary, Dudley (Similar S 0457)
Probate; amends provision re objections to claims filed against an estate. Amends 733.705. Effective Date: 05/15/84.
 10/12/83 HOUSE Prefiled
 10/13/83 HOUSE Referred to Judiciary
 12/19/83 HOUSE Subreferred to Subcommittee on Consumer, Probate and Family Law; On Committee agenda-- Subcomm., Judiciary, 212 HOB, 1:30 pm, 01/10/84
 01/19/84 HOUSE On Committee agenda-- Judiciary, 317 C, 10:00 am, 02/08/84
 02/21/84 HOUSE Comm. Report: CS placed on Calendar by Judiciary
 04/03/84 HOUSE Introduced, referred to Judiciary -HJ 00015; Subreferred to Subcommittee on Consumer, Probate and Family Law; Comm. Report: CS placed on Calendar by Judiciary -HJ 00113
 04/09/84 HOUSE Placed on Special Order Calendar
 04/10/84 HOUSE CS read first and second times -HJ 00163

05/18/84 Ordered engrossed, then enrolled
 05/22/84 HOUSE Signed by Officers and presented to Governor -HJ 00533
 05/28/84 Approved by Governor Chapter No. 84-45 -HJ 00915

H 0133 GENERAL BILL by Lehtinen, Abrams, Ros, Silver and others (Similar H 0058, Compare H 0073, CS/H 0774, S 0111, CS/S 0238, S 0611)
Crime Victims & Witnesses; creates provision re standards for fair treatment for victims & witnesses of crime; provides list of rights & duties re such victims & witnesses. Creates 960.025. Effective Date: 10/01/84.
 12/01/83 HOUSE Prefiled
 12/15/83 HOUSE Referred to Criminal Justice, Appropriations
 01/09/84 HOUSE Subreferred to Subcommittee on Criminal Code
 01/20/84 HOUSE On Committee agenda-- Subcomm., Crim. Justice, 314 HOB, 1 pm, 02/06/84
 03/09/84 HOUSE On Committee agenda-- Subcomm., Criminal Just., 03/12/74, CANCELLED
 04/03/84 HOUSE Introduced, referred to Criminal Justice, Appropriations -HJ 00021; Subreferred to Subcommittee on Criminal Code
 04/19/84 HOUSE Withdrawn from Criminal Justice, Appropriations; Withdrawn from further cons., Iden/Sim/Compare Bill passed, refer to CS/SB 238 (Ch. 84-363) -HJ 00232

H 0134 GENERAL BILL by Messersmith and others (Compare CS/H 0444, H 0787, H 1036, Eng/S 0138, S 0154, Eng/S 0404, S 0688, S 0750)
Sexual Battery; provides enhanced penalties for acts of sexual battery committed by more than 1 person; clarifies references to age of victim; prohibits unlawful carnal intercourse with minors; removes certain previous chaste character requirements, etc. Amends Ch. 794. Effective Date: 10/01/84.
 12/05/83 HOUSE Prefiled
 12/15/83 HOUSE Referred to Criminal Justice
 01/09/84 HOUSE Subreferred to Subcommittee on Criminal Code
 01/20/84 HOUSE On Committee agenda-- Subcomm., Crim. Justice, 314 HOB, 1 pm, 02/06/84
 02/15/84 HOUSE On Committee agenda-- Criminal Justice, 314 HOB, 1:30 pm, 03/05/84
 03/06/84 HOUSE Comm. Report: Favorable, placed on Calendar by Criminal Justice
 04/03/84 HOUSE Introduced, referred to Criminal Justice -HJ 00021; Subreferred to Subcommittee on Criminal Code; Comm. Report: Favorable, placed on Calendar by Criminal Justice -HJ 00112
 04/05/84 HOUSE Placed on Special Order Calendar
 04/09/84 HOUSE Read second time; Amendments adopted -HJ 00148
 04/10/84 HOUSE Read third time; Amendments adopted; Passed as amended; YEAS 110 NAYS 0 -HJ 00157
 04/12/84 SENATE In Messages
 04/13/84 SENATE Received, referred to Judiciary-Criminal -SJ 00121
 04/25/84 SENATE Extension of time granted Committee Judiciary-Criminal
 05/04/84 SENATE Extension of time granted Committee Judiciary-Criminal
 05/16/84 SENATE Extension of time granted Committee Judiciary-Criminal
 05/28/84 SENATE Extension of time granted Committee Judiciary-Criminal
 06/01/84 SENATE Died in Committee, Iden./Sim./Compare Bill passed, refer to SB 138 (Ch. 84-86)

H 0135 GENERAL BILL/CS by Appropriations, Grindle and others (Similar S 0072)
Child Abuse; prescribes the elements of murder in first degree & of murder in second degree to include killings resulting from aggravated child abuse; provides penalties. Amends 782.04. Effective Date: Upon becoming law.
 12/05/83 HOUSE Prefiled
 12/15/83 HOUSE Referred to Criminal Justice, Appropriations
 12/19/83 HOUSE On Committee agenda-- Subcomm, Crim. Justice, 314 HOB, 1:30pm, 01/09/84
 01/20/84 HOUSE On Committee agenda-- Criminal Justice, 314 HOB, 3:00 pm, 02/06/84
 02/08/84 HOUSE Comm. Report: Favorable with amend. by Criminal
 CONTINUED ON NEXT PAGE

04/03/84 Committee agenda-- Subcomm., Retirement, 317 HOB, 1:15 pm, 04/05/84
 04/06/84 HOUSE On Committee agenda-- Retirement, 317 C, 3:30 pm, 04/10/84
 04/16/84 HOUSE Comm. Report: Favorable with amend. by Retirement, Personnel & Collective Bargaining -HJ 00215; Now in Appropriations
 06/01/84 HOUSE Died in Committee on Appropriations

H 0743 GENERAL BILL by Combee (Compare H 0774, CS/S 0238)

Victims & Witnesses of Crime; provides definitions; expands crime of tampering with witnesses & victims of crime; prohibits certain defenses; provides for conditions of bail; authorizes court to issue certain protective orders & provides penalties for violations thereof. Amends 918.14. Effective Date: 10/01/84.

02/29/84 HOUSE Prefiled
 03/02/84 HOUSE Referred to Criminal Justice, Appropriations
 03/07/84 HOUSE Subreferred to Subcommittee on Criminal Code
 04/03/84 HOUSE Introduced, referred to Criminal Justice, Appropriations -HJ 00074; Subreferred to Subcommittee on Criminal Code
 04/05/84 HOUSE On Committee agenda-- Subcomm., Crim. Justice, 314 HOB, 1:15pm, 04/09
 04/26/84 HOUSE Comm. Report: CS by Criminal Justice; CS combines this bill and 774&58; Laid on table under Rule, refer to CS/ HB 774 (Laid on table; see CS/SB 238--Ch. 84-363) -HJ 00266

H 0744 GENERAL BILL by Martin (Compare S 1011)

Contractual Services; excludes certain prevention services re mental health from definition of "contractual services" for purposes of purchasing requirements; provides for initial & final approval of agency requests for private legal services. Amends 287.012,.059. Effective Date: 06/11/84.

02/29/84 HOUSE Prefiled
 03/02/84 HOUSE Referred to Judiciary, Appropriations
 04/03/84 HOUSE Introduced, referred to Judiciary, Appropriations -HJ 00074
 04/06/84 HOUSE Subreferred to Subcommittee on Court Systems and Miscellaneous; On Committee agenda-- Subcomm., Judiciary, 16 HOB, 1:15 pm, 04/10/84
 04/10/84 HOUSE On Committee agenda-- Judiciary, 317 C, 3:30 pm, 04/12/84
 04/17/84 HOUSE Comm. Report: Favorable with amend. by Judiciary -HJ 00226; Now in Appropriations
 04/23/84 HOUSE On Committee agenda-- Appropriations, 21 HOB, 8:00 am, 04/25/84
 04/30/84 HOUSE Comm. Report: Favorable, placed on Calendar by Appropriations -HJ 00277
 05/10/84 HOUSE Placed on Special Order Calendar
 05/14/84 HOUSE Read second time; Amendments adopted -HJ 00410
 05/17/84 HOUSE Read third time; Passed as amended; YEAS 114 NAYS 0 -HJ 00451
 05/18/84 SENATE In Messages
 05/22/84 SENATE Received, referred to Governmental Operations -SJ 00350
 05/30/84 SENATE Withdrawn from Governmental Operations; Substituted for SB 1011; Passed; YEAS 28 NAYS 0 -SJ 00570
 05/30/84 Ordered enrolled
 06/01/84 HOUSE Signed by Officers and presented to Governor -HJ 01292
 06/11/84 Approved by Governor Chapter No. 84-158

H 0745 GENERAL BILL by Bankhead (Compare H 1281)

Industrial Development Financing Act; expands definition of "project" to include research & development facilities & to permit purchase from lending institutions of first mortgages & other securities for specified purposes; revises general powers of local agencies. Amends 159.27,.28. Effective Date: Upon becoming law.

02/29/84 HOUSE Prefiled

CONTINUED ON NEXT PAGE

District. Effective Date: Contingent.
 03/01/84 HOUSE Prefiled
 03/02/84 HOUSE Referred to Natural Resources, Community Affairs
 03/14/84 HOUSE Subreferred to Subcommittee on Environmental Quality
 04/03/84 HOUSE Introduced, referred to Natural Resources, Community Affairs -HJ 00076; Subreferred to Subcommittee on Environmental Quality
 04/05/84 HOUSE On Committee agenda-- Subcomm., Nat. Resources, 413 C, 3:30pm, 04/09
 04/09/84 HOUSE On Committee agenda, pending subcommittee action-- Natural Resources, 413 C, 1:15 pm, 04/11/84
 04/13/84 HOUSE Comm. Report: Favorable by Natural Resources -HJ 00208; Now in Community Affairs
 04/23/84 HOUSE On Committee agenda-- Community Affairs, 314 HOB, 1:15pm, 04/25/84
 05/09/84 HOUSE Comm. Report: Favorable, placed on Calendar by Community Affairs -HJ 00352
 05/10/84 HOUSE Placed on Local Calendar
 05/14/84 HOUSE Read second and third times; Passed; YEAS 116 NAYS 0 -HJ 00384; Immediately certified
 05/14/84 SENATE In Messages
 05/21/84 SENATE Received, referred to Rules and Calendar -SJ 00333
 05/29/84 SENATE Considered, placed on Local Calendar by Rules and Calendar -SJ 00490; Passed as amended; YEAS 34 NAYS 0 -SJ 00528
 05/29/84 HOUSE In Messages
 05/31/84 HOUSE Concurred; Passed as amended; YEAS 107 NAYS 0 -HJ 00924
 05/31/84 Ordered engrossed. then enrolled
 06/07/84 HOUSE Signed by Officers and presented to Governor
 06/23/84 Became Law without Governor's Signature
 Chapter No. 84-430

H 0774 GENERAL BILL/CS by Criminal Justice, Lehtinen, Combee, Ros, Titone and others (Similar CS/S 0238, Compare H 0058, H 0073, H 0133, CS/H 0526, H 0743, S 0111, S 0611)
Victim & Witness Protection; expands provisions re victims' statements at sentencing proceedings; authorizes use in evidence of photographs of property wrongfully taken in crime; requires court to order restitution except in certain cases; provides for presence of victims at trial, etc. Amends F.S. Effective Date: 10/01/84.

03/01/84 HOUSE Prefiled
 03/02/84 HOUSE Referred to Criminal Justice, Appropriations
 03/07/84 HOUSE Subreferred to Subcommittee on Criminal Code
 04/03/84 HOUSE Introduced, referred to Criminal Justice, Appropriations -HJ 00076; Subreferred to Subcommittee on Criminal Code
 04/26/84 HOUSE Comm. Report: CS by Criminal Justice -HJ 00266; CS combines this bill and 58&743; Now in Appropriations
 05/23/84 HOUSE On Committee agenda-- Appropriations, 21 HOB, 10:00 am, 05/24/84
 05/24/84 HOUSE On Committee agenda-- Approp., 21 HOB, 8:15am & after session, 05/25/84
 05/28/84 HOUSE Comm. Report: Favorable, placed on Calendar by Appropriations -HJ 00728
 05/30/84 HOUSE Placed on Special Order Calendar
 05/31/84 HOUSE Iden./Sim. Senate Bill substituted; Laid on table under Rule, Iden./Sim./Compare Bill passed, refer to CS/SB 238 (Ch. 84-363) & CS/HB 526 (Ch. 84-103) -HJ 00959

H 0775 GENERAL BILL/CS by Regulatory Reform, Metcalf and others (Similar CS/S 0881)
Respiratory Care Act; creates Respiratory Care Act; creates Advisory Council on Respiratory care under Medical Examiners Board; provides for qualifications for eligibility for certification as respiratory therapy technician or registration as respiratory therapist, etc Creates 468.401-.417. Effective Date: 10/01/84.
 03/01/84 HOUSE Prefiled
 03/02/84 HOUSE Referred to Regulatory Reform, Finance & Taxation,
 CONTINUED ON NEXT PAGE

By Senator Weinstein

29-208A-84

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A bill to be entitled

An act relating to victims and witnesses of
 crime, providing findings and purpose;
 requiring law enforcement agencies to provide
 certain assistance to victims and witnesses of
 crime, requiring the adoption of guidelines,
 providing an effective date

Be It Enacted by the Legislature of the State of Florida

Section 1 Legislative findings and purpose.--

(1) The Legislature finds that:

(a) Without the cooperation of victims and witnesses,
 the criminal justice system would cease to function, yet, with
 few exceptions these individuals are either ignored by the
 criminal justice system or simply used as tools to identify
 and punish offenders.

(b) All too often the victim of a serious crime is
 forced to suffer physical, psychological, or financial
 hardship first as a result of the criminal act and then as a
 result of contact with a criminal justice system unresponsive
 to the real needs of such victim.

(c) Under current law, law enforcement agencies must
 have cooperation from a victim of crime and yet neither the
 agencies nor the legal system can offer adequate protection or
 assistance when the victim, as a result of such cooperation,
 is threatened or intimidated

(d) While the defendant is provided with counsel who
 can explain both the criminal justice process and the rights
 of the defendant, the victim or witness has no counterpart and
 is usually not even notified when the defendant is released on

1 bail, the case is dismissed, a plea to a lesser charge is
2 accepted, or a court date is changed

3 (e) The victim and witness who cooperate with the
4 prosecutor often find that the transportation, parking
5 facilities, and child care services at the court are
6 unsatisfactory and they must often share the pretrial waiting
7 room with the defendant or his family and friends

8 (f) The victim may lose valuable property to a
9 criminal only to lose it again for long periods of time to law
10 enforcement officials, until the trial or appeals are over,
11 and many times that property is damaged or lost, which is
12 particularly stressful for the elderly or poor

13 (2) The Legislature declares that the purposes of this
14 act are

15 (a) To enhance and protect the necessary role of crime
16 victims and witnesses in the criminal justice process

17 (b) To ensure that the state does all that is possible
18 within limits of available resources to assist victims and
19 witnesses of crime without infringing on the constitutional
20 rights of the defendant.

21 Section 2 Assistance to victims and witnesses of
22 crime.--

23 (1) SERVICES TO VICTIMS OF CRIME --Each law
24 enforcement agency shall ensure that victims routinely receive
25 emergency social and medical services as soon as possible and
26 are given information on the following

27 (a) Availability of crime victim compensation

28 (b) Community-based victim treatment programs

29 (c) The role of the victim in the criminal justice
30 process, including what the victim can expect from the system
31 as well as what the system expects from him

1 (d) Stages in the criminal justice process of
2 significance to a crime victim, and the manner in which
3 information about such stages can be obtained

4 (2) NOTIFICATION OF AVAILABILITY OF PROTECTION --A
5 victim or witness shall routinely receive information on steps
6 that law enforcement officers and state attorneys can take to
7 protect victims and witnesses from intimidation

8 (3) SCHEDULING CHANGES --All victims and witnesses who
9 have been scheduled to attend criminal justice proceedings
10 shall be notified as soon as possible of any scheduling
11 changes which will affect their appearances

12 (4) PROMPT NOTIFICATION TO VICTIMS OF CRIMES.--
13 Victims, witnesses, relatives of those victims and witnesses
14 who are minors, and relatives of homicide victims shall, if
15 such persons provide the appropriate official with a current
16 address and telephone number, receive prompt advance
17 notification, of judicial proceedings relating to their case,
18 including

19 (a) The arrest of an accused

20 (b) The initial appearance of an accused before a
21 judicial officer

22 (c) The release of the accused pending judicial
23 proceedings

24 (d) Proceedings in the prosecution of the accused,
25 including entry of a plea of guilty, discretionary disposition
26 of the accusatory instrument, trial, sentencing, appellate
27 review, and, where a term of imprisonment or involuntary
28 commitment is imposed, the release of the accused from such
29 imprisonment or commitment.

30 (5) CONSULTATION WITH VICTIM --In addition to
31 notification of the provisions of s. 921.143, Florida

1 Statutes, the victim of a felony involving physical or
2 emotional injury or trauma, or in the case of a minor child or
3 a homicide, the family of such a victim, shall be consulted by
4 the state attorney in order to obtain the views of the victim
5 or family about the disposition of any criminal case brought
6 as a result of such crime, including the views of the victim
7 or family about:

8 (a) Dismissal.

9 (b) Release of the accused pending judicial
10 proceedings.

11 (c) Plea negotiations.

12 (d) Pretrial diversion program

13 (6) PROPERTY RETURN.--Law enforcement agencies and the
14 state attorney shall promptly return victim's property held
15 for evidentiary purposes unless there is a compelling law
16 enforcement reason for retaining it

17 (7) NOTIFICATION TO EMPLOYER.--A victim or witness who
18 so requests shall be assisted by law enforcement agencies and
19 state attorneys in informing employers that the need for
20 victim and witness cooperation in the prosecution of the case
21 may necessitate absence of that victim or witness from work
22 A victim or witness who, as a direct result of a crime or of
23 cooperation with law enforcement agencies or a state attorney,
24 is subjected to serious financial strain shall be assisted by
25 such agencies and attorneys in explaining to creditors the
26 reason for such serious financial strain

27 (8) TRAINING BY LAW ENFORCEMENT TRAINING FACILITIES --
28 Victim assistance education and training shall be offered to
29 persons taking courses at law enforcement training facilities
30 and to state attorneys so that victims may be promptly,
31 properly, and completely assisted

1 (9) GENERAL VICTIM ASSISTANCE --Victims and witnesses
2 shall be provided with such other assistance, such as
3 transportation, parking, separate pretrial waiting areas, and
4 translator services for victims in court, as is practicable

5 (10) Nothing in this act shall be construed as
6 creating a cause of action against the state

7 (11) No later than January 1, 1985, each law
8 enforcement agency shall adopt guidelines consistent with this
9 section and shall file such guidelines with the Department of
10 Law Enforcement. Such guidelines shall take effect upon
11 approval by the department

12 (12) The Department of Law Enforcement shall be the
13 agency for receipt of federal grants relating to witness or
14 victim assistance and shall distribute such grants as it deems
15 appropriate.

16 Section 3. This act shall take effect October 1, 1984

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20 SENATE SUMMARY

21 Requires law enforcement agencies to provide certain
22 assistance to victims and witnesses of crime, including
23 emergency social and medical services, notification of
24 available services and judicial proceedings, consultation
25 regarding disposition of the case, prompt return of
26 property, and, upon request, notification of employers
27 Requires law enforcement agencies adopt guidelines to
28 implement the act
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SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Dugger</u> <i>D.P.</i>	<u>Liepshutz</u> <i>MLT</i>	1. JCR	_____
2. _____	_____	2. <u>APP</u>	_____
3. _____	_____	3. _____	_____

SUBJECT: Victims & Witnesses of Crime

BILL NO. AND SPONSOR: SB 238 by Senator Weinstein

I. SUMMARY:

A. Present Situation:

There is no comprehensive law in Florida which requires the various agencies involved in the criminal justice system to provide specified services to crime victims and witnesses. However, located throughout the Florida Statutes are numerous provisions which are designed to protect or assist crime victims and witnesses. These provisions cover many diverse areas of the law, including the following: victim restitution; witness fees for trial participation; victim compensation; victim's right to be present and heard at sentencing and the Parole and Probation Commission hearings; prevention of crime against elderly victims; penalties for tampering with witnesses; and protection of sex offense and child abuse victims by various methods.

In addition to these protections, section 43.35, F.S., requires that each court administrator establish a witness coordination office in the counties within each judicial circuit. These offices are responsible for coordinating the witnesses' court appearances, contacting witnesses about these appearances as well as the cancellation of them, and contacting the witnesses' employers, when necessary, to confirm that the witness has been subpoenaed for a court appearance. According to the State Court Administrator's office, the fifty-one counties choosing to participate in this program receive reimbursement by the state for witness fees.

B. Effect of Proposed Changes:

In addition to the existing statutory provisions designed to assist crime victims and witnesses, this bill would require the various agencies involved in the criminal justice system to provide comprehensive services to crime victims and witnesses. Their services can be divided into nine areas of assistance.

The first area of assistance would require law enforcement officers to ensure that victims routinely receive emergency social and medical services as quickly as possible, as well as to give victims information concerning compensation, treatment programs, and the victim's role and the stages in the criminal justice process.

The second assistance area would require law enforcement officers and state attorneys to routinely inform victims and witnesses of the protection available to them from intimidation.

The third area would involve notifying victims and witnesses scheduled to attend criminal justice proceedings of any scheduling changes. However, the bill does not indicate who

would be responsible for notification of these scheduling changes although, according to current law, section 43.35, F.S., this is one of the local witness coordination office's responsibilities.

The fourth area of assistance would involve giving prompt advance notice of judicial proceedings to victims, witnesses, and relatives of child and homicide victims who had provided an "appropriate official" with their address and phone number. The judicial proceedings would include the accused's arrest and initial appearance, the pretrial release of the accused, the accused's guilty plea, the accused's plea to lesser charges or the dropping of charges, the trial, sentencing, appellate review, and the accused's release from imprisonment. The bill however, does not specify who the "appropriate official" would be for requesting or making the notification in each instance.

The fifth assistance area would require the state attorney to consult with felony victims suffering injury or with the family of a child or homicide victim about the potential disposition of a case, including dismissal, pretrial release, plea negotiations, and pretrial diversion programs.

The sixth area would require the state attorney and law enforcement agencies to return promptly the victim's property unless there was a compelling law enforcement reason for retaining it.

The seventh area of assistance would require state attorneys and law enforcement agencies, when so requested by victims or witnesses, to explain to their employers or their creditors the reason for either their absence from work or their financial strain. Consequently, in addition to local witness coordinating offices being responsible for notifying the witnesses' employer as mandated by section 43.35, F.S., state attorney offices and the law enforcement agencies would also be required to do so under the bill.

The eighth area would require victim assistance education to be offered at law enforcement training facilities to persons taking courses there and to state attorneys.

The last area would provide general victim and witness assistance, when practicable, such as transportation, parking, separate pretrial waiting areas, and translator services.

In addition to specifying these nine areas of victim assistance, the bill would require each law enforcement agency to adopt guidelines by 1985 which would be filed with and approved by the Department of Law Enforcement. The Department would also be responsible for receiving and distributing any federal witness assistance grants.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

None.

B. Government:

The fiscal impact on the state attorney offices and the local law enforcement agencies is indeterminable because the amount of additional staff, if any, that would be needed to implement the bill's notification requirements is unknown. Not only is the potential loss of state attorney and law enforcement service hours because of training unknown, but also unknown is the cost to law enforcement agencies to ensure that victims routinely receive emergency services. Finally, if services

such as parking, transportation, and separate waiting areas were provided for victims and witnesses, it could have a significant fiscal impact on the local agencies responsible for implementing these services. It is difficult to determine when such services would have to be provided since the bill only requires them on an "as is practicable" basis.

III. COMMENTS:

Approximately 14 other states have considered passing similar type legislation which would enumerate standards of fair treatment by the various criminal justice agencies for crime victims and witnesses, although only 5 of these states have actually enacted this legislation.

SB 238 is very similar to the Federal Victim and Witness Protection Act of 1982, as well as to HB 58 and HB 133, both of which are in the House Criminal Justice Committee.

SJR 111 recently passed out of the Senate Judiciary Criminal Committee. The resolution would give crime victims a state constitutional right to be present and heard at all stages of the criminal judicial proceedings. Although SB 238 addresses various victim services, primarily notification of the status of the criminal judicial proceedings, it does not necessarily address the extent of the broader constitutional right that would be granted by SJR 111.

The Florida Department of Law Enforcement expressed concern as to whether the language in SB 238 which says "victim assistance training shall be offered" means mandatory training or whether it means mandatory offering of the training, and optional taking of it. They expressed an additional concern that the bill does not specify any criteria for approving each law enforcement agency's guidelines, or for distributing potential federal witness assistance grants.

The Florida Sheriffs Association expressed some concern about the language requiring law enforcement agencies to "ensure that victims receive emergency social and medical services" because although the officers try to offer assistance whenever possible, to mandate this would place a significant responsibility on them that might be better handled by someone set up to offer those services. The Association also felt that the language "nothing in this act shall be construed as creating a cause of action against the state" should include some protective language for the local law enforcement agencies and other governmental entities.

IV. AMENDMENTS:

None.

REVISED: March 6, 1984

BILL NO. SB 238

DATE: February 24, 1984

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SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Duqer</u> <i>D.P.</i>	<u>Liepshutz</u> <i>mm</i>	1. <u>JCR</u>	<u>T.P.</u>
2. _____	_____	2. <u>APP</u>	_____
3. _____	_____	3. _____	_____

SUBJECT:

Victims & Witnesses of Crime

BILL NO. AND SPONSOR:

Proposed CS/SB 238 by
Senator Weinstein

I. SUMMARY:

A. Present Situation:

There is no comprehensive law in Florida which requires the various agencies involved in the criminal justice system to provide specified services to crime victims and witnesses. However, located throughout the Florida Statutes are numerous provisions which are designed to protect or assist crime victims and witnesses. These provisions cover many diverse areas of the law, including the following: victim restitution; witness fees for trial participation; victim compensation; victim's right to be present and heard at sentencing and the Parole and Probation Commission hearings; prevention of crime against elderly victims; penalties for tampering with witnesses; and protection of sex offense and child abuse victims by various methods.

In addition to these protections, section 43.35, F.S., requires that each court administrator establish a witness coordinating office in the counties within each judicial circuit. These offices are responsible for coordinating the witnesses' court appearances, contacting witnesses about these appearances as well as the cancellation of them, and contacting the witnesses' employers, when necessary, to confirm that the witness has been subpoenaed for a court appearance. According to the State Court Administrator's office, the fifty-one counties choosing to participate in this program receive reimbursement by the state for witness fees.

B. Effect of Proposed Changes:

In addition to the existing statutory provisions designed to assist crime victims and witnesses, this bill would require the various agencies involved in the criminal justice system to provide comprehensive services to crime victims and witnesses. Their services can be divided into nine areas of assistance.

The first area of assistance would require law enforcement officers to ensure that victims routinely receive emergency social and medical services as quickly as possible by furnishing victims information concerning compensation, treatment programs, and the victim's role and the stages in the criminal justice process.

The second assistance area would require law enforcement officers and state attorneys to routinely inform victims and witnesses of the protection available to them from intimidation.

The third area would involve notifying victims and witnesses scheduled to attend criminal justice proceedings of any scheduling changes.

The fourth area of assistance would involve giving prompt advance notice of judicial proceedings to victims, witnesses, and relatives of child and homicide victims who had provided an "appropriate official" with their address and phone number. The judicial proceedings would include the accused's arrest, the pretrial release of the accused, the arraignment, the dropping of charges, the trial, sentencing, appellate review, and the defendant's release from imprisonment.

The fifth assistance area would require the state attorney to consult with felony victims suffering injury or with the family or guardian of a child or homicide victim about the potential disposition of a case, including pretrial release, plea agreements, and participation in pretrial diversion programs.

The sixth area would require the state attorney and law enforcement agencies to return promptly the victim's property unless there was a compelling law enforcement reason for retaining it. The trial court could enter appropriate orders to implement this requirement.

The seventh area of assistance would require state attorneys and law enforcement agencies, when so requested by victims or witnesses, to explain to their employers or their creditors the reason for either their absence from work or their financial strain.

The eighth area would require victim assistance education to be offered at law enforcement training facilities to persons taking courses there and to state attorneys.

The last area would provide general victim and witness assistance, when practicable, such as transportation, parking, separate pretrial waiting areas, and translator services.

In addition to specifying these nine areas of victim assistance, the bill would provide that the third, fourth, and seventh areas of assistance involving notification, could be performed by the local witness coordinating offices established by section 43.35, F.S., as appropriate. All law enforcement agencies and state attorneys would be required to adopt and file guidelines by 1985 with the clerk of the circuit court and with the local witness coordinating offices. The Department of Corrections and the Parole and Probation Commission would also be required to adopt and promulgate rules in accordance with their duties under the bill. The Department of Law Enforcement would be responsible for receiving and distributing any federal witness assistance grants.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

None.

B. Government:

There is a potential indeterminable fiscal impact on state attorney offices and on local law enforcement agencies because the amount of additional staff, if any, that might be needed to implement the bill's notification requirements is unknown. However, this would only be a concern if these agencies choose

not to use the local witness coordinating office or if one did not exist in that county to carry out the bill's notification requirements. Similarly, if the local witness coordinating offices are used to carry out the bill's notification requirements, instead of state attorneys and law enforcement, there could be an indeterminable fiscal impact on them. Also unknown is the potential loss of state attorney and law enforcement service hours because of the bill's training requirement.

Finally, if services such as parking, transportation, and separate waiting areas were provided for victims and witnesses, it could have a significant fiscal impact on the local agencies responsible for implementing these services. It is difficult to determine when such services would have to be provided since the bill only requires them on an "as is practicable" basis.

III. COMMENTS:

Approximately 14 other states have considered passing similar type legislation which would enumerate standards of fair treatment by the various criminal justice agencies for crime victims and witnesses, although only 5 of these states have actually enacted this legislation.

SB 238 is very similar to the Federal Victim and Witness Protection Act of 1982, as well as to HB 58 and HB 133, both of which are in the House Criminal Justice Committee.

SJR 111 recently passed out of the Senate Judiciary Criminal Committee. The resolution would give crime victims a state constitutional right to be present and heard at all stages of the criminal judicial proceedings. Although SB 238 addresses various victim services, primarily notification of the status of the criminal judicial proceedings, it does not necessarily address the extent of the broader constitutional right that would be granted by SJR 111.

The Florida Department of Law Enforcement expressed concern as to whether the language in SB 238 which says "victim assistance training shall be offered" means mandatory training or whether it means mandatory offering of the training, and optional taking of it. They expressed an additional concern that the bill does not specify any criteria for distributing potential federal witness assistance grants.

In the few counties where there is no local witness coordinating office, or where the state attorney or law enforcement agency choose not to use this office, there might be some confusion as to who would be responsible under the bill for notifying victims and witnesses of scheduling changes, and of the various judicial proceedings.

IV. AMENDMENTS:

None.

The bill could result in savings because of an increased tendency not to store physical evidence while awaiting trial, thereby decreasing the costs associated with property storage.

There is also a potential indeterminable fiscal impact on state attorney offices and on local law enforcement agencies because the amount of additional staff, if any, that might be needed to implement the bill's notification requirements is unknown. However, this would only be a concern if these agencies chose not to use the local witness coordinating office or if one did not exist in that county to carry out the bill's notification requirements. Similarly, if the local witness coordinating offices are used to carry out the bill's notification requirements, instead of state attorneys and law enforcement, there could be an indeterminable fiscal impact on them. Also unknown is the potential loss of state attorney and law enforcement service hours because of the bill's training requirement.

Finally, if services such as parking, transportation, and separate waiting areas were provided for victims and witnesses, it could have a significant fiscal impact on the local agencies responsible for implementing these services. It is difficult to determine when such services would have to be provided since the bill only requires them on an "as is practicable" basis.

III. COMMENTS:

There are a few references in the bill's restitution provisions to the PPC requiring restitution as a condition of parole or revoking parole because of the offender's failure to pay the restitution. However, there is no parole for defendants sentenced under sentencing guidelines after the guidelines went into effect on October 1, 1983.

The Florida Department of Law Enforcement expressed concern as to whether the language in SB 238 which says "victim assistance training shall be offered" means mandatory training or whether it means mandatory offering of the training, and optional taking of it. In the few counties where there is no local witness coordinating office, or where the state attorney or law enforcement agency chose not to use this office, there might be some confusion as to who would be responsible under the bill for notifying victims and witnesses of scheduling changes, and of the various judicial proceedings.

Proposed CS/SB 238 is very similar to the Federal Victim and Witness Protection Act of 1982, as well as to HB 774 which is in the House Criminal Justice Committee. In 1983, a federal district court of appeals held that the restitution provisions of the federal Victim and Witness Protection Act violated the defendant's due process and equal protection rights because of the Act's lack of ascertainable standards and the probable disparate results in the Act's application. U.S. v. Welden, 568 F.Supp. 516 (D. Ala. 1983).

IV. AMENDMENTS:

None.

By Committee on Judiciary-Criminal and Senators Weinstein and Castor-

Public documents prepared to inform the Legislature of the public of proposed legislation. Cost of \$8.75 per printed page for reproduction.

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A bill to be entitled

An act relating to victim and witness protection; providing a short title, providing intent, amending s. 921.143, F.S., expanding provisions relating to victims' statements at sentencing proceedings; creating s. 914.16, F.S.; authorizing use in evidence of photographs of property wrongfully taken in a crime; amending s. 775.089, F.S.; requiring the court to order restitution unless reasons exist not to order same, specifying types of restitution and providing for enforcement thereof, amending ss. 921.187, 945.091, 948.03, and 960.17, F.S.; to conform; amending s. 947.181, F.S.; requiring the Parole and Probation Commission to order restitution as a condition of parole unless reasons exist not to order same; creating s. 960.30, F.S.; providing for the creation of guidelines for the treatment of victims and witnesses of crime, creating s. 903.047, F.S., creating certain conditions of pretrial release on bail, creating ss. 914.21, 914.23, and 914.24, F.S., and amending s. 918.14, F.S.; providing definitions, expanding provisions prohibiting tampering with witnesses to include victims and informants, prohibiting retaliation against such persons; authorizing civil actions to restrain harassment, providing an effective date

1 Be It Enacted by the Legislature of the State of Florida:

2

3 Section 1. This act may be cited as the "Victim and
4 Witness Protection Act."

5 Section 2 Findings and intent.--

6 (1) The Legislature finds and declares that

7 (a) Even though there is a growing recognition that
8 the criminal justice system would cease to function without
9 the cooperation of victims and witnesses, the historic
10 unresponsiveness of the criminal justice system to the real
11 needs of victims and witnesses has not yet been fully
12 corrected.

13 (b) Although in recent years Florida has made
14 substantial positive strides toward ensuring that victims and
15 witnesses are properly treated, victims and witnesses are
16 sometimes still either ignored by the criminal justice system
17 or used simply as tools to identify and punish offenders.

18 (c) Despite commendable efforts by many state
19 attorneys and law enforcement agencies to increase cooperation
20 with, and responsiveness to, victims and witnesses,
21 occasionally these individuals are not notified when the
22 defendant is released on bail, the case is dismissed, a plea
23 for a lesser charge is accepted, or a court date is changed.

24 (d) While state law provides the option of financial
25 restitution to victims by defendants, most victims are never
26 fully or even partially compensated by defendants for their
27 injuries and other losses.

28 (e) Under current law, the legal prohibitions against
29 threats and harassment of victims and witnesses and the
30 protections of victims and witnesses against intimidation are
31 not adequate.

1 (f) The victim may lose valuable property to a
2 criminal, only to suffer continued loss for long periods of
3 time to law enforcement officials, until the trial or appeal
4 has been completed.

5 (2) The legislative intent and purposes of this act
6 are:

7 (a) To enhance and protect the necessary role of
8 victims and witnesses in the criminal justice process, and

9 (b) To ensure that the state, its agencies, and
10 subdivisions do all that is possible within limits of
11 available resources to assist victims and witnesses of crime
12 without infringing on the constitutional rights of defendants

13 Section 3 Section 921.143, Florida Statutes, is
14 amended to read.

15 921.143 Appearance of victim to make statement at
16 sentencing hearing, submission of written statement.--

17 (1) At the sentencing hearing, and prior to the
18 imposition of sentence upon any defendant who has been
19 convicted of any felony or who has pleaded guilty or nolo
20 contendere to any crime, the sentencing court shall permit the
21 victim of the crime for which the defendant is being
22 sentenced, or the next of kin of the victim if the victim has
23 died from causes related to the crime, to

24 (a) Appear before the sentencing court for the purpose
25 of making a statement under oath for the record; or

26 (b) Submit a written statement under oath to the
27 office of the state attorney, which shall be filed with the
28 sentencing court

29 (2) The state attorney or any assistant state attorney
30 shall advise all victims or, where appropriate, their next of
31 kin that statements, whether oral or written, shall relate

1 solely to the facts of the case and the extent of any harm,
2 including social, psychological, or physical harm injuries,
3 financial losses, and loss of earnings directly or indirectly
4 resulting from the crime for which the defendant is being
5 sentenced.

6 (3) The court may refuse to accept a negotiated plea
7 and order the defendant to stand trial.

8 Section 4. Section 914.16, Florida Statutes, is
9 created to read:

10 914.16 Photographs of property wrongfully taken; use
11 in prosecution, procedure; return of property to owner.--In
12 any prosecution for a crime involving the wrongful taking of
13 property, photographs of the property alleged to have been
14 wrongfully taken may be deemed competent evidence of such
15 property and may be admissible in the prosecution to the same
16 extent as if such property had been introduced as evidence.
17 Such photographs shall bear a written description of the
18 property alleged to have been wrongfully taken, the name of
19 the owner of the property taken, the location where the
20 alleged wrongful taking occurred, the name of the
21 investigating law enforcement officer, the date the photograph
22 was taken, and the name of the photographer. Such writing
23 shall be made under oath by the investigating law enforcement
24 officer and the photograph identified by the signature of the
25 photographer. Upon the filing of such photograph and writing
26 with the law enforcement authority or court holding such
27 property as evidence, such property may be returned to the
28 owner from whom the property was taken

29 Section 5. Section 775 089, Florida Statutes, is
30 amended to read:

31 775 089 Restitution.--

1 (1)(a) In addition to any punishment, the court shall
2 may order the defendant to make restitution to the victim
3 aggrieved party for damage or loss caused directly or
4 indirectly by the defendant's offense, unless the court finds
5 reasons not to order if the defendant is able or will be able
6 to make such restitution. Restitution may be monetary or
7 nonmonetary restitution. The court shall may make the payment
8 of restitution a condition to probation in accordance with s
9 948 03

10 (b) If the court does not order restitution, or orders
11 only partial restitution, under this section, the court shall
12 state on the record the reasons therefor.

13 (c) The term "victim" as used in this section and in
14 any provision of law relating to restitution shall include the
15 aggrieved party, the aggrieved party's estate if the aggrieved
16 party is deceased, and the aggrieved party's next of kin if
17 the aggrieved party is deceased as a result of the offense.

18 (2) When an offense results in bodily injury to a
19 victim, the court may require that the defendant.

20 (a) Pay the cost of necessary medical and related
21 professional services and devices relating to physical,
22 psychiatric, and psychological care, including nonmedical care
23 and treatment rendered in accordance with a recognized method
24 of healing.

25 (b) Pay the cost of necessary physical and
26 occupational therapy and rehabilitation.

27 (c) Reimburse the victim for income lost by such
28 victim as a result of such offense.

29 (d) In the case of an offense resulting in bodily
30 injury that also results in the death of a victim, pay an
31

1 amount equal to the cost of necessary funeral and related
2 services.

3 (3)(a) The court may require that such defendant make
4 restitution under this section within a specified period or in
5 specified installments.

6 (b) The end of such period or the last such
7 installment shall not be later than:

8 1 The end of the period of probation, if probation is
9 ordered;

10 2. Five years after the end of the term of
11 imprisonment imposed, if the court does not order probation;
12 or

13 3. Five years after the date of sentencing in any
14 other case.

15 (c) If not otherwise provided by the court under this
16 subsection, restitution shall be made immediately.

17 (4) If a defendant is placed on probation or paroled,
18 any restitution ordered under this section shall be a
19 condition of such probation or parole. The court may revoke
20 probation and the Parole and Probation Commission may revoke
21 parole if the defendant fails to comply with such order. In
22 determining whether to revoke probation or parole, the court
23 or Parole and Probation Commission shall consider the
24 defendant's employment status, earning ability, financial
25 resources, the willfulness of the defendant's failure to pay,
26 and any other special circumstances that may have a bearing on
27 the defendant's ability to pay

28 (5) An order of restitution may be enforced by the
29 state or a victim named in the order to receive the
30 restitution in the same manner as a judgment in a civil
31 action.

1 (6) The court, in determining whether to order
2 restitution and the amount of such restitution, shall consider
3 the amount of the loss sustained by any victim as a result of
4 the offense, the financial resources of the defendant, the
5 financial needs and earning ability of the defendant and the
6 defendant's dependents, and such other factors as the court
7 deems appropriate.

8 (7) Any dispute as to the proper amount or type of
9 restitution shall be resolved by the court by the
10 preponderance of the evidence. The burden of demonstrating
11 the amount of the loss sustained by a victim as a result of
12 the offense shall be on the state attorney. The burden of
13 demonstrating the financial resources of the defendant and the
14 financial needs of the defendant and such defendant's
15 dependents shall be on the defendant. The burden of
16 demonstrating such other matters as the court deems
17 appropriate shall be upon the party designated by the court as
18 justice requires.

19 (8) A conviction of a defendant for an offense
20 involving the act giving rise to restitution under this
21 section shall estop the defendant from denying the essential
22 allegations of that offense in any subsequent civil
23 proceeding. An order of restitution hereunder shall not bar
24 any subsequent civil remedy or recovery but the amount of such
25 restitution shall be set off against any subsequent
26 independent civil recovery.

27 (2) In determining the amount and method of payment of
28 restitution, the court shall consider the financial resources
29 of the defendant and the burden the payment of restitution
30 will impose on the defendant.

31

1 ~~(3)~~ Any defendant ordered to make restitution may
 2 petition the court which ordered him to make such restitution
 3 for remission from any payment of restitution or from any
 4 unpaid portion thereof. If the court finds that the payment
 5 of restitution due will impose an undue hardship on the
 6 defendant or his family, the court may grant remission from
 7 any payment of restitution or modify the method of payment.

8 (9)~~(4)~~ When a corporation or unincorporated
 9 association is ordered to make restitution, the person
 10 authorized to make disbursements from the assets of such
 11 corporation or association shall pay restitution from such
 12 assets, and such person may be held in contempt for failure to
 13 make such restitution.

14 ~~(5)~~ If a defendant who is required to make restitution
 15 defaults in any payment of restitution or installment thereof,
 16 the court may hold him in contempt unless such defendant has
 17 made a good faith effort to make restitution. If the
 18 defendant has made a good faith effort to make restitution,
 19 the court may, upon motion of the defendant, modify the order
 20 requiring restitution by-

21 ~~(a)~~ Providing for additional time to make any payment
 22 in restitution;

23 ~~(b)~~ Reducing the amount of any payment in restitution
 24 or installment thereof;

25 ~~(c)~~ Granting a remission from any payment of
 26 restitution or part thereof.

27 (10)~~(6)~~ Any default in payment of restitution may be
 28 collected by any means authorized by law for enforcement of a
 29 judgment.

30 (11)~~(7)~~ The court may order the clerk of the court to
 31 collect and dispense restitution payments in any case.

1 Section 6 Section 921.187, Florida Statutes, is
2 amended to read:

3 921.187 Disposition and sentencing; alternatives.--

4 (1) The following alternatives for the disposition of
5 criminal cases shall be used in a manner which will best serve
6 the needs of society, which will punish criminal offenders,
7 and which will provide the opportunity for rehabilitation A
8 court may:

9 (a) ~~(1)~~ Place an offender on probation with or without
10 an adjudication of guilt pursuant to s 948 01

11 (b) ~~(2)~~ Impose a fine and probation pursuant to s.
12 948 011 when the offense is punishable by both a fine and
13 imprisonment and probation is authorized

14 (c) ~~(3)~~ Place a felony offender into community control
15 requiring intensive supervision and surveillance pursuant to
16 chapter 948.

17 (d) ~~(4)~~ Impose, as a condition of probation or
18 community control, a period of treatment which shall be
19 restricted to either a county facility, a Department of
20 Corrections probation and restitution center, or a community
21 residential or nonresidential facility, excluding a community
22 correctional center as defined in s 944 026, which is owned
23 and operated by any public or private entity providing such
24 services. Before admission to such a facility, the court
25 shall obtain an individual assessment and recommendations on
26 the appropriate treatment needs pursuant to the Community
27 Control Implementation Manual, which assessment and
28 recommendations shall be considered by the court in ordering
29 such placements. Placement in such a facility may not exceed
30 364 days Early termination of placement shall be recommended
31 to the court, when appropriate, by the center supervisor

1 (e) ~~(5)~~ -Sentence an offender pursuant to s 922 051 to
 2 imprisonment in a county jail when a statute directs
 3 imprisonment in a state prison, if the offender's cumulative
 4 sentence, whether from the same circuit or from separate
 5 circuits, is not more than 364 days.

6 (f) ~~(6)~~ Sentence an offender who is to be punished by
 7 imprisonment in a county jail to a jail in another county if
 8 there is no jail within the county suitable for such prisoner
 9 pursuant to s. 950.01.

10 (g) ~~(7)~~ Impose a split sentence whereby the offender is
 11 to be placed on probation upon completion of any specified
 12 period of such sentence, which period may include a term of
 13 years or less.

14 (h) ~~(8)~~ Require the offender to participate in a work-
 15 release or educational or vocational training program pursuant
 16 to s. 951.24 while serving a sentence in a county jail, if
 17 such a program is available.

18 ~~(9)~~ Require an offender to make restitution pursuant
 19 to s. ~~775-089.~~

20 (i) ~~(10)~~ Require an offender to perform a specified
 21 public service pursuant to s. 775.091.

22 (j) ~~(11)~~ Require an offender who violates chapter 893
 23 or violates any law while under the influence of a controlled
 24 substance or alcohol to participate in a substance abuse
 25 program.

26 (k) ~~(12)~~ Sentence an offender to imprisonment in a
 27 state correctional institution.

28 (l) ~~(13)~~ Make any other disposition that is authorized
 29 by law.

30 (2) The court shall require an offender to make
 31 restitution pursuant to s 775 089, unless the court finds

1 reasons not to order such restitution as provided therein. If
2 the court does not order restitution, or orders only partial
3 restitution, the court shall state on the record the reasons
4 therefor.

5 Section 7. Paragraph (a) of subsection (6) of section
6 945.091, Florida Statutes, is amended to read

7 945.091 Extend the limits of confinement, restitution
8 by employed inmates.--

9 (6)(a) The department shall may require inmates
10 working at paid employment as provided in paragraph (1)(b) to
11 provide restitution to the aggrieved party for the damage or
12 loss caused by the offense of the inmate, in an amount to be
13 determined by the department, unless the department finds
14 reasons not to order such restitution. If restitution or
15 partial restitution is not ordered, the department shall state
16 on the record the reasons therefor

17 Section 8. Paragraph (e) of subsection (1) of section
18 948.03, Florida Statutes, is amended to read.

19 948.03 Terms and conditions of probation or community
20 control.--

21 (1) The court shall determine the terms and conditions
22 of probation or community control and may include among them
23 the following, that the probationer or offender in community
24 control shall:

25 (e) Make reparation or restitution to the aggrieved
26 party for the damage or loss caused by his offense in an
27 amount to be determined by the court. The court shall make
28 such reparation or restitution a condition of probation,
29 unless the court determines that ~~compelling and extraordinary~~
30 reasons exist to the contrary. If the court does not order
31

1 restitution, or orders only partial restitution, the court
2 shall state on the record the reasons therefor.

3 Section 9 Subsections (2) and (3) of section 960 17,
4 Florida Statutes, are amended to read:

5 960 17 Award constitutes debt owed to state.--

6 (2) The court, when placing on probation as provided
7 in chapter 948 any person who owes a debt to the state as a
8 consequence of a criminal act, shall may set as a condition of
9 probation the payment of the debt to the state The court may
10 also set the schedule or amounts of payments subject to
11 modification based on change of circumstances unless the court
12 finds reasons to the contrary If the court does not order
13 payment, or orders only partial payment, the court shall state
14 on the record the reasons therefor.

15 (3) The Parole and Probation Commission shall have the
16 ~~right to~~ make payment of the debt to the state a condition of
17 parole under chapter 947, unless the commission finds reasons
18 to the contrary. If the commission does not order payment, or
19 orders only partial payment, the commission shall state on the
20 record the reasons therefor subject to modification based on
21 change of circumstances.

22 Section 10. Section 947.181, Florida Statutes, is
23 amended to read:

24 947 181 Victim restitution.--

25 (1) The Parole and Probation Commission shall may
26 require, as a condition of parole, reparation or restitution
27 to the aggrieved party for the damage or loss caused by the
28 offense for which the parolee was imprisoned unless the
29 commission finds reasons to the contrary. If the commission
30 does not order restitution, or orders only partial
31 restitution, the commission shall state on the record the

1 reasons therefor The maximum amount of reparation or
 2 restitution allowable may be determined by the court at the
 3 time of sentencing. The amount of such reparation or
 4 restitution shall be determined by the Parole and Probation
 5 Commission.

6 (2) If the parolee fails to make the reparation or
 7 restitution to the aggrieved party, as authorized in
 8 subsection (1), it shall be considered by the commission as a
 9 violation of parole as specified in s 947.21 and may be cause
 10 for revocation of his parole.

11 Section 11. Section 960 30, Florida Statutes, is
 12 created to read.

13 960.30 Guidelines for fair treatment of victims and
 14 witnesses in the criminal justice system --

15 (1) No later than January 1, 1985, the Department of
 16 Legal Affairs, the state attorneys, the Department of
 17 Corrections, the Parole and Probation Commission, the State
 18 Courts Administrator and circuit court administrators, the
 19 Department of Law Enforcement, and every sheriff's department,
 20 police department, or other law enforcement agency as defined
 21 in s. 943.10(3) shall develop and implement guidelines for the
 22 use of their respective agencies consistent with the purposes
 23 of this act and designed to achieve, as much as possible and
 24 within the limits of resources available, the following
 25 objectives:

26 (a) Services to victims of crime --Witness
 27 coordination offices as provided in s 43 35 shall gather
 28 information regarding the following in the geographic
 29 boundaries of their respective circuits and shall provide such
 30 information to each law enforcement agency with jurisdiction
 31 within its geographic boundaries, and law enforcement

1 personnel shall ensure that victims are routinely given
2 information of the following:

3 1 Availability of crime victim compensation, where
4 applicable,

5 2 Community-based victim treatment programs;

6 3 The role of the victim in the criminal justice
7 process, including what the victim can expect from the system
8 as well as what the system expects from the victim, and

9 4. Stages in the criminal justice process of
10 significance to a crime victim, and the manner in which
11 information about such stages can be obtained.

12 (b) Notification of availability of protection.--A
13 victim or witness shall routinely be furnished with
14 information on steps available to law enforcement officers and
15 state attorneys to protect victims and witnesses from
16 intimidation.

17 (c) Scheduling changes.--All victims and witnesses who
18 have been scheduled to attend criminal justice proceedings
19 shall be notified by the agency scheduling their appearance as
20 soon as possible of any scheduling changes which will affect
21 their appearances.

22 (d) Prompt notification to victims of crimes.--
23 Victims, witnesses, relatives of those victims and witnesses
24 who are minors, and relatives of homicide victims shall, if
25 such persons provide the appropriate agency as identified
26 below with a current address and telephone number, receive
27 prompt advance notification, if possible, of judicial
28 proceedings relating to their case, including

29 1 The arrest of an accused,

30 2 The release of the accused pending judicial
31 proceedings; and

1 3. Proceedings in the prosecution of the accused,
2 including the arraignment, disposition of the accusatory
3 instrument, trial, sentencing, appellate review, and, where a
4 term of imprisonment or involuntary commitment is imposed, the
5 release of the defendant from such imprisonment or commitment.

6
7 The appropriate agency for notification under subparagraph
8 (d)1. is the arresting law enforcement agency and the
9 appropriate agency for notification under subparagraph (d)2.
10 and this subparagraph is the state attorney, unless the
11 notification relates to the release of the accused from
12 imprisonment, in which case the appropriate agency is the
13 Department of Corrections.

14 (e) Consultation with victim.--In addition to
15 notification of the provisions of s 921 143, the victim of a
16 felony involving physical or emotional injury or trauma, or in
17 the case of a minor child or a homicide, the guardian or
18 family of the victim, shall be consulted by the state attorney
19 in order to obtain the views of the victim or family about the
20 disposition of any criminal case brought as a result of such
21 crime, including the views of the victim or family about

22 1. Release of the accused pending judicial
23 proceedings;

24 2. Plea agreements; and

25 3. Participation in pretrial diversion programs.

26 (f) Property return.--Law enforcement agencies and the
27 state attorney shall promptly return victim's property held
28 for evidentiary purposes unless there is a compelling law
29 enforcement reason for retaining it. The trial court
30 exercising jurisdiction over the criminal proceeding may enter
31

1 appropriate orders to implement the provisions of this
2 subsection

3 (g) Notification to employer.--A victim or witness who
4 so requests shall be assisted by law enforcement agencies and
5 state attorneys in informing employers that the need for
6 victim and witness cooperation in the prosecution of the case
7 may necessitate absence of that victim or witness from work.
8 A victim or witness who, as a direct result of a crime or of
9 cooperation with law enforcement agencies or a state attorney,
10 is subjected to serious financial strain shall be assisted by
11 such agencies and attorneys in explaining to creditors the
12 reason for such serious financial strain.

13 (h) Local witness coordination office.--The
14 requirements for notification provided for in paragraphs
15 (1)(c), (d), and (g), may be performed by the local witness
16 coordinating office as established by s. 43.35, as
17 appropriate.

18 (i) Training by law enforcement training facilities --
19 Victim assistance education and training shall be offered to
20 persons taking courses at law enforcement training facilities
21 and to state attorneys so that victims may be promptly,
22 properly, and completely assisted

23 (j) General victim assistance.--Victims and witnesses
24 shall be provided with such other assistance, such as
25 transportation, parking, separate pretrial waiting areas, and
26 translator services in attending court, as is practicable.

27 (2)(a) A copy of the guidelines adopted by each agency
28 shall be filed with the Governor no later than January 15,
29 1985, and subsequent changes or amendments thereto shall be
30 likewise filed when adopted

31

1 (b) When the objectives stated in this section cannot
2 be achieved by an agency for any reason, such as lack of
3 resources, the agency shall so state in a memorandum or other
4 document accompanying the filing of its guidelines with the
5 Governor and shall therein explain in detail the nature of the
6 obstacles or other causes for its inability to achieve the
7 objectives.

8 (3) Nothing in this section or in the guidelines
9 adopted pursuant to this section shall be construed as
10 creating a cause of action against the state or any of its
11 agencies or political subdivisions

12 Section 12. Section 903.047, Florida Statutes, is
13 created to read:

14 903.047 Conditions of bail.--

15 (1) As a condition of pretrial release, whether such
16 release is by surety bail bond, recognizance bond, or other
17 form, the court shall require that:

18 (a) The defendant refrain from criminal activity of
19 any kind.

20 (b) The defendant refrain from any contact of any type
21 with the victim, except through pretrial discovery pursuant to
22 the Florida Rules of Criminal Procedure.

23 (2) Upon motion by the defendant when bail is set, or
24 upon later motion properly noticed pursuant to law, the court
25 may modify the condition required by paragraph (1)(b) if good
26 cause is shown and the interests of justice so require. The
27 victim shall be permitted to be heard at any proceeding in
28 which such modification is considered and the state attorney
29 shall notify the victim of the provisions of this subsection
30 and of the pendency of any such proceeding.

31

1 Section 13. Section 914 21, Florida Statutes, is
2 created to read:

3 914.21 Definitions.--As used in ss. 914 22-914.24:

4 (1) "Official proceeding" means

5 (a) A proceeding before a judge or court or a grand
6 jury;

7 (b) A proceeding before the Legislature; or

8 (c) A proceeding before a Federal Government agency
9 which is authorized by law.

10 (2) "Physical force" means physical action against
11 another, and includes confinement.

12 (3) "Misleading conduct" means:

13 (a) Knowingly making a false statement;

14 (b) Intentionally omitting information from a
15 statement and thereby causing a portion of such statement to
16 be misleading, or intentionally concealing a material fact,
17 and thereby creating a false impression by such statement,

18 (c) With intent to mislead, knowingly submitting or
19 inviting reliance on a writing or recording that is false,
20 forged, altered, or otherwise lacking in authenticity;

21 (d) With intent to mislead, knowingly submitting or
22 inviting reliance on a sample, specimen, map, photograph,
23 boundary mark, or other object that is misleading in a
24 material respect, or

25 (e) Knowingly using a trick, scheme, or device with
26 intent to mislead

27 (4) "Bodily injury" means

28 (a) A cut, abrasion, bruise, burn, or disfigurement;

29 (b) Physical pain,

30 (c) Illness,
31

1 (d) Impairment of the function of a bodily member,
2 organ, or mental faculty; or

3 (e) Any other injury to the body, no matter how
4 temporary

5 Section 14. Section 918.14, Florida Statutes, is
6 renumbered as section 914 22, Florida Statutes, and amended to
7 read:

8 (Substantial rewording of section See
9 s 918.14, F.S , for present text.)

10 914.22 Tampering with a witness, victim, or an
11 informant.--

12 (1) Whoever knowingly uses intimidation or physical
13 force, or threatens another person, or attempts to do so, or
14 engages in misleading conduct toward another person, or offers
15 pecuniary benefit or gain to another person, with intent to

16 (a) Influence the testimony of any person in an
17 official proceeding;

18 (b) Cause or induce any person to.

19 1. Withhold testimony, or withhold a record, document,
20 or other object, from an official proceeding.

21 2. Alter, destroy, mutilate, or conceal an object with
22 intent to impair the object's integrity or availability for
23 use in an official proceeding;

24 3. Evade legal process summoning that person to appear
25 as a witness, or to produce a record, document, or other
26 object, in an official proceeding, or

27 4. Be absent from an official proceeding to which such
28 person has been summoned by legal process, or

29 5. Hinder, delay, or prevent the communication to a
30 law enforcement officer or judge of information relating to
31 the commission or possible commission of an offense or a

1 violation of conditions of probation, parole, or release
2 pending judicial proceedings;

3
4 shall be guilty of a felony of the third degree, punishable as
5 provided in s 775.082, s. 775.083, or s. 775 084

6 (2) Whoever intentionally harasses another person and
7 thereby hinders, delays, prevents, or dissuades any person
8 from:

9 (a) Attending or testifying in an official proceeding,

10 (b) Reporting to a law enforcement officer or judge
11 the commission or possible commission of an offense or a
12 violation of conditions of probation, parole, or release
13 pending judicial proceedings;

14 (c) Arresting or seeking the arrest of another person
15 in connection with an offense; or

16 (d) Causing a criminal prosecution, or a parole or
17 probation revocation proceeding, to be sought or instituted,
18 or assisting in such prosecution or proceeding;

19
20 or attempts to do so, shall be guilty of a misdemeanor of the
21 first degree, punishable as provided in s 775 082, s.
22 775.083, or s. 775.084.

23 (3) In a prosecution for an offense under this
24 section, it is an affirmative defense, as to which the
25 defendant has the burden of proof by a preponderance of the
26 evidence, that the conduct consisted solely of lawful conduct
27 and that the defendant's sole intention was to encourage,
28 induce, or cause the other person to testify truthfully

29 (4) For the purposes of this section.

30 (a) An official proceeding need not be pending or
31 about to be instituted at the time of the offense; and

1 (b) The testimony, or the record, document, or other
2 object need not be admissible in evidence or free of a claim
3 of privilege.

4 (5) In a prosecution for an offense under this
5 section, no state of mind need be proved with respect to the
6 circumstance:

7 (a) That the official proceeding before a judge,
8 court, magistrate, grand jury, or government agency is before
9 a judge or court of the state, a state or local grand jury, or
10 a state agency, or

11 (b) That the judge is a judge of the state or that the
12 law enforcement officer is an officer or employee of the state
13 or a person authorized to act for or on behalf of the state or
14 serving the state as an adviser or consultant.

15 Section 15. Section 914.23, Florida Statutes, is
16 created to read:

17 914.23 Retaliating against a witness, victim, or an
18 informant --Whoever knowingly engages in any conduct and
19 thereby causes bodily injury to another person or damages the
20 tangible property of another person, or threatens to do so,
21 with intent to retaliate against any person for:

22 (1) The attendance of a witness or party at an
23 official proceeding, or any testimony given or any record,
24 document, or other object produced by a witness in an official
25 proceeding; or

26 (2) Any information relating to the commission or
27 possible commission of an offense or a violation of conditions
28 of probation, parole, or release pending judicial proceedings
29 given by a person to a law enforcement officer;

30
31

1 or attempts to do so, shall be guilty of a felony of the
2 second degree if bodily injury occurs, punishable as provided
3 in s. 775.082, s. 775.083, or s. 775.084. If the conduct
4 results only in damages to property, he shall be guilty of a
5 felony of the third degree, punishable as provided in s.
6 775.082, s. 775.083, or s. 775.084.

7 Section 16 Section 914.24, Florida Statutes, is
8 created to read:

9 914.24 Civil action to restrain harassment of a victim
10 or witness.--

11 (1)(a) A circuit court, upon application of the state
12 attorney, shall issue a temporary restraining order
13 prohibiting harassment of a victim or witness in a criminal
14 case if the court finds, from specific facts shown by
15 affidavit or by verified complaint, that there are reasonable
16 grounds to believe that harassment of an identified victim or
17 witness in a criminal case exists or that such order is
18 necessary to prevent and restrain an offense under s. 914.22,
19 other than an offense consisting of misleading conduct, or
20 under s. 914.23.

21 (b)1. A temporary restraining order may be issued
22 under this section without written or oral notice to the
23 adverse party or such party's attorney in a civil action under
24 this section if the court finds, upon written certification of
25 facts by the state attorney, that such notice should not be
26 required and that there is a reasonable probability that the
27 state will prevail on the merits.

28 2. A temporary restraining order issued without notice
29 under this section shall be endorsed with the date and hour of
30 issuance and be filed forthwith in the office of the clerk of
31 the court issuing the order.

1 3 A temporary restraining order issued under this
2 section shall expire at such time, not to exceed 10 days from
3 issuance, as the court directs. The court, for good cause
4 shown before expiration of such order, may extend the
5 expiration date of the order for up to 10 days or for such
6 longer period agreed to by the adverse party.

7 4 When a temporary restraining order is issued
8 without notice, the motion for a protective order shall be set
9 down for hearing at the earliest possible time and takes
10 precedence over all matters except older matters of the same
11 character, and when such motion comes on for hearing, if the
12 state attorney does not proceed with the application for a
13 protective order, the court shall dissolve the temporary
14 restraining order.

15 5 If on 2 days' notice to the state attorney or on
16 such shorter notice as the court may prescribe, the adverse
17 party appears and moves to dissolve or modify the temporary
18 restraining order, the court shall proceed to hear and
19 determine such motion as expeditiously as the ends of justice
20 require.

21 6. A temporary restraining order shall set forth the
22 reasons for the issuance of such order, be specific in terms,
23 and describe in reasonable detail and not by reference to the
24 complaint or other document the act or acts being restrained.

25 (2)(a) A circuit court, upon motion of the state
26 attorney shall issue a protective order prohibiting harassment
27 of a victim or witness in a criminal case if the court, after
28 a hearing, finds by a preponderance of the evidence that
29 harassment of an identified victim or witness in a criminal
30 case exists or that such order is necessary to prevent and
31

1 restrain an offense under s. 914.22, other than an offense
2 consisting of misleading conduct, or under s. 914.23

3 (b) At the hearing referred to in paragraph (a), any
4 adverse party named in the complaint shall have the right to
5 present evidence and cross-examine witnesses.

6 (c) A protective order shall set forth the reasons for
7 the issuance of such order, be specific in terms, and describe
8 in reasonable detail, and not by reference to the complaint or
9 other document, the act or acts being restrained.

10 (d) The court shall set the duration of effect of the
11 protective order for such period as the court determines
12 necessary to prevent harassment of the victim or witness but
13 in no case for a period in excess of 3 years from the date of
14 such order's issuance. The state attorney may, at any time
15 within 90 days before the expiration of such order, apply for
16 a new protective order under this section.

17 (3) As used in this section:

18 (a) "Harassment" means a course of conduct directed at
19 a specific person that:

20 1. Causes substantial emotional distress in such
21 person, and

22 2. Serves no legitimate purpose

23 (b) "Course of conduct" means a series of acts over a
24 period of time, however short, indicating a continuity of
25 purpose.

26 (4) Nothing in this section shall preclude a court
27 from entering any other order or remedy which may be
28 appropriate in the circumstances.

29 Section 17. This act shall take effect October 1,
30 1984.

31

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR SENATE BILL 238

1. Law enforcement agencies will be required to ensure that victims receive emergency services by furnishing certain information to them which is supplied to such agencies by the local witness coordination offices.
2. Victims and witnesses will not have to be notified of the accused's initial appearance, nor will they have to be consulted about the dismissal of the case. They will have to be consulted about plea agreements, not plea negotiations.
3. The local witness coordinating offices may perform the bill's various notification requirements instead of the state attorney offices or the law enforcement agencies, as appropriate.
4. The Department of Legal Affairs, the state attorneys, the Department of Corrections, the Parole and Probation Commission, the State Court Administrator and circuit court administrators, the Department of Law Enforcement, and every other law enforcement agency will be required to develop and implement guidelines for fair treatment of crime victims and witnesses within the limits of available resources by 1985 to be filed with the Governor.
5. Expands current law on victim appearance at sentencing by allowing the victim's next of kin to make a statement at sentencing if the victim is dead to include the extent of any social, psychological, or physical harm resulting from the crime.
6. Expands the procedural provisions for victim restitution and requires that restitution be mandatory unless the court finds reasons to the contrary.
7. Expands the current witness tampering laws to include victims and informants, as well as strengthening the current prohibition against witness retaliation by raising the penalty from a third degree felony to a second degree felony if bodily injury results.
8. Grants specific statutory authority for prompt return of victim's property wrongfully taken by providing that photographs of such property can be admissible as competent evidence.
9. Requires as a condition of pre-trial release that defendants refrain from criminal activity and avoid contact with the victim except through discovery.

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SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Dugger P.P.</u>	<u>Liepshutz MPZ</u>	1. <u>JCR</u>	<u>FAV/CS</u>
2. _____	_____	2. <u>AP</u>	_____
3. _____	_____	3. _____	_____

SUBJECT:

Victims & Witnesses of Crime

BILL NO. AND SPONSOR:

CS/SB 238 by
 Senator Weinstein

I. SUMMARY:

A. Present Situation:

There is no comprehensive law in Florida which requires the various agencies involved in the criminal justice system to provide specified services to crime victims and witnesses. However, located throughout the Florida Statutes are numerous provisions which are designed to protect or assist crime victims and witnesses. These provisions cover many diverse areas of the law, including the following: victim restitution; witness fees for trial participation; victim compensation; victim's right to be present and heard at sentencing and the Parole and Probation Commission hearings; prevention of crime against elderly victims; penalties for tampering with witnesses; and protection of sex offense and child abuse victims by various methods.

In addition to these protections, section 43.35, F.S., requires that each court administrator establish a witness coordinating office in the counties within each judicial circuit. These offices are responsible for coordinating the witnesses' court appearances, contacting witnesses about these appearances as well as the cancellation of them, and contacting the witnesses' employers, when necessary, to confirm that the witness has been subpoenaed for a court appearance. According to the State Court Administrator's office, the fifty-one counties choosing to participate in this program receive reimbursement by the state for witness fees.

B. Effect of Proposed Changes:

The proposed CS/SB 238 would expand current statutory provisions dealing with victim appearance at sentencing hearings, victim restitution, and victim/witness tampering. It would also give specific statutory authority for the following: prompt return of a victim's property wrongfully taken, prohibiting the defendant from contacting the victim as a condition of pre-trial release, and providing comprehensive services to crime victims and witnesses.

The first area of expansion would allow not only the victim but also the victim's next of kin if the victim died because of the crime, to make an oral or written statement at any criminal sentencing hearing. The victim impact statement would be expanded to include the extent of any social, psychological, or physical harm which resulted directly or indirectly from the crime.

The current statutory provisions allowing the sentencing court, the Department of Corrections, and the Parole and Probation Commission (PPC) to order victim restitution as an additional punishment or as a condition of probation or parole would be made mandatory unless the judge or agency found reasons to the contrary. If no restitution or partial restitution was ordered, then the reasons for this decision would have to be stated in the record. Restitution would be made to a victim for loss caused directly or indirectly by the offense, unless reasons existed for not ordering restitution. "Victim" would include the aggrieved party, his estate if he was deceased, and his next of kin if he was deceased as a result of the offense. If bodily injury resulted from the offense, the defendant could be required to pay various medical and related professional service costs, occupational therapy costs, and income lost by the victim because of the offense. If death resulted, the defendant would pay funeral and related services costs. If the court did not specify when restitution was to be made as provided in the bill, the defendant would be required to pay immediately. If a defendant was placed on probation or parole, any restitution ordered would be made a condition of such probation or parole. The court or the PPC would be required to consider certain factors bearing on the defendant's ability to pay in determining whether to order restitution or whether to revoke the probation or parole upon failure to comply with the order.

The restitution order could be enforced by the state or victim just as a civil judgment would be. The court would resolve any dispute concerning restitution by the preponderance of the evidence and the state attorney would have the burden of showing the victim's losses. A conviction for any offense involving restitution would estop the defendant from denying essential allegations of that offense in any subsequent civil proceedings. Furthermore, a restitution order would not bar any subsequent civil remedy but would instead be set off against any subsequent civil recovery. The bill would not provide for remission or modification of the order by the court upon a showing of hardship by the defendant, which is currently provided for.

The current provisions dealing with witness tampering would be expanded to include not only witnesses, but also victims and informants. The bill would strengthen the current prohibitions against witness retaliation by raising the penalty from a third degree felony to a second degree felony if bodily injury resulted. "Bodily injury" would include cuts, bruises, abrasions, burns, physical pain, disfigurement, illness, impairment of body parts, and any other injury to the body, no matter how temporary.

Furthermore, the bill would provide for the issuance of temporary restraining orders prohibiting harassment of a victim or witness and specifies the conditions of such issuance. The restraining order could be issued without notice to the adverse party if the court found that such notice was not required.

The bill would also grant specific statutory authority for prompt return of a victim's property wrongfully taken by providing that photographs of such property properly identified and authenticated could be admissible as competent evidence in a criminal prosecution to the same extent that the property would have been.

The court would be required as a condition of pre-trial release to prohibit the defendant from engaging in further criminal

activity and to refrain from contacting the victim, except through discovery.

Finally, the bill would require the Department of Legal Affairs, the Department of Corrections, the PPC, the State Court Administrator and circuit court administrators, the Department of Law Enforcement, the state attorneys, and all local law enforcement agencies to develop and implement guidelines for fair treatment of crime victims and witnesses within the limits of available resources by 1985 to be filed with the Governor. These guidelines would reflect the following objectives concerning victim and witness services: information from law enforcement about victim services; information from law enforcement and state attorneys about the availability of protection from intimidation; notification of scheduling changes in criminal proceedings; prompt victim notification of certain specified criminal judicial proceedings such as arrest, arraignment, and sentencing; consultation with the state attorney concerning plea agreements, pre-trial release, and pre-trial diversion programs; explanation to employers or creditors by the state attorney or law enforcement when so requested by victims and witnesses as to the reason for their absence from work or their financial strain; offering victim assistance training at law enforcement training facilities to people taking courses there and to state attorneys; providing general victim and witness assistance such as transportation, parking, and separate pretrial waiting areas, when practicable. The bill would also provide that the notification requirements could be performed by the local witness coordinating offices established by s. 43.35, F.S., as appropriate.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

Victims would benefit fiscally to an indeterminate degree from the increased restitution likely to result under the bill. The photographic evidence provisions should result in an indeterminable amount of savings to victims since property would not need to be retained for evidentiary purposes for prolonged periods of time. For instance, retailers would not be deprived of merchandise wrongfully taken while awaiting case disposition.

On the other hand, defendants who have sufficient ability to pay restitution could be negatively impacted by the bill to an indeterminable degree because of the increased likelihood of restitution being ordered under the bill.

B. Government:

The bill would probably result in an increased indeterminable fiscal impact on the courts, state attorneys, and public defenders because of the increased man hours necessary for the more involved sentencing hearings involving expanded victim impact statements and restitution issues. If the amount of restitution collected is increased because of the bill, there could be an indeterminable fiscal impact on the PPC because of the additional monitorings of such restitution that would be necessary.

According to the Department of Corrections, there would be no significant impact by raising the penalty required for conviction of witness retaliation.

The bill could result in savings because of an increased tendency not to store physical evidence while awaiting trial, thereby decreasing the costs associated with property storage.

There is also a potential indeterminable fiscal impact on state attorney offices and on local law enforcement agencies because the amount of additional staff, if any, that might be needed to implement the bill's notification requirements is unknown. However, this would only be a concern if these agencies chose not to use the local witness coordinating office or if one did not exist in that county to carry out the bill's notification requirements. Similarly, if the local witness coordinating offices are used to carry out the bill's notification requirements, instead of state attorneys and law enforcement, there could be an indeterminable fiscal impact on them. Also unknown is the potential loss of state attorney and law enforcement service hours because of the bill's training requirement.

Finally, if services such as parking, transportation, and separate waiting areas were provided for victims and witnesses, it could have a significant fiscal impact on the local agencies responsible for implementing these services. It is difficult to determine when such services would have to be provided since the bill only requires them on an "as is practicable" basis.

III. COMMENTS:

There are a few references in the bill's restitution provisions to the PPC requiring restitution as a condition of parole or revoking parole because of the offender's failure to pay the restitution. However, there is no parole for defendants sentenced under sentencing guidelines after the guidelines went into effect on October 1, 1983.

The Florida Department of Law Enforcement expressed concern as to whether the language in SB 238 which says "victim assistance training shall be offered" means mandatory training or whether it means mandatory offering of the training, and optional taking of it. In the few counties where there is no local witness coordinating office, or where the state attorney or law enforcement agency chose not to use this office, there might be some confusion as to who would be responsible under the bill for notifying victims and witnesses of scheduling changes, and of the various judicial proceedings.

Proposed CS/SB 238 is very similar to the Federal Victim and Witness Protection Act of 1982, as well as to HB 774 which is in the House Criminal Justice Committee. In 1983, a federal district court of appeals held that the restitution provisions of the federal Victim and Witness Protection Act violated the defendant's due process and equal protection rights because of the Act's lack of ascertainable standards and the probable disparate results in the Act's application. U.S. v. Welden, 568 F.Supp. 516 (D. Ala. 1983).

IV. AMENDMENTS:

None.

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SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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NOTE: This analysis reflects the nature of the bill as it left the Committee on Judiciary-Criminal. Any further changes to the bill are not included in this analysis. See the "Comments" section for the final procedural action taken by the Legislature

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Duqer</u> DD	<u>Liepshutz</u>	1. <u>JCR</u>	<u>FAV/CS</u>
2. _____	_____	2. <u>AP</u>	_____
3. _____	_____	3. _____	_____

SUBJECT:

Victims & Witnesses of Crime

BILL NO. AND SPONSOR:

CS/SB 238 by
Senator Weinstein

I. SUMMARY:

A. Present Situation:

There is no comprehensive law in Florida which requires the various agencies involved in the criminal justice system to provide specified services to crime victims and witnesses. However, located throughout the Florida Statutes are numerous provisions which are designed to protect or assist crime victims and witnesses. These provisions cover many diverse areas of the law, including the following: victim restitution; witness fees for trial participation; victim compensation; victim's right to be present and heard at sentencing and the Parole and Probation Commission hearings; prevention of crime against elderly victims; penalties for tampering with witnesses; and protection of sex offense and child abuse victims by various methods.

In addition to these protections, section 43.35, F.S., requires that each court administrator establish a witness coordinating office in the counties within each judicial circuit. These offices are responsible for coordinating the witnesses' court appearances, contacting witnesses about these appearances as well as the cancellation of them, and contacting the witnesses' employers, when necessary, to confirm that the witness has been subpoenaed for a court appearance. According to the State Court Administrator's office, the fifty-one counties choosing to participate in this program receive reimbursement by the state for witness fees.

B. Effect of Proposed Changes:

The proposed CS/SB 238 would expand current statutory provisions dealing with victim appearance at sentencing hearings, victim restitution, and victim/witness tampering. It

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would also give specific statutory authority for the following: prompt return of a victim's property wrongfully taken, prohibiting the defendant from contacting the victim as a condition of pre-trial release, and providing comprehensive services to crime victims and witnesses.

The first area of expansion would allow not only the victim but also the victim's next of kin if the victim died because of the crime, to make an oral or written statement at any criminal sentencing hearing. The victim impact statement would be expanded to include the extent of any social, psychological, or physical harm which resulted directly or indirectly from the crime.

The current statutory provisions allowing the sentencing court, the Department of Corrections, and the Parole and Probation Commission (PPC) to order victim restitution as an additional punishment or as a condition of probation or parole would be made mandatory unless the judge or agency found reasons to the contrary. If no restitution or partial restitution was ordered, then the reasons for this decision would have to be stated in the record. Restitution would be made to a victim for loss caused directly or indirectly by the offense, unless reasons existed for not ordering restitution. "Victim" would include the aggrieved party, his estate if he was deceased, and his next of kin if he was deceased as a result of the offense. If bodily injury resulted from the offense, the defendant could be required to pay various medical and related professional service costs, occupational therapy costs, and income lost by the victim because of the offense. If death resulted, the defendant would pay funeral and related services costs. If the court did not specify when restitution was to be made as provided in the bill, the defendant would be required to pay immediately. If a defendant was placed on probation or parole, any restitution ordered would be made a condition of such probation or parole. The court or the PPC would be required to consider certain factors bearing on the defendant's ability to pay in determining whether to order restitution or whether to revoke the probation or parole upon failure to comply with the order.

The restitution order could be enforced by the state or victim just as a civil judgment would be. The court would resolve any dispute concerning restitution by the preponderance of the evidence and the state attorney would have the burden of showing the victim's losses. A conviction for any offense involving restitution would estop the defendant from denying essential allegations of that offense in any subsequent civil proceedings. Furthermore, a restitution order would not bar any subsequent civil remedy but would instead be set off against any subsequent civil recovery. The bill would not provide for remission or modification of the order by the court upon a showing of hardship by the defendant, which is currently provided for.

The current provisions dealing with witness tampering would be expanded to include not only witnesses, but also victims and informants. The bill would strengthen the current prohibitions against witness retaliation by raising the penalty from a third degree felony to a second degree felony if bodily injury resulted. "Bodily injury" would include cuts, bruises, abrasions, burns, physical pain, disfigurement, illness, impairment of body parts, and any other injury to the body, no matter how temporary.

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Furthermore, the bill would provide for the issuance of temporary restraining orders prohibiting harassment of a victim or witness and specifies the conditions of such issuance. The restraining order could be issued without notice to the adverse party if the court found that such notice was not required.

The bill would also grant specific statutory authority for prompt return of a victim's property wrongfully taken by providing that photographs of such property properly identified and authenticated could be admissible as competent evidence in a criminal prosecution to the same extent that the property would have been.

The court would be required as a condition of pre-trial release to prohibit the defendant from engaging in further criminal activity and to refrain from contacting the victim, except through discovery.

Finally, the bill would require the Department of Legal Affairs, the Department of Corrections, the PPC, the State Court Administrator and circuit court administrators, the Department of Law Enforcement, the state attorneys, and all local law enforcement agencies to develop and implement guidelines for fair treatment of crime victims and witnesses within the limits of available resources by 1985 to be filed with the Governor. These guidelines would reflect the following objectives concerning victim and witness services: information from law enforcement about victim services; information from law enforcement and state attorneys about the availability of protection from intimidation; notification of scheduling changes in criminal proceedings; prompt victim notification of certain specified criminal judicial proceedings such as arrest, arraignment, and sentencing, consultation with the state attorney concerning plea agreements, pre-trial release, and pre-trial diversion programs; explanation to employers or creditors by the state attorney or law enforcement when so requested by victims and witnesses as to the reason for their absence from work or their financial strain; offering victim assistance training at law enforcement training facilities to people taking courses there and to state attorneys; providing general victim and witness assistance such as transportation, parking, and separate pretrial waiting areas, when practicable. The bill would also provide that the notification requirements could be performed by the local witness coordinating offices established by s. 43.35, F.S., as appropriate.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

Victims would benefit fiscally to an indeterminate degree from the increased restitution likely to result under the bill. The photographic evidence provisions should result in an indeterminable amount of savings to victims since property would not need to be retained for evidentiary purposes for prolonged periods of time. For instance, retailers would not be deprived of merchandise wrongfully taken while awaiting case disposition.

On the other hand, defendants who have sufficient ability to pay restitution could be negatively impacted by the bill to an indeterminable degree because of the increased likelihood of restitution being ordered under the bill.

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B. Government:

The bill would probably result in an increased indeterminable fiscal impact on the courts, state attorneys, and public defenders because of the increased man hours necessary for the more involved sentencing hearings involving expanded victim impact statements and restitution issues. If the amount of restitution collected is increased because of the bill, there could be an indeterminable fiscal impact on the PPC because of the additional monitorings of such restitution that would be necessary.

According to the Department of Corrections, there would be no significant impact by raising the penalty required for conviction of witness retaliation.

The bill could result in savings because of an increased tendency not to store physical evidence while awaiting trial, thereby decreasing the costs associated with property storage.

There is also a potential indeterminable fiscal impact on state attorney offices and on local law enforcement agencies because the amount of additional staff, if any, that might be needed to implement the bill's notification requirements is unknown. However, this would only be a concern if these agencies chose not to use the local witness coordinating office or if one did not exist in that county to carry out the bill's notification requirements. Similarly, if the local witness coordinating offices are used to carry out the bill's notification requirements, instead of state attorneys and law enforcement, there could be an indeterminable fiscal impact on them. Also unknown is the potential loss of state attorney and law enforcement service hours because of the bill's training requirement.

Finally, if services such as parking, transportation, and separate waiting areas were provided for victims and witnesses, it could have a significant fiscal impact on the local agencies responsible for implementing these services. It is difficult to determine when such services would have to be provided since the bill only requires them on an "as is practicable" basis.

III. COMMENTS:

There are a few references in the bill's restitution provisions to the PPC requiring restitution as a condition of parole or revoking parole because of the offender's failure to pay the restitution. However, there is no parole for defendants sentenced under sentencing guidelines after the guidelines went into effect on October 1, 1983.

The Florida Department of Law Enforcement expressed concern as to whether the language in SB 238 which says "victim assistance training shall be offered" means mandatory training or whether it means mandatory offering of the training, and optional taking of it. In the few counties where there is no local witness coordinating office, or where the state attorney or law enforcement agency chose not to use this office, there might be some confusion as to who would be responsible under the bill for notifying victims and witnesses of scheduling changes, and of the various judicial proceedings.

Proposed CS/SB 238 is very similar to the Federal Victim and Witness Protection Act of 1982, as well as to HB 774 which is in

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the House Criminal Justice Committee. In 1983, a federal district court of appeals held that the restitution provisions of the federal Victim and Witness Protection Act violated the defendant's due process and equal protection rights because of the Act's lack of ascertainable standards and the probable disparate results in the Act's application. U.S. v. Welden, 568 F.Supp. 516 (D. Ala. 1983)

Final Update: CS/SB 238 became law on June 29, 1984. Chapter 84-363, Laws of Florida.

IV. AMENDMENTS:

None.

By Senator Dunn
10-97-84

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A bill to be entitled

An act relating to victims of crime, creating the Florida Crime Witnesses' and Victims' Bill of Rights and Recovery Act, providing standards for the fair treatment of witnesses and victims, granting certain crime victims the right to appear and be heard in criminal proceedings; prescribing duties of state attorneys with respect to victims, providing a statutory cause of action whereby persons who suffer personal injury or property damage as a result of certain crimes, and the personal representative of such persons or renalf of survivors and the estate, may recover damages, punitive damages, and certain costs and attorneys' fees, providing that directors and officers of corporations are liable under certain circumstances, prescribing burden of proof in such actions, precluding certain defenses, providing that a judgment in favor of the state in a criminal proceeding estops the defendant in a civil action with respect to certain matters, providing that victims have a right to establish a lien against the proceecs derived from the commission of certain crimes, providing for injunctions and prescribing remedies available, providing for representation of state agencies, authorizing certain criminal discovery information to be made available prescribing the statute of limitations for such civil actions and

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1 providing for suspension of the statute of
2 limitations, providing that remedies are
3 supplemental; providing for offset of other
4 awards, providing an effective date
5

6 Be It Enacted by the Legislature of the State of Florida
7

8 Section 1 Short title --This act may be cited as the
9 "Florida Crime Witnesses' and Victims' Bill of Rights and
10 Recovery Act "

11 Section 2 Legislative findings --The Legislature
12 finds that there is an alarming growth in the crime rate in
13 this state, both in "street crime" and "white collar crime",
14 that the increase in crime results in increased personal
15 injury and property damage to the victims of that criminal
16 activity, that the increase in crime imposes a heavier burden
17 on the criminal justice system each year, that the criminal
18 justice system is inadequate in many cases to effectively and
19 fully compensate crime victims by way of restitution, and the
20 increasing burden on the criminal justice system leaves
21 victims feeling that the system is not responsive to their
22 interests, that civil remedies are, in some instances, more
23 capable of making the crime victim whole than are existing
24 policies and procedures for restitution in criminal actions,
25 and that a greater degree of participation in, and citizen
26 oversight of, the criminal justice system by witnesses and the
27 crime victim may restore confidence in the system and help
28 improve the responsiveness and efficiency of the criminal
29 justice system It is the intent of the Legislature,
30 therefore, to provide more adequate civil remedies for victims
31 of crime and to provide a greater degree of participation in,

1 and oversight of, the criminal justice system by victims and
2 witnesses of crimes, thereby improving the responsiveness,
3 efficiency, and effectiveness of the criminal justice system
4 in relation to crime victims and witnesses

5 Section 3 Standards for fair treatment of witnesses
6 and victims --Victims and witnesses of crime shall

7 (1) Be protected from criminal violence and crime
8 The state has a duty to protect its citizens from violent
9 attacks and crime, and each victim and witness has a duty to
10 cooperate with law enforcement agencies

11 (2) Be informed of, and have immediate access to,
12 financial and social service assistance and receive medical
13 services as needed as a result of a crime This includes the
14 right to receive information on how to apply for such
15 assistance and services

16 (3) Be made whole through restitution, as provided in
17 ss 775 089 and 947 181, Florida Statutes, as may be ordered
18 by the courts, or by civil recovery and, where this is not
19 possible, to receive state-funded compensation as provided in
20 chapter 960, Florida Statutes

21 (4) Receive information, when inquiry is made,
22 regarding protection from harm and threats of harm arising out
23 of cooperation with law enforcement and prosecution efforts,
24 and be provided with information as to the levels of
25 protection available from law enforcement agencies, state
26 attorneys or their employees, or victim or witness service
27 providers.

28 (5) Be informed that each victim or witness is
29 entitled to have an advocate or representative present at all
30 appearances and prosecutory investigative interviews of the
31 victim or witness, if reasonable and so requested, as

1 determined by the investigation or prosecutory needs of the
2 case

3 (6) Be properly informed, as provided in Rule 3 050,
4 Florida Rules of Criminal Procedure, in advance of court
5 appearances and court cancellations

6 (7) Be provided with adequate witness compensation and
7 to be informed of such compensation and the procedure to be
8 followed to obtain such witness fees expeditiously, as
9 provided in ss 92 142 and 92 153, Florida Statutes

10 (8) Be provided, whenever possible, with a secure
11 waiting area, during court proceedings, that would ensure
12 minimum contact with a defendant or a defendant's family
13 members and friends.

14 (9) Be given information, at the time requested, by a
15 law enforcement agency, state attorney's office or
16 victim/witness advocate program, as to the progress or results
17 of an investigation of a case, as long as such information is
18 not confidential and would not compromise the results of an
19 investigation or prosecution

20 (10) Be advised by the court, state attorney's office,
21 or victim/witness service, as requested by the victim, of any
22 court discretionary disposition or dismissal of an accusatory
23 instrument

24 (11) Be advised by the Attorney General, if requested,
25 of any reversal or modification of a judgment by an appellate
26 court

27 (12) Be notified by the state attorney, after
28 notification is provided to the state attorney by the
29 Department of Health and Rehabilitative Services, of any
30 change in the status of a defendant convicted of a violent
31 crime who is committed to the custody of the department as a

1 result of being found not guilty, by reason of insanity, being
2 found guilty but mentally ill, or being found unable to stand
3 trial due to mental infirmity, where such change in status
4 results in transfer to a less secure facility or temporary or
5 permanent release from a department facility, and be notified
6 by the state attorney of any court-ordered change in the
7 defendant's status

8 (13) Have any stolen or other personal property held
9 by law enforcement authorities for evidentiary or other
10 purposes returned as expeditiously as possible after trial,
11 where permitted by law

12 (14) Have perpetrators prevented from being enriched
13 by their crimes at a victim's expense

14 (15) Be provided with appropriate employer-
15 intercession services to ensure that employers of victims will
16 cooperate with the criminal justice process, in order to
17 minimize an employee's loss of pay and other benefits
18 resulting from court appearances

19 (16) Have the parents, spouses, brothers, sisters, and
20 children of all homicide victims afforded all of the rights
21 and analogous services listed herein, whether or not they are
22 witnesses in any criminal proceedings

23 (17) Have the right to provide victim impact
24 statements, as provided in s 921 143, Florida Statutes.

25 Section 4 Rights of crime victims --

26 (1) The state attorney, after arraignment of an
27 offender for a "specified crime", as defined herein, shall
28 determine the name of each person or persons who appear to be
29 the principal victim or victims of the specified crime The
30 state attorney shall notify, in writing, each principal victim
31 of his statutory rights under this act

1 (2) If requested by the principal victim in a paper
2 served and filed in the criminal action pursuant to the
3 Florida Rules of Criminal Procedure, the state attorney shall
4 provide the principal victim with an opportunity to appear and
5 to be heard, subject to approval of the court having
6 jurisdiction of the criminal action, at one or more of the
7 following

8 (a) At the time the court makes a final decision on a
9 negotiated plea, if the criminal action is resolved by way of
10 a negotiated plea,

11 (b) At the time of trial of the criminal action, if
12 the criminal action is submitted to a trial on the merits and
13 if the testimony of the victim is otherwise admissible in that
14 action; or

15 (c) At the time of sentencing of the offender or
16 offenders, if an offender is found guilty, pleads guilty, or
17 tenders a plea of nolo contendere that is accepted by the
18 court

19 (3) The notice required to be given under subsection
20 (1) or subsection (2) shall be given to the principal victim
21 at his last known address or at his address as stated in his
22 written request for notice

23 (4) The state attorney shall furnish, in the manner
24 provided by the Florida Rules of Criminal Procedure for the
25 service of pleadings and papers, to each principal victim who
26 requests such notice written notice of the time and place of
27 the final decision by the court on a proposed negotiated plea,
28 or of the trial of the criminal action, and of sentencing, if
29 any, of the offender or offenders

30 (5) In all criminal actions, the state attorney shall
31 advise each principal victim, in writing, of the final

1 disposition of the criminal action, including the final
2 decision of any appeal resulting therefrom

3 (6) The rights created by this section are granted
4 solely to the principal victim or victims as identified or
5 determined by the state attorney. The good faith
6 determination by the state attorney of the identity or address
7 of the principal victim or victims made pursuant to this
8 section shall be final and binding for the purposes of this
9 section. The actions and determination by the state attorney
10 under this section are exempt from the provisions of ss
11 120 58 and 120 59, Florida Statutes

12 (7) The provisions of this section are directory and
13 not mandatory, and the failure of the state attorney to notify
14 or timely notify the principal victim or victims or the
15 failure of the state attorney or court to provide an
16 opportunity for the principal victim or victims to appear and
17 to be heard in the criminal action shall in no way affect the
18 validity of the prosecution of the criminal action or the
19 rights of the defendant, or be grounds for a delay or
20 continuance of the criminal trial or of any proceeding or
21 hearing, or in any other way create rights exercisable by the
22 defendant in the criminal action or in any appeal or
23 supplemental proceedings related thereto

24 Section 5 Definitions --As used in this act

25 (1) "Offender" means a natural person who, or legal
26 entity that, commits a specified crime, whether as a principal
27 or accessory, and with respect to a specified crime committed
28 by a corporation, "offerder" includes the directors and
29 officers of the corporation who, through the exercise of
30 reasonable and due diligence in the proper exercise of the
31 duties and powers of their office, would or should have been

1 able to prevent the commission of the specified crime but for
2 their failure to act or but for their failure to take all
3 reasonable actions necessary to prevent the commission of the
4 specified crime

5 (2) "Specified crime" means a crime which is
6 chargeable by indictment or information under the following
7 provisions of the Florida Statutes (and the term includes any
8 attempt to commit such crime) as such crime may from time to
9 time be amended

10 (a) Any felony prescribed in chapter 517, Florida
11 Statutes, relating to securities transactions

12 (b) Section 552 22(1), Florida Statutes, relating to
13 the manufacture, purchase, transportation, keeping, storage,
14 possession, distribution, sale, or use of explosives

15 (c) Section 562 455, Florida Statutes, relating to the
16 adulteration of liquor

17 (d) Any felony prescribed in s 687 071, Florida
18 Statutes, relating to criminal usury, loan sharking, and
19 shylocking

20 (e) Any felony prescribed in chapter 782, Florida
21 Statutes, relating to homicide and vehicular homicide

22 (f) Sections 784 021 or 784 045, Florida Statutes,
23 relating to aggravated assault and aggravated battery

24 (g) Sections 787 01 or 787 02, Florida Statutes,
25 relating to kidnapping and false imprisonment

26 (h) Sections 790 07, 790 16, 790 161, 790 162, or
27 790 19, Florida Statutes, relating to weapons and firearms

28 (i) Any felony prescribed in chapter 794, Florida
29 Statutes, relating to sexual battery

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1 (j) Sections 796 03 or 796 04, Florida Statutes,
2 relating to procuring certain minors for prostitution and
3 forcing another to become a prostitute

4 (k) Section 800 04, Florida Statutes, relating to
5 indecent acts or assault upon or in the presence of a child

6 (l) Sections 806 01, 806 10, or any felony prescribed
7 in s. 806 13, Florida Statutes, relating to arson and criminal
8 mischief

9 (m) Section 810 02, Florida Statutes, relating to
10 burglary

11 (n) Any felony prescribed in sections 812 014,
12 812 019, or 812 13, Florida Statutes, relating to theft,
13 dealing in stolen property, and robbery

14 (o) Sections 815 04 or 815 06, or any felony
15 prescribed in s. 815.05, Florida Statutes, relating to
16 computer-related crimes

17 (p) Any felony prescribed in part I or part II of
18 chapter 817, Florida Statutes, relating to false pretenses,
19 fraud, and credit card crimes

20 (q) Sections 827 03 or 827 04(1), Florida Statutes,
21 relating to child abuse

22 (r) Any felony prescribed in chapter 831, Florida
23 Statutes, relating to forgery and counterfeiting.

24 (s) Any felony prescribed in chapter 832, Florida
25 Statutes, relating to issuance of worthless checks and drafts,
26 if the offense involves an amount of \$2,500 or greater

27 (t) Section 836 05, Florida Statutes, relating to
28 extortion

29 (u) Sections 838 015, 838 016, or 838 021, Florida
30 Statutes, relating to bribery, unlawful compensation, and
31 corruption by threat against a public officer

1 (") Any felony prescribed in s 893 13, Florida
2 Statutes, relating to the sale, manufacture, delivery, and
3 possession of controlled substances

4 (3) "Principal victim" means

5 (a) A natural person, legal entity, or agency of the
6 state, or a political subdivision, or a municipality who
7 sustains, not as a result of any criminal conduct of his own,
8 personal injury or property damage that is directly and
9 proximately caused by the conduct of the offender constituting
10 the commission of a specified crime, or

11 (b) Any minor who suffers, not as a result of any
12 criminal conduct of his own, personal injury or property
13 damage that is directly and proximately caused by the conduct
14 of the offender constituting the commission of a felony
15 prescribed in s 796.03, s 796 04, or s 893 13, Florida
16 Statutes

17 Section 6 Statutory cause of action for damages.--

18 (1) The principal victim or victims of a specified
19 crime shall have separate civil causes of action against the
20 offender or offenders of the specified crime for personal
21 injury and property damages sustained by the principal victim
22 or victims and directly and proximately caused by the
23 offender Under such causes of action the principal victim or
24 victims may recover

25 (a) Three-fold the actual damages directly and
26 proximately caused by the offender and sustained by the
27 principal victim,

28 (b) Attorneys' fees in the trial and appellate courts
29 and in supplemental proceedings, and costs of investigation
30 and litigation, reasonably incurred

31

1 (2) When the death of the principal victim or victims
2 is directly and proximately caused by an offender or offenders
3 in the commission of a specified crime, a civil action for
4 wrongful death sustained by the principal victim or victims
5 may be brought against the offender or offenders of the
6 specified crime by the principal victim's or victims' personal
7 representative to recover for the benefit of the principal
8 victim's or victims' survivors and estate

9 (a) Three-fold the actual damages directly and
10 proximately caused by the offender and allowable to the
11 principal victim's survivors and estate under the Florida
12 Wrongful Death Act,

13 (b) Attorneys' fees in the trial and appellate courts
14 and in supplemental proceedings, and costs of investigation
15 and litigation, reasonably incurred

16 (3) The plaintiff shall have the burden of proving
17 disputed issues of fact by the greater weight of the evidence.
18 An acquittal, the filing of a no information, the filing of a
19 nolo prosequi, the adjudication of criminal insanity, or a
20 plea of nolo contendere shall not constitute a defense in the
21 civil action.

22 (4) A final judgment rendered in favor of the state in
23 a criminal action for the prosecution for the specified crime
24 shall estop the defendant to deny, in a civil action under
25 sections 5-12 arising out of the same transaction, all
26 material facts as to which the judgment would be an estoppel
27 as between the criminal defendant and the state

28 Section 7 Lien against certain property --Subject to
29 the rights of innocent purchasers for value or other third
30 persons without notice, the principal victim or victims shall
31 have the right to establish a lien, for the payment and

1 satisfaction of a money judgment for damages, against any
2 proceeds derived from the commission of a specified crime,
3 including any right, title, interest, or equity in property
4 acquired through the use or investment of the proceeds from
5 the offender's criminal conduct

6 Section 8. Additional civil remedies --

7 (1) After making due provision for the rights of
8 innocent persons, the court may grant injunctions and issue
9 appropriate orders to

10 (a) Order an offender to divest himself of any
11 proceeds derived from the commission of a specified crime,
12 including any right, title, interest, or an equity in property
13 or an enterprise acquired or controlled through the use or
14 investment of such proceeds

15 (b) Impose reasonable restrictions on the future
16 activities or investments of an offender, including, but not
17 limited to, prohibiting him from engaging in the same type of
18 criminal activity.

19 (c) Order the dissolution or reorganization of any
20 enterprise acquired or controlled by the offender through
21 proceeds derived from the commission of a specified crime, or
22 order the suspension or revocation of any license, permit, or
23 prior approval granted to such enterprise by a state agency.

24 (d) Order the forfeiture of the charter of a
25 corporation organized under the laws of this state or the
26 revocation of a certificate authorizing a foreign corporation
27 to do business in this state, upon a finding that the board of
28 directors or a managerial agent acting on behalf of the
29 corporation, has authorized or engaged in the commission of a
30 specified crime and that, for the prevention of future
31 criminal activity, the public interest requires the charter to

1 be forfeited and the corporation dissolved or the certificate
2 revoked

3 (2) In a proceeding under subsection (1), relief shall
4 be granted in conformity with the principles that govern the
5 granting of injunctive relief from threatened loss or damage
6 in other civil cases, except that no showing of the inadequacy
7 of legal remedies or the existence of special or irreparable
8 damage to the plaintiff need be made. Upon the execution of
9 proper bond against damages for an injunction improvidently
10 granted and a showing of immediate danger of significant loss
11 or damage, a temporary injunction may be issued in any such
12 action before a final determination on the merits

13 Section 9 Representation of state agencies --A state
14 agency shall be represented in any civil action under sections
15 5-12 by the Department of Legal Affairs

16 Section 10 Release of criminal discovery
17 information --The state attorney may, after the conclusion of
18 the criminal prosecution for the specified crime including any
19 appeals resulting therefrom, make available to the principal
20 victim criminal discovery information needed by the principal
21 victim to bring or maintain a civil action under sections 5-
22 12, subject to the right of the state attorney, in the
23 exercise of his discretion, to limit or restrict disclosure of
24 such information in order to protect active criminal
25 investigations or criminal intelligence information or to
26 protect the identity or modus operandi of informants. This
27 section shall not be construed to require disclosure of the
28 state attorney's work product

29 Section 11 Statute of limitations --
30
31

1 (1) Notwithstanding any other provision of law, a
2 civil action under sections 5-12 may be commenced at any time
3 within 4 years after the cause of action accrues

4 (2) The running of the statute of limitations with
5 respect to the right of the principal victim to bring a civil
6 action under sections 5-12 shall be suspended during the
7 pendency of the criminal action including any appeal resulting
8 therefrom, and for a period of 1 year thereafter

9 Section 12 Other remedies available --The remedies
10 provided by sections 5-12 shall be supplemental and in
11 addition to any other remedy provided by law, provided,
12 however, that any damages awarded under sections 5-12 may not
13 include any amount awarded against the defendant under any
14 other remedy for the same personal injury or property damage

15 Section 13 This act shall take effect October 1,
16 1984

SENATE SUMMARY

Creates the "Florida Crime Witnesses' and Victims' Bill of Rights and Recovery Act " Provides standards for the treatment of witnesses and victims Requires a state attorney, after arraignment of a person on felony charges, to determine the name of each principal victim and afford him an opportunity to appear and be heard in the course of the criminal proceedings However, the act is directory only, and failure of the state attorney to notify the principal victim or victims or for the state attorney or court to afford the principal victim or victims such opportunity does not affect the prosecution of the case or the rights of the defendant and will not be grounds for delays, continuances, or appeals

Provides a statutory cause of action whereby a person who suffers a personal injury or property damage that is directly and proximately caused by the commission of certain crimes, and the personal representative on behalf of the survivors and the estate if the person dies as a result thereof, may recover: treble damages, punitive damages, and costs and attorneys' fees from the person who commits the crime or, if the crime is committed by a corporation, from the officers and directors of the corporation if they should have been able to prevent the commission of the crime Prescribes the burden of proof for such actions An acquittal, no information, adjudication of criminal insanity, or a plea of nolo contendere is no defense A final judgment in favor of the state in the criminal action estops a defendant in the civil action as to all material facts as to which the judgment would be an estoppel as between the criminal defendant and the state Provides that a principal victim has a right to establish a lien against ill-gotten gains Provides for injunctive relief and prescribes remedies available Provides for the representation of state agencies by the Department of Legal Affairs The state attorney is authorized to release certain criminal discovery information to the victim Provides a 4-year statute of limitations with respect to such civil actions, but suspends the statute of limitations during the pendency of the criminal proceedings and for a period of 1 year thereafter The remedies provided by the act are supplemental to other remedies, but damages awarded may not include amounts awarded under other remedies for the same personal injury or property damage.

By Representative Titone

A bill to be entitled

An act relating to victims and witnesses of crime; providing findings and purpose; requiring law enforcement agencies to provide certain assistance to victims and witnesses of crime; requiring the adoption of guidelines; providing an effective date.

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

Section 1. Legislative findings and purpose.--

(1) The Legislature finds that:

(a) Without the cooperation of victims and witnesses, the criminal justice system would cease to function; yet, with few exceptions these individuals are either ignored by the criminal justice system or simply used as tools to identify and punish offenders.

(b) All too often the victim of a serious crime is forced to suffer physical, psychological, or financial hardship first as a result of the criminal act and then as a result of contact with a criminal justice system unresponsive to the real needs of such victim.

(c) Under current law, law enforcement agencies must have cooperation from a victim of crime and yet neither the agencies nor the legal system can offer adequate protection or assistance when the victim, as a result of such cooperation, is threatened or intimidated.

(d) While the defendant is provided with counsel who can explain both the criminal justice process and the rights of the defendant, the victim or witness has no counterpart and is usually not even notified when the defendant is released on

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1	bail, the case is dismissed, a plea to a lesser charge is	1.20
2	accepted, or a court date is changed.	
3	(e) The victim and witness who cooperate with the	
4	prosecutor often find that the transportation, parking	
5	facilities, and child care services at the court are	
6	unsatisfactory and they must often share the pretrial waiting	1.23
7	room with the defendant or his family and friends.	1.24
8	(f) The victim may lose valuable property to a	1.25
9	criminal only to lose it again for long periods of time to law	1.26
10	enforcement officials, until the trial or appeals are over,	
11	and many times that property is damaged or lost, which is	1.27
12	particularly stressful for the elderly or poor.	1.28
13	(2) The Legislature declares that the purposes of this	1.29
14	act are:	
15	(a) To enhance and protect the necessary role of crime	1.
16	victims and witnesses in the criminal justice process.	1.3
17	(b) To ensure that the state does all that is possible	1.31
18	within limits of available resources to assist victims and	1.32
19	witnesses of crime without infringing on the constitutional	
20	rights of the defendant.	1.33
21	Section 2. Assistance to victims and witnesses of	1.33
22	crime.--	1.34
23	(1) SERVICES TO VICTIMS OF CRIME.--Law enforcement	1.34
24	personnel shall ensure that victims routinely receive	1.35
25	emergency social and medical services as soon as possible and	
26	are given information on the following:	1.36
27	(a) Availability of crime victim compensation.	1.37
28	(b) Community-based victim treatment programs.	
29	(c) The role of the victim in the criminal justice	
30	process, including what the victim can expect from the system	
31	as well as what the system expects from him.	

1 (d) Stages in the criminal justice process of 1.
2 significance to a crime victim, and the manner in which
3 information about such stages can be obtained. 1

4 (2) NOTIFICATION OF AVAILABILITY OF PROTECTION.--A 1
5 victim or witness shall routinely receive information on steps 1
6 that law enforcement officers and state attorneys can take to
7 protect victims and witnesses from intimidation. 1

8 (3) SCHEDULING CHANGES.--All victims and witnesses who 1.
9 have been scheduled to attend criminal justice proceedings 1
10 shall be notified as soon as possible of any scheduling 1
11 changes which will affect their appearances. 1

12 (4) PROMPT NOTIFICATION TO VICTIMS OF CRIMES.-- 1
13 Victims, witnesses, relatives of those victims and witnesses 1
14 who are minors, and relatives of homicide victims shall, if 1
15 such persons provide the appropriate official with a current 1
16 address and telephone number, receive prompt advance 1
17 notification, if possible, of judicial proceedings relating to
18 their case, including:

19 (a) The arrest of an accused. 1

20 (b) The initial appearance of an accused before a 1
21 judicial officer. 1

22 (c) The release of the accused pending judicial 1
23 proceedings. 1

24 (d) Proceedings in the prosecution of the accused, 1
25 including entry of a plea of guilty, discretionary disposition 1
26 of the accusatory instrument, trial, sentencing, appellate
27 review, and, where a term of imprisonment or involuntary 1
28 commitment is imposed, the release of the accused from such 1
29 imprisonment or commitment. 1

30 (5) CONSULTATION WITH VICTIM.--In addition to 1
31 notification of the provisions of s. 921.143, Florida 1

1	Statutes, the victim of a felony, or in the case of a minor	
2	child or a homicide, the family of the victim, shall be	1.61
3	consulted by the state attorney in order to obtain the views	
4	of the victim or family about the disposition of any criminal	
5	case brought as a result of such crime, including the views of	1.6
6	the victim or family about:	
7	(a) Dismissal.	1.63
8	(b) Release of the accused pending judicial	1.64
9	proceedings.	
10	(c) Plea negotiations.	1.64
11	(d) Pretrial diversion program.	1.65
12	(6) SEPARATE WAITING AREA.--Victims and other	1.66
13	prosecution witnesses shall be provided prior to court	
14	appearance a waiting area that is separate from all other	1.67
15	witnesses.	
16	(7) PROPERTY RETURN.--Law enforcement agencies and the	1.6
17	state attorney shall promptly return victim's property held	1.69
18	for evidentiary purposes unless there is a compelling law	
19	enforcement reason for retaining it.	1.70
20	(8) NOTIFICATION TO EMPLOYER.--A victim or witness who	1.71
21	so requests shall be assisted by law enforcement agencies and	1.72
22	state attorneys in informing employers that the need for	
23	victim and witness cooperation in the prosecution of the case	1.73
24	may necessitate absence of that victim or witness from work.	1.74
25	A victim or witness who, as a direct result of a crime or of	1.75
26	cooperation with law enforcement agencies or a state attorney,	1.76
27	is subjected to serious financial strain shall be assisted by	
28	such agencies and attorneys in explaining to creditors the	1.7
29	reason for such serious financial strain.	
30	(9) TRAINING BY LAW ENFORCEMENT TRAINING FACILITIES.--	1.78
31	Victim assistance education and training shall be offered to	1.79

1 persons taking courses at law enforcement training facilities
2 and to state attorneys so that victims may be promptly,
3 properly, and completely assisted.

4 (10) GENERAL VICTIM ASSISTANCE.--Victims and witnesses 1
5 shall be provided with such other assistance, such as 1
6 transportation, parking, and translator services for victims
7 in court, as is practicable. 1

8 (11) Nothing in this act shall be construed as 1
9 creating a cause of action against the state. 1

10 (12) The Department of Legal Affairs shall assure that 2
11 all law enforcement agencies adopt guidelines consistent with 2
12 this section.

13 Section 3. This act shall take effect October 1, 1984. 2

14
15 *****

16 HOUSE SUMMARY

17 Requires law enforcement agencies to provide certain
18 assistance to victims and witnesses of crime, including
19 notification of available services and judicial
20 proceedings, consultation regarding disposition of the
21 case, prompt return of property, and, upon request,
22 notification of employers. Requires the Department of
23 Legal Affairs to assure that law enforcement agencies
24 adopt guidelines.
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Bill Analysis

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FLORIDA HOUSE OF REPRESENTATIVES

M. Lee Moffat, Speaker Steve Pajola, Speaker pro tempore
Committee on Criminal Justice

Elvis L. Martinez
Chairman
Harold W. Spont
Vice Chairman

HB 58 by Rep. Titone
relating to Victims/
Witness

DATE: December 27, 1983

REVISED: _____

OTHER COMMITTEES OF REFERENCE:
Appropriations

REVISED: _____

SENATE BILL: _____

I. SUMMARY

A. PRESENT SITUATION:

There is no provision in the Florida Statutes which enumerates standards of fair treatment by criminal justice agencies for victims and witnesses of crimes.

However, the following cited provisions of law currently affect both victims and witnesses of crime:

Section 960, Florida Statutes, provides a mechanism for the compensation of crime victims and their families sustaining physical injury, or death.

Section 775.098, Florida Statutes, grants authority to a sentencing court to order restitution to a victim.

Section 947.181, Florida Statutes, grants to the Parole and Probation Commission authority to require restitution to the victim by the inmate, as a condition of parole.

Section 921.143, Florida Statutes, permits a victim of a crime to submit an oral or written statement to the court at the time of sentencing the criminal defendant, in cases where the defendant has entered a guilty or nolo contendere plea.

Section 918.17, Florida Statutes, allows the trial court to permit the taking of testimony by videotape of a sexual battery or aggravated child abuse victim who is 11 years of age or younger.

Section 794.022(1), Florida Statutes, allows for uncorroborated victim testimony in sexual battery prosecutions, and subsection (2) renders inadmissible testimony of prior consensual sexual activity unless specifically relevant to the issue of consent.

Article I, Section 17, Florida Constitution, forbids "unreasonable detention of witnesses". Sections 902.15 and 902.17, Florida Statutes, permit the court to require an appearance bond in lieu of incarceration for a material witness to a crime which is punishable by death or life imprisonment.

Section 918.14, Florida Statutes, prohibits the tampering with a witness under a third degree felony penalty.

Section 918.16, Florida Statutes, requires the trial court to clear the courtroom of non-essential participants when any minor under the age of 16 is testifying about any sex offense, whether in a criminal or a civil proceeding.

Section 827.07, Florida Statutes, imposes second degree misdemeanor penalties on one who fails to report child abuse or who prevents another from doing so.

Section 907.041(4)(b)(2), Florida Statutes, (1982 Supplement), allows the trial court to detain a defendant before trial if he has threatened, intimidated or injured any victim or witness for purposes of avoiding prosecution.

Section 43.35, Florida Statutes (1982 Supplement), mandates a witness coordination office for the coordination of court appearances of witnesses, witness information, cancellation of appearances, and assistance to employers of witnesses.

Finally, section 92.142, Florida Statutes, provides for the payment to witnesses in criminal and civil cases in the amount of \$5.00 per day, plus mileage at 6 cents per mile.

B. EFFECT OF PROPOSED CHANGES:

The principal features of this bill can be divided into 10 areas:

1) Law enforcement officers would be required to furnish to victims information on emergency social and medical services, compensation, treatment programs and data on the criminal justice system.

2) Victims and witnesses would be furnished information on legal remedies available for protection from intimidation.

3) Victims and witnesses would receive timely notice of scheduling changes for appearances.

4) If pertinent information is provided, victims, witnesses and relatives of homicide victims would be provided with notice of an arrest, the initial appearance of the accused in court, the pre-trial release of the accused from custody, the dismissal of criminal proceedings against the accused, and ultimately, the release of the defendant from a sentence of imprisonment.

5) Victims of felonies would be entitled to consult with the state attorney when the criminal case is dismissed, the

Page 3

accused is released before trial, the status of plea negotiations, and the participation of the defendant in diversionary programs.

6) Victims and prosecution witnesses would be entitled to separate waiting areas during court proceedings.

7) Law enforcement agencies would be encouraged to return personal property of victims when evidentiary matters have been concluded.

8) Law enforcement agencies and the various state attorneys would seek, where necessary, the cooperation of employers and creditors of crime victims and witnesses experiencing difficulties as a result of their involvement in the criminal justice system.

9) Victim assistance courses would be required of law enforcement officers and state attorneys.

10) Transportation, parking, translator and other services would also be provided to victims and witnesses, where possible.

II. FISCAL IMPACT

To the extent that services to victims and witnesses are not currently provided, each of the criminal justice system components would be negatively affected by the provisions of this bill. The individual counties could also experience increased expenditures as a result of the provisions contained herein. Specifically, law enforcement officers and state attorneys would be required to provide many additional forms of assistance to victims and witnesses of criminal activity. For example, law enforcement officers and state attorneys would be responsible for the protection of victims and witnesses from intimidation and would inform employers of the need for victim and witness participation in the prosecution of a case. Further, all criminal justice agencies may become involved in providing other forms of assistance, such as, transportation, parking, and translator services.

Law enforcement training facilities may have to provide additional courses to train officers and attorneys in victim assistance procedures. The individual law enforcement agencies and state attorneys' offices will most likely bear responsibility for the costs associated with this training coupled with the loss of service hours while the officers and attorney's are involved in such.

Additional clerical staff may be necessary to notify victims and witnesses of various stages of the judicial proceedings. Notification requirements would effect not only law enforcement and state attorneys but also the Department of Corrections in notifying victims and witnesses of the release of offenders from imprisonment or commitment.

Subsection (6) of this bill requires that a separate waiting area be provided to victims and other prosecution witnesses prior to court appearance. Considering the overcrowded conditions in many court facilities, this provision could result

Page 4

in capital outlay expenditures by the counties, the state, or both.

It should be noted that several of the services required by this bill are currently provided on a countywide basis. Pursuant to section 43.35, Florida Statutes, each court administrator shall establish a witness coordinating office in each county within his judicial circuit. If a county establishes such a program, it may be eligible to receive reimbursement for witness fees from the state. However, the services delineated in this legislation may fall to agencies other than those currently providing such.

III. COMMENTS

The bill's preface and legislative intent paint a rather dismal picture of the current status of victims and witnesses in the criminal justice system. With an absence of specificity of official responsibility, the bill would create a set of rights for victims and witnesses of crime, yet prohibit any judicial proceedings to enforce the enumerated rights.

IV. AMENDMENTS

Prepared by:


J. Thomas Wright

Fiscal Impact By:


Marie Mattox-Shelfer

Staff Director:


J. Thomas Wright

Copy to Sponsor: December 27, 1983

Notice of
COMMITTEE MEETING
House of Representatives

To _____

December 19, 1983

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DEPARTMENT OF STATE
P. O. BOX 1000
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Phone 19 1346

Criminal Code _____ subcommittee of
(strike if not applicable)

the Committee on Criminal Justice _____

will meet in Committee Room 314 HOE _____ at 1:30 ~~XXX~~
p.m.

on January 9, 1984 _____ to consider:
(date)

- Passed w/ amendments* HB 36 - Shelley - credit card fraud
- Passed w/ amendments* HB 56 - Bell & Lippman - video tape testimony
- HB 58 - Titone - victims/witness
- Passed* HB 75 - Simon - fire fighter injury
- t.p.* HB 83 - Healey - repeat felon courts
- Passed w/ amendments* HB 129 - Shackelford - consumption of alcoholic beverages
- Passed w/ amendments* HB 135 - Grindle - felony murder/ child abuse
- Passed* HB 147 - Metcalf - disturbing contents of tomb

Allen R. Martinez _____
Chairman

I certify this notice was received in
the Office of the Sergeant at Arms at
_____ o'clock, on _____.

Sergeant at Arms

I certify this notice was filed by me in the
Office of the Sergeant at Arms and the Office
of the Clerk on _____, and copies
have been sent in compliance with House Rules.

Committee Secretary

White - to be posted
Canary - Calendar
Pink - Computer
Goldenrod - your file

Notice of
COMMITTEE MEETING
House of Representatives

To _____

January 20, 1984

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Criminal Code _____ subcommittee of
(strike if not applicable)

the Committee on Criminal Justice _____

will meet in Committee Room 314 HOB _____ at 1:00-2:45 p.m. RMK

on February 6, 1984 to consider :
(date)

Inv. w/consent HB 58 - Titone - victims/witness

t.p. HB 91 - Burke - jury discrimination

t.p. HB 105 - Ward - death warrants

t.p. HB 133 - Lehtinen - victims/witness rights

Passed HB 134 - Messersmith - custodial sexual battery

Passed w/consent HB 182 - Kutun - boating safety

(Will be a C/S) ~~HB 290 - Sample - boating safety~~ } Identical bills

Passed HB 294 - Martinez - chronic alcohol abuse

John F. Moxley

Chairman

I certify this notice was received in
the Office of the Sergeant at Arms at
_____ o'clock, on _____.

Sergeant at Arms

I certify this notice was filed by me in the
Office of the Sergeant at Arms and the Office
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have been sent in compliance with House Rules.

Committee Secretary

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A bill to be entitled

Section 1. Legislative findings and purpose.--

(1) The Legislature finds that:

(a) Without the cooperation of victims and witnesses, the criminal justice system would cease to function, yet, with few exceptions these individuals are either ignored by the criminal justice system or simply used as tools to identify and punish offenders.

(b) All too often the The victim of a serious crime is forced to suffer physical, psychological, or financial hardship first as a result of the criminal act and then as a result of contact must cope with a criminal justice system frequently unresponsive to the real needs of such victim.

(c) ~~Under current law, law~~ Law enforcement agencies must have cooperation from a victims of crime and yet neither the agencies nor the legal system can may find it necessary to offer adequate protection or assistance when the victims, as a result of such cooperation, are is threatened or intimidated.

(d) While the defendant is usually provided with counsel who can explain both the criminal justice process and the rights to of the defendant, the victim or witness has no counterpart and is usually not even notified when the defendant is released on bail, the case is ~~dismissed, a plea to a lesser charge is accepted, or a court date is changed~~ disposed of, or the defendant is released from incarceration.

(e) The victim and witness who cooperate with the prosecutor often find that the transportation, parking facilities, and child care services at the court are unsatisfactory and they must often share the pretrial waiting room with the defendant or his family and friends.

2 (f) The victim may lose valuable property to a
3 criminal only to ~~lose-it-again~~ suffer continued loss for long
4 periods of time to law enforcement officials, until the trial
5 or appeals has been concluded ~~are-over~~, and many times that
6 property is damaged or lost, which is particularly stressful
7 for the elderly or poor.

8 (2) The Legislature declares that the purposes of this
9 act are:

10 (a) To enhance and protect the necessary role of crime
11 victims and witnesses in the criminal justice process.

12 (b) To ensure that the state , its agencies and
13 subdivisions, do ~~does~~ all that is possible within limits of
14 available resources to assist victims and witnesses of crime
15 without infringing on the constitutional rights of ~~the~~
16 ~~defendant~~ defendants.

17 Section 2. Assistance to victims and witnesses of
18 crime.--

19 (1) SERVICES TO VICTIMS OF CRIME.--Law enforcement
20 personnel shall ensure that victims routinely receive
21 emergency social and medical services as soon as possible ~~and~~
22 ~~are-given~~ by furnishing information on the following:

23 (a) Availability of crime victim compensation.

24 (b) Community-based victim treatment programs.

25 (c) The role of the victim in the criminal justice
26 process, including what the victim can expect from the system
27 as well as what the system expects from him.

28 (d) Stages in the criminal justice process of
29 significance to a crime victim, and the manner in which
30 information about such stages can be obtained.

31 (2) NOTIFICATION OF AVAILABILITY OF PROTECTION.--A
32 victim or witness shall routinely ~~receive~~ be furnished with

2 information on steps ~~that~~ available to law enforcement
3 officers and state attorneys ~~can take~~ to protect victims and
4 witnesses from intimidation.

5 (3) SCHEDULING CHANGES.--All victims and witnesses who
6 have been scheduled to attend criminal justice proceedings
7 shall be notified as soon as possible of any scheduling
8 changes which will affect their appearances.

9 (4) PROMPT NOTIFICATION TO VICTIMS OF CRIMES.--
10 Victims, witnesses, ~~relatives-of-those-victims-and-witnesses~~
11 ~~who-are-minors~~, and relatives of homicide victims shall, if
12 such persons provide the appropriate official with a current
13 address and telephone number, receive prompt ~~advance~~
14 notification, if possible, of judicial proceedings relating to
15 ~~their~~ the case, including:

16 (a) The arrest of an accused.

17 (b) The initial appearance of an accused before a
18 judicial officer.

19 (c) The release of the accused pending judicial
20 proceedings.

21 (d) Proceedings in the prosecution of the accused,
22 including ~~entry-of-a-plea-of-guilty~~, ~~discretionary~~ the
23 arraignment, disposition of the accusatory instrument, trial,
24 sentencing, appellate review and disposition, and, where a
25 term of imprisonment or involuntary commitment is imposed, the
26 release of the defendant ~~accused~~ from such imprisonment or
27 commitment.

28 (5) CONSULTATION WITH VICTIM.--In addition to
29 notification of the provisions of s. 921.143, Florida
30 Statutes, the victim of a felony, or in the case of a minor
31 child or a homicide, the ~~family~~ guardian or family of the
32 victim, shall be consulted by the state attorney in order to

2 obtain the views of the victim or family about the disposition
3 of any criminal case brought as a result of such crime,
4 including the views of the victim or family about:

5 (a) Dismissal of the case.

6 (b) Release of the accused pending judicial
7 proceedings.

8 (c) Plea ~~negotiations~~ agreements.

9 (d) Participation in pretrial ~~Pretrial~~ diversion
10 programs.

11 (6) SEPARATE WAITING AREA.--Victims and other
12 prosecution witnesses in attendance for court appearances
13 shall be provided ~~prior-to-court-appearance~~ access to a
14 waiting area that is separate from all other witnesses in the
15 same case.

16 (7) PROPERTY RETURN.--Law enforcement agencies and the
17 state attorney shall promptly return victim's property held
18 for evidentiary purposes unless there is a compelling law
19 enforcement reason for retaining it.

20 (8) NOTIFICATION TO EMPLOYER.--A victim or witness who
21 so requests shall be assisted by law enforcement agencies and
22 state attorneys in informing employers that the need for
23 victim and witness cooperation in the prosecution of the case
24 may necessitate absence of that victim or witness from work.
25 A victim or witness who, as a direct result of a crime or of
26 cooperation with law enforcement agencies or a state attorney,
27 is subjected to serious financial strain shall be assisted by
28 such agencies and attorneys in explaining to creditors the
29 reason for such serious financial strain.

30 ~~{9}--TRAINING-BY-LAW-ENFORCEMENT-TRAINING-FACILITIES--~~
31 ~~Victim-assistance-education-and-training-shall-be-offered-to~~
32 ~~persons-taking-courses-at-law-enforcement-training-facilities~~

By Representatives Lehtinen, Ros, Silver, Abrams, and Friedman

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A bill to be entitled
An act relating to standards for fair treatment
for victims and witnesses of crime; creating s.
960.025, F.S., providing a list of rights and
duties related to victims and witnesses of
crime; providing an effective date.

WHEREAS, Florida has taken positive steps in the
direction of crime reduction and the restoration of fairness
and effectiveness to the administration of justice through the
Florida Crimes Compensation Act and its leadership role in the
field of victim/witness programs, NOW, THEREFORE,

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

Section 1. Section 960.025, Florida Statutes, is
created to read:

960.025 Standards for fair treatment for victims and
witnesses of crime.--Law abiding citizens, as victims or
witnesses of crime, shall have the following treatment:

(1) To be informed of financial and social service
assistance and to receive medical services as needed as a
result of a crime. This includes the right to receive
information on how to apply for such assistance and services.

(2) To be made whole through restitution, as provided
in ss. 775.089 and 947.181, as may be ordered by the courts,
or by civil recovery and, where this is not possible, to
receive state-funded compensation as provided in this chapter.

(3) To receive information, when inquiry is made,
regarding protection from harm and threats of harm arising out
of cooperation with law enforcement and prosecution efforts,

1	and to be provided with information as to the levels of	1.26
2	protection available from law enforcement agencies, state	
3	attorneys or their employees, or victim or witness service	1.28
4	providers.	
5	(4) To be properly informed, as provided in Rule	1.29
6	3.050, Florida Rules of Criminal Procedure, in advance of	
7	court appearances and court cancellations.	1.30
8	(5) To be provided, whenever possible, with a secure	1.31
9	waiting area during court proceedings that would insure	
10	minimum contact with defendants or defendants' family members	1.32
11	and friends.	
12	(6) To be given information, as requested by the	1.33
13	victim, by a law enforcement agency, state attorney's office	
14	or victim/witness advocate program, as to the progress or	1.35
15	results of an investigation of a case or of a court	
16	proceeding, as long as such information is not confidential	1.38
17	and would not compromise the results of an investigation or	
18	prosecution.	1.39
19	(7) To be advised by the Attorney General, if	1.39
20	requested, of any reversal or modification of a judgment by an	1.40
21	appellate court.	
22	(8) To be notified by the state attorney, after	1.41
23	notification is provided to the state attorney by the	
24	Department of Health and Rehabilitative Services, of any	1.43
25	change in the status of a defendant convicted of a violent	
26	crime who is committed to the custody of the department as a	1.45
27	result of being found not guilty by reason of insanity, being	1.46
28	found guilty but mentally ill, or being found unable to stand	
29	trial due to mental infirmity, where such change in status	1.47
30	results in transfer to a less secure facility or temporary or	1.48
31	permanent release from a department facility, and to be	

1	notified by the state attorney of any court-ordered change in	1.49
2	the defendant's status.	
3	(9) To be provided with appropriate employer-	1.50
4	intercession services to ensure that employers of victims will	1.52
5	cooperate with the criminal justice process, in order to	
6	minimize an employee's loss of pay and other benefits	1.53
7	resulting from court appearances.	
8	(10) To have the right to provide victim impact	1.54
9	statements, as provided in s. 921.143.	1.55
10	Section 2. This act shall take effect October 1, 1984.	1.55

HOUSE SUMMARY

14 Provides standards for fair treatment for victims and
15 witnesses, consisting primarily of a list of rights and
16 duties of victims and witnesses of crime. See bill for
17 details.

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Bill Analysis

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FLORIDA HOUSE OF REPRESENTATIVES

H. Lee Moffitt, Speaker Steve Pajcic, Speaker pro tempore
Committee on Criminal Justice

Elvin L. Martinez
Chairman
Harold W. Spaet
Vice Chairman

HB 133 by Rep. Lehtinen
relating to Victims/
Witness

DATE: January 24, 1984

REVISED: _____

OTHER COMMITTEES OF REFERENCE:
Appropriations

REVISED: _____

SENATE BILL: _____

I. SUMMARY

A. PRESENT SITUATION:

There is no provision in the Florida Statutes which enumerates standards of fair treatment by criminal justice agencies for victims and witnesses of crimes.

However, the following cited provisions of law currently affect both victims and witnesses of crime:

Section 960, Florida Statutes, provides a mechanism for the compensation of crime victims and their families sustaining physical injury, or death.

Section 775.098, Florida Statutes, grants authority to a sentencing court to order restitution to a victim.

Section 947.181, Florida Statutes, grants to the Parole and Probation Commission authority to require restitution to the victim by the inmate, as a condition of parole.

Section 921.143, Florida Statutes, permits a victim of a crime to submit an oral or written statement to the court at the time of sentencing the criminal defendant, in cases where the defendant has entered a guilty or nolo contendere plea.

Section 918.17, Florida Statutes, allows the trial court to permit the taking of testimony by videotape of a sexual battery or aggravated child abuse victim who is 11 years of age or younger.

Section 794.022(1), Florida Statutes, allows for uncorroborated victim testimony in sexual battery prosecutions, and subsection (2) renders inadmissible testimony of prior consensual sexual activity unless specifically relevant to the issue of consent.

Article I, Section 17, Florida Constitution, forbids "unreasonable detention of witnesses". Sections 902.15 and 902.17, Florida Statutes, permit the court to require an appearance bond in lieu of incarceration for a material witness to a crime which is punishable by death or life imprisonment.

Section 918.14, Florida Statutes, prohibits the tampering with a witness under a third degree felony penalty.

Section 918.16, Florida Statutes, requires the trial court to clear the courtroom of non-essential participants when any minor under the age of 16 is testifying about any sex offense, whether in a criminal or a civil proceeding.

Section 827.07, Florida Statutes, imposes second degree misdemeanor penalties on one who fails to report child abuse or who prevents another from doing so.

Section 907.041(4)(b)(2), Florida Statutes, (1982 Supplement), allows the trial court to detain a defendant before trial if he has threatened, intimidated or injured any victim or witness for purposes of avoiding prosecution.

Section 43.35, Florida Statutes (1982 Supplement), mandates a witness coordination office for the coordination of court appearances of witnesses, witness information, cancellation of appearances, and assistance to employers of witnesses.

Finally, section 92.142, Florida Statutes, provides for the payment to witnesses in criminal and civil cases in the amount of \$5.00 per day, plus mileage at 6 cents per mile.

B. EFFECT OF PROPOSED CHANGES:

This bill would create s. 960.25, Florida Statutes, which prescribes 10 standards for the fair treatment of victims and witnesses of crime. The bill provides that law abiding citizens, as victims or witnesses of crime have a right to expect:

1) to be informed of and to have immediate access to financial and social service assistance and receive medical services needed as a result of crime;

2) to be made whole through restitution as provided by court order, civil action, or state-funded compensation;

3) to receive information regarding protection available from law enforcement officers, state attorneys' offices and others;

4) to be informed in advance of court appearances and cancellations;

5) to be provided with a secure waiting area during court proceedings;

6) to be informed of non-confidential investigation information;

Page 3

7) to be advised when a conviction is reversed or modified on appeal;

8) to be notified of any change in the defendant's status when committed to HRS as the result of insanity or mental illness;

9) to be provided with employer intercession services;

10) to have the right to provide victim impact statements as provided by statute.

II. FISCAL IMPACT

To the extent that services to victims and witnesses are not currently provided, each of the criminal justice system components would be negatively affected by the provisions of this bill. The individual counties could also experience increased expenditures as a result of the provisions contained herein. Specifically, law enforcement officers and state attorneys would be required to provide many additional forms of assistance to victims and witnesses of criminal activity. Law enforcement training facilities may have to provide additional courses to train officers and attorneys in victim assistance procedures. The individual law enforcement agencies and state attorneys' offices will most likely bear responsibility for the costs associated with this training coupled with the loss of service hours while the officers and attorney's are involved in such.

Additional clerical staff may be necessary to notify victims and witnesses of various stages of the judicial proceedings. Notification requirements would effect not only law enforcement and state attorneys but also the Department of Health and Rehabilitative Services in notifying victims and witnesses of the release of offenders from the custody of the department.

It should be noted that several of the services required by this bill are currently provided on a countywide basis. Pursuant to section 43.35, Florida Statutes, each court administrator shall establish a witness coordinating office in each county within his judicial circuit. If a county establishes such a program, it may be eligible to receive reimbursement for witness fees from the state. However, the services delineated in this legislation may fall to agencies other than those currently providing such.

III. COMMENTS


It is believed that the citizens of Florida need a comprehensive list as to the rights of those who are victims or witnesses of crimes. This bill largely expresses a statement of policy as to the expectations such persons have from the State of Florida.

IV. AMENDMENTS

STAFF SUMMARY/ANALYSIS - HB 133
January 24, 1984

Page 4

Prepared by:


J. Thomas Wright

Fiscal Impact By:


Marie Mattox-Sheffer

Staff Director:


J. Thomas Wright

Copy to Sponsor: January 23, 1984

By Representative Combee

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A bill to be entitled
An act relating to victims and witnesses of
crime; amending s. 918.14, F.S.; providing
definitions; expanding the crime of tampering
with witnesses and victims of crime;
prohibiting certain defenses; providing for
conditions of bail; authorizing a court to
issue certain protective orders and providing
penalties for violations thereof; providing an
effective date.

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

Section 1. Section 918.14, Florida Statutes, is
amended to read:

918.14 Tampering with victims or witnesses--

(1) As used in this section:

(a) "Witness" means any natural person:

1. Having knowledge of the existence or nonexistence of facts relating to any crime;
2. Whose declaration under oath is received or has been received as evidence for any purpose;
3. Who has reported any crime to any law enforcement officer, prosecutor, probation or parole officer, correctional officer, or judicial officer;
4. Who has been served with a subpoena issued under the authority of any court in the state, or of any other state or of the United States; or
5. Who would be believed by any reasonable person to be an individual described in this paragraph.

1	<u>(b) "Victim" means any natural person against whom any</u>	1:1us
2	<u>crime as defined under the laws of this state or any other</u>	1:23
3	<u>state or of the United States is being or has been perpetrated</u>	
4	<u>or attempted to be perpetrated.</u>	1:24
5	<u>(2) (1) It is unlawful for any person, knowing that a</u>	1:1us
6	<u>criminal trial, an official proceeding, or an investigation by</u>	1:27
7	<u>a duly constituted prosecuting authority, a law enforcement</u>	
8	<u>agency, a grand jury or legislative committee, or the Judicial</u>	1:28
9	<u>Qualifications Commission of this state is pending, or knowing</u>	1:30
10	<u>that such is about to be instituted, to endeavor or attempt to</u>	
11	<u>induce or otherwise cause a witness to:</u>	1:32
12	<u>(a) Testify or inform falsely; or</u>	1:33
13	<u>(b) Withhold any testimony, information, document, or</u>	1:33
14	<u>thing.</u>	
15	<u>(3) It is unlawful for any person to knowingly prevent</u>	1:1us
16	<u>or dissuade another person who has been the victim of a crime</u>	1:34
17	<u>or who is a witness to a crime or a person acting on behalf of</u>	
18	<u>the victim of a crime from:</u>	1:35
19	<u>(a) Making any report of such victimization to any</u>	1:1us
20	<u>peace officer or state or local or federal law enforcement</u>	1:37
21	<u>officer or probation or parole or correctional officer or</u>	
22	<u>prosecuting agency or to any judge;</u>	1:38
23	<u>(b) Causing a complaint, indictment, information,</u>	1:1us
24	<u>probation or parole violation to be sought and prosecuted and</u>	1:40
25	<u>assisting in the prosecution thereof; or</u>	
26	<u>(c) Arresting or causing or seeking the arrest of any</u>	1:1us
27	<u>person in connection with such victimization.</u>	1:42
28	<u>(4) (2)--If Any person who violates the provisions of</u>	1:44
29	<u>this section is guilty of by-the-use-of-force, deception,</u>	1:46
30	<u>threat, or offer of pecuniary benefit to induce any conduct</u>	
31	<u>described in subsection (1); the violation shall constitute a</u>	1:47

1 felony of the third degree, punishable as provided in s. 1.4
 2 775.082, s. 775.083, or s. 775.084: 1.0

3 (a) Where such act is accompanied by the use or 1.0
 4 express or implied threat of force or violence, or the use of 1.4
 5 deception or offer of pecuniary benefit, upon a witness or 1.0
 6 victim or any third person or the property of any victim, 1.0
 7 witness, or any third person;

8 (b) Where such act is in furtherance of a conspiracy; 1.0

9 (c) Where such act is committed by any person who has 1.0
 10 been convicted of any violation of this section, any 1.0
 11 predecessor law hereto or any federal statute or statute of 1.0
 12 any other state which, if the act prosecuted was committed in 1.0
 13 this state, would be a violation of this section; or 1.0

14 (d) Where such act is committed by any person for 1.0
 15 pecuniary gain or for any other consideration acting upon the 1.0
 16 request of any other person.

17
 18 In all other cases, a violation shall constitute a misdemeanor 1.6
 19 of the first degree, punishable as provided in s. 775.082 or 1.6
 20 s. 775.083.

21 (5) ~~(a)~~ (a) It is unlawful for any person: 1.6

22 1. To cause a witness to be placed in fear by force or 1.6
 23 threats of force; 1.6

24 2. To make an assault upon any witness or informant; 1.6

25 or

26 3. To harm a witness by any unlawful act in 1.6
 27 retaliation against the said witness for anything lawfully 1.6
 28 done in the capacity of witness or informant. 1.6

29 (b) Any person violating the provisions of this 1.6
 30 subsection shall be guilty of a felony of the third degree, 1.6

31

1 punishable as provided in s. 775.082, s. 775.083, or s. 1.68
 2 775.084.

3 (6) Every person attempting the commission of any act 1:lus
 4 described in this section is guilty of the offense attempted 1.70
 5 without regard to success or failure of such attempt. The 1.71
 6 fact that no person was injured physically, or in fact
 7 intimidated, shall be no defense against any prosecution under 1.72
 8 this section.

9 (7) Any pretrial release of any defendant, whether on 1:lus
 10 bail or under any other form of recognizance, shall be deemed, 1.74
 11 as a matter of law, to include a condition that the defendant
 12 neither do, nor cause to be done, nor knowingly permit to be 1.75
 13 done on his behalf, any act proscribed by this section, and 1.76
 14 any willful violation of said condition is subject to the
 15 provisions of paragraph (9)(c) whether or not the defendant 1.77
 16 was the subject of an order pursuant to subsection (8). From 1.79
 17 and after the effective date of this section, any receipt for
 18 any bail or bond given by the clerk of any court, by any 1.80
 19 court, by any surety or bondsman and any written promise to
 20 appear on one's own recognizance shall contain, in a 1.81
 21 conspicuous location, notice of this subsection. 1.82

22 (8) Any court with jurisdiction over any criminal 1:lus
 23 matter may, in its discretion and upon good cause, including, 2.1
 24 but not limited to, credible hearsay or the declaration of the 2.6
 25 prosecutor or defense attorney, that intimidation or 2.2
 26 dissuasion of any person who is a victim or who is a witness 2.3
 27 has occurred or is reasonably likely to occur, issue orders
 28 including, but not limited to, the following: 2.4

29 (a) An order that a defendant not violate any 1:lus
 30 provision of this section.

1	<u>(b) An order that a person before the court other than</u>	1:lus
2	<u>a defendant, including, but not limited to, a subpoenaed</u>	2.8
3	<u>witness or other person entering the courtroom of said court,</u>	
4	<u>not violate any provisions of this section.</u>	2.9
5	<u>(c) An order that any person described in this</u>	1:lus
6	<u>subsection maintain a prescribed geographic distance from any</u>	2.11
7	<u>specified witness or victim.</u>	
8	<u>(d) An order that any person described in this</u>	1:lus
9	<u>subsection have no communication whatsoever with any specified</u>	2.13
10	<u>witness or any victim, except through an attorney under such</u>	
11	<u>reasonable restrictions as the court may impose.</u>	2.14
12	<u>(e) An order calling for a hearing to determine if an</u>	1:lus
13	<u>order as described in paragraphs (a)-(d) should be issued.</u>	2.16
14	<u>(f) An order that a particular law enforcement agency</u>	1:lus
15	<u>within the jurisdiction of the court provide protection for a</u>	2.18
16	<u>victim or witness.</u>	
17	<u>(9) Any person violating any order made pursuant to</u>	1:lus
18	<u>subsection (8) may be punished in any of the following ways:</u>	2.20
19	<u>(a) For any substantive offense described in this</u>	1:lus
20	<u>section, where such provision of an order is a violation of</u>	2.22
21	<u>any provision of subsections (2)-(5).</u>	
22	<u>(b) As a contempt of the court making such order. No</u>	2.24
23	<u>finding of contempt shall be a bar to prosecution for a</u>	
24	<u>substantive offense under this section; however:</u>	2.25
25	<u>1. Any person so held in contempt shall be entitled to</u>	1:lus
26	<u>credit for any punishment imposed therein against any sentence</u>	2.27
27	<u>imposed upon conviction of said substantive offense; and</u>	2.28
28	<u>2. Any conviction or acquittal for any substantive</u>	1:lus
29	<u>offense under this section shall be a bar to subsequent</u>	2.31
30	<u>punishment for contempt arising out of the same act.</u>	
31		

1 (c) By revocation of any form of pretrial release or 1:lus
 2 the forfeiture of bail and the issuance of a bench warrant for 2.33
 3 the defendant's arrest or remanding him into custody. Such 2.34
 4 revocation may, after a hearing and upon a showing by clear
 5 and convincing evidence, in the sound discretion of the court, 2.35
 6 be made whether the violation order complained of has been
 7 committed by the defendant personally or in any way caused or 2.36
 8 encouraged to have been committed by said defendant. 2.37

9 Section 2. This act shall take effect October 1, 1984. 2.38
 10

11 *****

12 HOUSE SUMMARY

13 Expands provisions relating to unlawful tampering with
 14 witnesses and victims of crime. Prohibits persons from
 15 preventing or attempting to prevent the reporting of
 16 crime. Expands the circumstances in which tampering
 17 constitutes a felony. Provides that defendants shall be
 18 prevented from violating such provisions as a condition
 19 of pretrial release on bail. Authorizes the court to
 20 enter certain protective orders and provides penalties
 21 for violations.
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SUBCOMMITTEE REPORT

File with Parent Committee

To Chairman, Committee on Criminal Justice

The Subcommittee on Criminal Code

met at 1:15 o'clock on April 9, 19 84,

in Room 314 HOB, and considered HB 743.

On motion to report the bill FAVORABLE

FAVORABLE WITH AMENDMENTS
(number)

the vote was

YEA	MEMBER	NAY	YEA	MEMBER	NAY
	Grant			Wetherell	
	Meffert			Upchurch, Chm.	
	McEwan				
	Ready				
	Thomas				
	Titone				
TOTAL			TOTAL		

(Subcommittee Chairman)

SUBCOMMITTEE APPEARANCE RECORD

The following persons (other than legislators) appeared before the subcommittee during consideration of this bill

NAME	REPRESENTING	ADDRESS

(If additional persons, enter on reverse side and check here)

Received by Parent Committee

Date _____

Received by _____

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By Representatives Lehtinen and Ros

A bill to be entitled

An act relating to victim and witness protection; providing a short title; providing intent; amending s. 921.143, F.S., expanding provisions relating to victims' statements at sentencing proceedings; creating s. 914.16, F.S.,

photog ten in a
 crime; ing the
 distrib r other
 account victed
 felon; ring the
 court to

extraordinary cases; specifying types of restitution and providing for enforcement thereof; amending ss. 921.187, 945.091, 948.03, and 960.17, F.S., to conform; amending s. 947.181, F.S., requiring the Parole and Probation Commission to order restitution as a condition of parole except in extraordinary cases; creating s. 960.30, F.S., providing for the creation of guidelines for the treatment of victims and witnesses of crime; creating s. 903.047, F.S., creating certain conditions of pretrial release on bail; creating ss. 914.21, 914.23, and 914.24, F.S., and amending s. 918.14, F.S., providing definitions; expanding provisions prohibiting tampering with witnesses to include victims and informants; prohibiting retaliation against such persons; authorizing civil actions to restrain harassment; amending

24

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1	s. 119.07, F.S., providing for the	1.18
2	confidentiality of certain law enforcement	
3	information relating to victims and witnesses;	
4	providing an effective date.	1.19
5		
6	Be It Enacted by the Legislature of the State of Florida:	1.19
7		
8	Section 1. This act shall be known and may be cited as	1.20
9	the "Victim and Witness Protection Act of 1984."	1.21
10	Section 2. Findings and intent.--	1.21
11	(1) The Legislature finds and declares that:	1.22
12	(a) Even though there is a growing recognition that	1.22
13	the criminal justice system would cease to function without	1.23
14	the cooperation of victims and witnesses, the historic	1.24
15	unresponsiveness of the criminal justice system to the real	
16	needs of victims and witnesses has not yet been fully	1.25
17	corrected.	
18	(b) Although in recent years Florida has made	1.26
19	substantial positive strides toward ensuring that victims and	
20	witnesses are properly treated, victims and witnesses are	1.27
21	sometimes still either ignored by the criminal justice system	1.28
22	or used simply as tools to identify and punish offenders.	
23	(c) Despite commendable efforts by many state	1.29
24	attorneys and law enforcement agencies to increase cooperation	
25	with, and responsiveness to, victims and witnesses,	1.30
26	occasionally these individuals are not even notified when the	1.31
27	defendant is released on bail, the case is dismissed, a plea	
28	for a lesser charge is accepted, or a court date is changed.	1.32
29	(d) While state law provides the option of financial	1.33
30	restitution to victims by defendants, most victims are never	1.34
31		

1	fully or even partially compensated by defendants for their	
2	injuries and other losses.	1.35
3	(e) Under current law, the legal prohibitions against	1.36
4	threats and harassment of victims and witnesses and the	1.37
5	protections of victims and witnesses against intimidation are	
6	not adequate.	1.38
7	(f) The victim may lose valuable property to a	1.38
8	criminal, only to lose it again for long periods of time to	1.39
9	law enforcement officials, until the trial and sometimes until	1.40
10	appeals are ended.	
11	(2) The legislative intent and purposes of this act	1.41
12	are:	
13	(a) To enhance and protect the necessary role of	1.42
14	victims and witnesses in the criminal justice process; and	
15	(b) To ensure that the state does all that is possible	1.43
16	within limits of available resources to assist victims and	1.44
17	witnesses of crime without infringing on the constitutional	
18	rights of defendants.	1.45
19	Section 3. Section 921.143, Florida Statutes, is	1.45
20	amended to read:	
21	921.143 Appearance of victim to make statement at	1.46
22	sentencing hearing; submission of written statement.--	
23	(1) At the sentencing hearing, and prior to the	1.48
24	imposition of sentence upon any defendant who has <u>been</u>	1.49
25	<u>convicted of any felony or who has</u> pleaded guilty or nolo	1.50
26	contendere to any crime, the sentencing court shall permit the	1.52
27	victim of the crime for which the defendant is being	1.54
28	<u>sentenced, or the next of kin of the victim if the victim has</u>	
29	<u>died from causes related to the crime,</u> to:	1.55
30	(a) Appear before the sentencing court for the purpose	1.56
31	of making a statement under oath for the record; or	1.57

1	(b) Submit a written statement under oath to the	1.58
2	office of the state attorney, which shall be filed with the	1.60
3	sentencing court.	
4	(2) The state attorney or any assistant state attorney	1.62
5	shall advise all victims <u>or, where appropriate, their next of</u>	1.63
6	<u>kin</u> that statements, whether oral or written, shall relate	1.66
7	solely to the facts of the case and the extent of any <u>harm,</u>	1:1us
8	<u>including social, psychological, or physical harm injuries,</u>	1:1os
9	financial losses, and loss of earnings directly <u>or indirectly</u>	1.69
10	resulting from the crime for which the defendant is being	1.71
11	sentenced.	
12	(3) The court may refuse to accept a negotiated plea	1.73
13	and order the defendant to stand trial.	1.74
14	Section 4. Section 914.16, Florida Statutes, is	1.75
15	created to read:	
16	<u>914.16 Photographs of property wrongfully taken; use</u>	1:1us
17	<u>in prosecution, procedure; return of property to owner.--In</u>	1.78
18	<u>any prosecution for a crime involving the wrongful taking of</u>	
19	<u>property, photographs of the property alleged to have been</u>	1.79
20	<u>wrongfully taken may be deemed competent evidence of such</u>	1.80
21	<u>property and may be admissible in the prosecution to the same</u>	
22	<u>extent as if such property had been introduced as evidence.</u>	1.81
23	<u>Such photographs shall bear a written description of the</u>	1.82
24	<u>property alleged to have been wrongfully taken, the name of</u>	1.83
25	<u>the owner of the property taken, the location where the</u>	
26	<u>alleged wrongful taking occurred, the name of the</u>	1.84
27	<u>investigating law enforcement officer, the date the photograph</u>	
28	<u>was taken, and the name of the photographer. Such writing</u>	2.2
29	<u>shall be made under oath by the investigating law enforcement</u>	
30	<u>officer and the photograph identified by the signature of the</u>	2.3
31	<u>photographer. Upon the filing of such photograph and writing</u>	2.4

1 with the law enforcement authority or court holding such 2.5
 2 property as evidence, such property may be returned to the
 3 owner from whom the property was taken. 2.6

4 Section 5. Subsection (2) of section 944.512, Florida 2.7
 5 Statutes, is amended to read:

6 944.512 State lien on proceeds from literary or other 2.9
 7 type of account of crime for which imprisoned.--

8 (1) A lien prior in dignity to all others shall exist 2.11
 9 in favor of the state upon royalties, commissions, proceeds of 2.12
 10 sale, or any other thing of value payable to or accruing to a 2.13
 11 convicted felon or a person on his behalf, including any 2.14
 12 person to whom the proceeds may be transferred or assigned by
 13 gift or otherwise, from any literary, cinematic, or other 2.17
 14 account of the crime for which he was convicted.

15 (2) The proceeds of such account shall be distributed 2.17
 16 as follows: 2.18

17 ~~(a) -- Twenty-five percent to the dependents of the~~ 1:10s
 18 ~~convicted felon.~~ 2.19

19 (a) (b) First priority shall be given Twenty-five 2.20
 20 percent to the victim or victims of the crime or to their 2.21
 21 dependents, to the extent of their damages as determined by 2.22
 22 the court in the lien enforcement proceedings.

23 (b) (c) Second priority shall be given to an amount 2.24
 24 equal to pay court costs, which shall include jury fees and 2.26
 25 expenses, court reporter fees, and reasonable per diem for the 2.27
 26 prosecuting attorneys for the state, which shall go to the
 27 General Revenue Fund. Additional costs shall be assessed for 2.30
 28 the computed per capita cost of imprisonment in the state
 29 correctional institution. Such costs shall be determined by 2.32
 30 the Auditor General.

1	<u>(c) (d) The rest, residue, and remainder to the Crimes</u>	2.34
2	<u>Compensation Trust Fund convicted felon upon his or her</u>	2.36
3	<u>release or parole or upon the expiration of his or her</u>	2.37
4	<u>sentence.</u>	
5	Section 6. Section 775.089, Florida Statutes, is	2.3
6	amended to read:	
7	775.089 Restitution.--	2.39
8	(1) <u>(a) In addition to any punishment, the court shall</u>	2.41
9	<u>may order the defendant to make restitution to the victim</u>	1:1us
10	<u>aggrieved party for damage or loss caused <u>directly or</u></u>	2.43
11	<u>indirectly</u> by the defendant's offense, <u>unless the court finds</u>	1:1us
12	<u>compelling and extraordinary reasons not to order if the</u>	1:1os
13	<u>defendant is able or will be able to make such restitution.</u>	2.46
14	Restitution may be monetary or nonmonetary restitution. The	2.48
15	court <u>shall may</u> make the payment of restitution a condition to	
16	probation in accordance with s. 948.03.	2.50
17	<u>(b) If the court does not order restitution, or orders</u>	1:1us
18	<u>only partial restitution, under this section, the court shall</u>	2.52
19	<u>state on the record the reasons therefor.</u>	2.53
20	<u>(c) The term "victim" as used in this section and in</u>	1:1us
21	<u>any provision of law relating to restitution shall include the</u>	2.54
22	<u>aggrieved party, the aggrieved party's estate if the aggrieved</u>	2.55
23	<u>party is deceased, and the aggrieved party's next of kin if</u>	
24	<u>the aggrieved party is deceased as a result of the offense.</u>	2.56
25	<u>(2) When an offense results in bodily injury to a</u>	2.57
26	<u>victim, the court may require that the defendant:</u>	
27	<u>(a) Pay the cost of necessary medical and related</u>	2.59
28	<u>professional services and devices relating to physical,</u>	
29	<u>psychiatric, and psychological care, including nonmedical care</u>	2.60
30	<u>and treatment rendered in accordance with a method of healing.</u>	2.61
31		

1	<u>(b) Pay the cost of necessary physical and</u>	1:lus
2	<u>occupational therapy and rehabilitation.</u>	2.63
3	<u>(c) Reimburse the victim for income lost by such</u>	1:lus
4	<u>victim as a result of such offense.</u>	2.64
5	<u>(d) In the case of an offense resulting in bodily</u>	1:lus
6	<u>injury that also results in the death of a victim, pay an</u>	2.65
7	<u>amount equal to the cost of necessary funeral and related</u>	2.66
8	<u>services.</u>	
9	<u>(3) (a) The court may require that such defendant make</u>	2.67
10	<u>restitution under this section within a specified period or in</u>	
11	<u>specified installments.</u>	2.68
12	<u>(b) The end of such period or the last such</u>	1:lus
13	<u>installment shall not be later than:</u>	2.69
14	<u>1. The end of the period of probation, if probation is</u>	1:lus
15	<u>ordered;</u>	2.70
16	<u>2. Five years after the end of the term of</u>	1:lus
17	<u>imprisonment imposed, if the court does not order probation;</u>	2.71
18	<u>or</u>	
19	<u>3. Five years after the date of sentencing in any</u>	2.72
20	<u>other case.</u>	
21	<u>(c) If not otherwise provided by the court under this</u>	2.73
22	<u>subsection, restitution shall be made immediately.</u>	
23	<u>(4) If a defendant is placed on probation or paroled,</u>	2.74
24	<u>any restitution ordered under this section shall be a</u>	
25	<u>condition of such probation or parole. The court may revoke</u>	2.76
26	<u>probation and the Parole and Probation Commission may revoke</u>	
27	<u>parole if the defendant fails to comply with such order. In</u>	2.78
28	<u>determining whether to revoke probation or parole, the court</u>	
29	<u>or Parole and Probation Commission shall consider the</u>	2.79
30	<u>defendant's employment status, earning ability, financial</u>	
31	<u>resources, the willfulness of the defendant's failure to pay,</u>	2.80

1 and any other special circumstances that may have a bearing on 2.82
2 the defendant's ability to pay.

3 (5) An order of restitution may be enforced by the 2.83
4 state or a victim named in the order to receive the
5 restitution in the same manner as a judgment in a civil 2.8
6 action.

7 (6) The court, in determining whether to order 3.1
8 restitution and the amount of such restitution, shall consider
9 the amount of the loss sustained by any victim as a result of 3.2
10 the offense, the financial resources of the defendant, the 3.3
11 financial needs and earning ability of the defendant and the
12 defendant's dependents, and such other factors as the court 3.4
13 deems appropriate.

14 (7) Any dispute as to the proper amount or type of 1:lus
15 restitution shall be resolved by the court by the 3.6
16 preponderance of the evidence. The burden of demonstrating 3.7
17 the amount of the loss sustained by a victim as a result of
18 the offense shall be on the state attorney. The burden of 3.9
19 demonstrating the financial resources of the defendant and the
20 financial needs of the defendant and such defendant's 3.10
21 dependents shall be on the defendant. The burden of 3.11
22 demonstrating such other matters as the court deems
23 appropriate shall be upon the party designated by the court as 3.12
24 justice requires.

25 (8) A conviction of a defendant for an offense 3.13
26 involving the act giving rise to restitution under this
27 section shall estop the defendant from denying the essential 3.14
28 allegations of that offense in any subsequent civil
29 proceeding. 3.1

30 ~~(2) -- In determining the amount and method of payment of~~ 1:10
31 ~~restitution, the court shall consider the financial resources~~ 3.17

1	of the defendant and the burden the payment of restitution	3.18
2	will impose on the defendant.	
3	{3}--Any defendant ordered to make restitution may	3.19
4	petition the court which ordered him to make such restitution	3.20
5	for remission from any payment of restitution or from any	3.21
6	unpaid portion thereof--if the court finds that the payment	3.22
7	of restitution due will impose an undue hardship on the	3.23
8	defendant or his family, the court may grant remission from	
9	any payment of restitution or modify the method of payment.	3.24
10	<u>{9} {4}</u> When a corporation or unincorporated	3.25
11	association is ordered to make restitution, the person	3.26
12	authorized to make disbursements from the assets of such	3.27
13	corporation or association shall pay restitution from such	
14	assets, and such person may be held in contempt for failure to	3.28
15	make such restitution.	
16	{5}--If a defendant who is required to make restitution	1 los
17	defaults in any payment of restitution or installment thereof,	3.30
18	the court may hold him in contempt unless such defendant has	3.31
19	made a good faith effort to make restitution--if the	3.32
20	defendant has made a good faith effort to make restitution,	
21	the court may, upon motion of the defendant, modify the order	3.33
22	requiring restitution by:	
23	{a}--Providing for additional time to make any payment	3.34
24	in restitution.	
25	{b}--Reducing the amount of any payment in restitution	3.35
26	or installment thereof.	
27	{c}--Granting a remission from any payment of	3.36
28	restitution or part thereof.	
29	<u>{10} {6}</u> Any default in payment of restitution may be	3.37
30	collected by any means authorized by law for enforcement of a	3.38
31	judgment.	

1	<u>(11)</u> (7) The court may order the clerk of the court to	1:1us
2	collect and dispense restitution payments in any case.	3.41
3	Section 7. Section 921.187, Florida Statutes, is	3.42
4	amended to read:	
5	921.187 Disposition and sentencing; alternatives.--	3.44
6	<u>(1)</u> The following alternatives for the disposition of	3.45
7	criminal cases shall be used in a manner which will best serve	3.46
8	the needs of society, which will punish criminal offenders,	
9	and which will provide the opportunity for rehabilitation. A	3.48
10	court may:	
11	<u>(a)</u> (1) Place an offender on probation with or without	3.51
12	an adjudication of guilt pursuant to s. 948.01.	
13	<u>(b)</u> (2) Impose a fine and probation pursuant to s.	3.53
14	948.011 when the offense is punishable by both a fine and	3.54
15	imprisonment and probation is authorized.	
16	<u>(c)</u> (3) Place a felony offender into community control	3.56
17	requiring intensive supervision and surveillance pursuant to	3.57
18	chapter 948.	3.58
19	<u>(d)</u> (4) Impose, as a condition of probation or	1:1us
20	community control, a period of treatment which shall be	3.61
21	restricted to either a county facility, a Department of	
22	Corrections probation and restitution center, or a community	3.62
23	residential or nonresidential facility, excluding a community	
24	correctional center as defined in s. 944.026, which is owned	3.64
25	and operated by any public or private entity providing such	
26	services. Before admission to such a facility, the court	3.66
27	shall obtain an individual assessment and recommendations on	3.67
28	the appropriate treatment needs pursuant to the Community	
29	Control Implementation Manual, which assessment and	3.68
30	recommendations shall be considered by the court in ordering	
31	such placements. Placement in such a facility may not exceed	3.70

1	364 days. Early termination of placement shall be recommended	3.71
2	to the court, when appropriate, by the center supervisor.	3.72
3	<u>(e)</u> †5‡ Sentence an offender pursuant to s. 922.051 to	3.74
4	imprisonment in a county jail when a statute directs	
5	imprisonment in a state prison, if the offender's cumulative	3.76
6	sentence, whether from the same circuit or from separate	3.77
7	circuits, is not more than 364 days.	3.78
8	<u>(f)</u> †6‡ Sentence an offender who is to be punished by	3.81
9	imprisonment in a county jail to a jail in another county if	
10	there is no jail within the county suitable for such prisoner	3.82
11	pursuant to s. 950.01.	3.83
12	<u>(g)</u> †7‡ Impose a split sentence whereby the offender is	1:1us
13	to be placed on probation upon completion of any specified	4.1
14	period of such sentence, which period may include a term of	4.3
15	years or less.	
16	<u>(h)</u> †8‡ Require the offender to participate in a work-	4.5
17	release or educational or vocational training program pursuant	4.6
18	to s. 951.24 while serving a sentence in a county jail, if	
19	such a program is available.	4.7
20	†9--Require-an-offender-to-make-restitution-pursuant	4.9
21	to-sr-775.089.	
22	<u>(i)</u> †10‡ Require an offender to perform a specified	1:1us
23	public service pursuant to s. 775.091.	4.11
24	<u>(j)</u> †11‡ Require an offender who violates chapter 893	4.13
25	or violates any law while under the influence of a controlled	4.14
26	substance or alcohol to participate in a substance abuse	
27	program.	
28	<u>(k)</u> †12‡ Sentence an offender to imprisonment in a	4.16
29	state correctional institution.	4.17
30	<u>(l)</u> †13‡ Make any other disposition that is authorized	4.20
31	by law.	

1 (2) The court shall require an offender to make 1:lus
 2 restitution pursuant to s. 775.089, unless the court finds 4.23
 3 compelling and extraordinary reasons not to order such
 4 restitution as provided therein. If the court does not order 4.25
 5 restitution, or orders only partial restitution, the court
 6 shall state on the record the reasons therefor. 4.2

7 Section 8. Paragraph (a) of subsection (6) of section 4.28
 8 945.091, Florida Statutes, is amended to read:

9 945.091 Extend the limits of confinement; restitution 4.29
 10 by employed inmates.-- 4.30

11 (6) (a) The department shall ~~may~~ require inmates 4.32
 12 working at paid employment as provided in paragraph (1) (b) to 4.33
 13 provide restitution to the aggrieved party for the damage or 4.35
 14 loss caused by the offense of the inmate, in an amount to be
 15 determined by the department, unless the department finds 4.36
 16 compelling and extraordinary reasons not to order such 4.37
 17 restitution. If restitution or partial restitution is not 4.38
 18 ordered, the department shall state on the record the reasons 4.39
 19 therefor.

20 Section 9. Paragraph (e) of subsection (1) of section 4.39
 21 948.03, Florida Statutes, is amended to read: 4.41

22 948.03 Terms and conditions of probation or community 4.41
 23 control.-- 4.42

24 (1) The court shall determine the terms and conditions 4.42
 25 of probation or community control and may include among them 4.43
 26 the following, that the probationer or offender in community 4.45
 27 control shall:

28 (e) Make reparation or restitution to the aggrieved 4.46
 29 party for the damage or loss caused by his offense in an 4.4
 30 amount to be determined by the court. The court shall make 4.4
 such reparation or restitution a condition of probation,

1 unless the court determines that compelling and extraordinary 4.49
 2 reasons exist to the contrary. If the court does not order 1:lus
 3 restitution, or orders only partial restitution, the court
 4 shall state on the record the reasons therefor. 4.51

5 Section 10. Subsections (2) and (3) of section 960.17, 4.52
 6 Florida Statutes, are amended to read:

7 960.17 Award constitutes debt owed to state.-- 4.53

8 (2) The court, when placing on probation as provided 4.54
 9 in chapter 948 any person who owes a debt to the state as a 4.56
 10 consequence of a criminal act, shall may set as a condition of 1:lus
 11 probation the payment of the debt to the state. The court may 4.59
 12 also set the schedule or amounts of payments subject to
 13 modification based on change of circumstances unless the court 4.60
 14 determines that compelling and extraordinary reasons exist to 4.61
 15 the contrary. If the court does not order payment, or orders 4.62
 16 only partial payment, the court shall state on the record the 4.63
 17 reasons therefor.

18 (3) The Parole and Probation Commission shall ~~have-the~~ 4.65
 19 ~~right-to~~ make payment of the debt to the state a condition of
 20 parole under chapter 947, unless the commission finds 4.66
 21 compelling and extraordinary reasons to the contrary. If the 4.68
 22 commission does not order payment, or orders only partial
 23 payment, the commission shall state on the record the reasons 4.69
 24 therefor ~~subject-to-modification-based-on-change-of~~
 25 ~~circumstances.~~ 4.70

26 Section 11. Section 947.181, Florida Statutes, is 4.71
 27 amended to read:

28 947.181 Victim restitution.-- 4.73

29 (1) The Parole and Probation Commission shall may 1:lus
 30 require, as a condition of parole, reparation or restitution 4.75
 31 to the aggrieved party for the damage or loss caused by the 4.76

1 offense for which the parolee was imprisoned unless the
 2 commission finds compelling and extraordinary reasons to the 4.77
 3 contrary. If the commission does not order restitution, or 4.78
 4 orders only partial restitution, the commission shall state on 4.
 5 the record the reasons therefor. ~~The maximum amount of~~ 1:10
 6 ~~reparation or restitution allowable may be determined by the~~ 4.
 7 ~~court at the time of sentencing.~~ The amount of such 4.82
 8 reparation or restitution shall be determined by the Parole 4.83
 9 and Probation Commission.

10 (2) If the parolee fails to make the reparation or 4.84
 11 restitution to the aggrieved party, as authorized in 5.1
 12 subsection (1), it shall be considered by the commission as a 5.3
 13 violation of parole as specified in s. 947.21 and may be cause 5.4
 14 for revocation of his parole. 5.5

15 Section 12. Section 960.30, Florida Statutes, is 5.6
 16 created to read:

17 960.30 Guidelines for fair treatment of victims and 1:10
 18 witnesses in the criminal justice system.-- 5.8

19 (1) No later than January 1, 1985, the Department of 1:1us
 20 Legal Affairs, the state attorneys, the Department of 5.9
 21 Corrections, the Parole and Probation Commission, the State 5.10
 22 Court Administrator, the Department of Law Enforcement, and
 23 every sheriff's department, police department, or other law 5.11
 24 enforcement agency as defined in s. 943.10(3) shall develop 5.12
 25 and implement guidelines for the use of their respective
 26 agencies consistent with the purposes of this act and designed 5.13
 27 to achieve, as much as possible and within the limits of
 28 resources available, the following objectives: 5.14

29 (a) Services to victims of crime.--Law enforcement 1:1
 30 personnel shall ensure that victims are given information of 5.16
 31 the following:

1 1. Availability of crime victim compensation, where 5.
2 applicable;

3 2. Community-based victim treatment programs; 5.

4 3. The role of the victim in the criminal justice 1:
5 process, including what they can expect from the system as 5.
6 well as what the system expects from them; and 5.

7 4. Stages in the criminal justice process of 1:
8 significance to a crime victim, and the manner in which 5.
9 information about such stages can be obtained. 5.

10 (b) Scheduling changes.--All victims and witnesses who 1:
11 have been scheduled to attend criminal justice proceedings 5.
12 shall either be notified as soon as possible of any scheduling 5.
13 changes which will affect their appearances or have available 5.
14 a system for alerting witnesses promptly by telephone or 5.
15 otherwise.

16 (c) Prompt notification to victims of major serious 5.
17 crimes.--Victims, witnesses, relatives of those victims and 5.
18 witnesses who are minors, and relatives of homicide victims 5.
19 shall, if such persons provide the appropriate official with a 5..
20 current address and telephone number, receive prompt advance 5.
21 notification, if possible, of judicial proceedings relating to 5.
22 their case, including. 5.0

23 1. The arrest of an accused; 1.0

24 2. The initial appearance of an accused before a 5.0
25 judicial officer;

26 3. The release of the accused pending judicial 5.0
27 proceedings; and

28 4. Proceedings in the prosecution of the accused, 5.3
29 including entry of a plea of guilty, trial, sentencing, and, 5.3
30 where a term of imprisonment is imposed, the release of the 5.3
31 accused from such imprisonment. 5.3

1	<u>(d) Consultation with victim.--The victim of a felony,</u>	1:1us
2	<u>or, in the case of a minor child or a homicide, the family of</u>	5.38
3	<u>the victim, shall be consulted by the state attorney in order</u>	5.39
4	<u>to obtain the views of the victim or family about the</u>	
5	<u>disposition of any criminal case brought as a result of such</u>	5.40
6	<u>crime, including the views of the victim or family about:</u>	5.41
7	<u>1. Dismissal;</u>	1:1us
8	<u>2. Release of the accused pending judicial</u>	5.42
9	<u>proceedings;</u>	
10	<u>3. Plea negotiations; and</u>	5.43
11	<u>4. Pretrial diversion program.</u>	1:1us
12	<u>(e) Separate waiting area.--Victims and other</u>	5.44
13	<u>prosecution witnesses shall be provided prior to court</u>	
14	<u>appearance a waiting area that is separate from all other</u>	5.45
15	<u>witnesses.</u>	5.46
16	<u>(f) Property return.--Law enforcement agencies and</u>	1:1us
17	<u>prosecutors shall promptly return victim's property held for</u>	5.48
18	<u>evidentiary purposes unless there is a compelling law</u>	5.49
19	<u>enforcement reason for retaining it.</u>	
20	<u>(g) Notification to employer.--A victim or witness</u>	5.50
21	<u>shall be assisted by the witness coordination offices as</u>	
22	<u>provided in s. 43.35 in informing employers that the need for</u>	5.53
23	<u>victim and witness cooperation in the prosecution of the case</u>	
24	<u>may necessitate absence of that victim or witness from work.</u>	5.54
25	<u>(h) General victim assistance.--The guidelines should</u>	5.55
26	<u>also ensure that any other important assistance to victims and</u>	5.56
27	<u>witnesses, such as the adoption of transportation, parking,</u>	
28	<u>and translator services for victims in court, be provided.</u>	5.57
29	<u>(2)(a) A copy of the guidelines adopted by each agency</u>	1:1us
30	<u>shall be filed with the Bureau of Crimes Compensation no later</u>	5.59
31		

1 than January 15, 1985, and subsequent changes or amendments
 2 thereto shall be likewise filed when adopted. 5.6

3 (b) When the objectives stated in this section cannot 5.6
 4 be achieved by an agency for any reason, such as lack of
 5 resources, the agency shall so state in a memorandum or other 5.6
 6 document accompanying the filing of its guidelines with the 5.6
 7 Bureau of Crimes Compensation and shall therein explain in
 8 detail the nature of the obstacles or other causes for its 5.6
 9 inability to achieve the objectives.

10 (3) Nothing in this section or in the guidelines 1:1
 11 adopted pursuant to this section shall be construed as 5.6
 12 creating a cause of action against the state or any of its
 13 agencies or political subdivisions. 5.6

14 Section 13. Section 903.047, Florida Statutes, is 5.6
 15 created to read: 5.6

16 903.047 Conditions of bail.-- 1:1

17 (1) As a condition of pretrial release, whether such 5.7
 18 release is by surety bail bond, recognizance bond, or other 5.7
 19 form, the court shall require that:

20 (a) The defendant refrain from criminal activity of 5.7
 21 any kind.

22 (b) The defendant refrain from any contact of any type 1:1
 23 with the victim, except through pretrial discovery pursuant to 5.7
 24 the Florida Rules of Criminal Procedure. 5.7

25 (2) Upon motion by the defendant when bail is set, or 1:1
 26 upon later motion properly noticed pursuant to law, the court 5.7
 27 may modify the condition required by paragraph (1)(b) if good 5.7
 28 cause is shown and the interests of justice so require. The 5.7
 29 victim shall be permitted to be heard at any proceeding in
 30 which such modification is considered and the state attorney 5.7
 31,

1	<u>shall notify the victim of the provisions of this subsection</u>	
2	<u>and of the pendency of any such proceeding.</u>	5.80
3	Section 14. Section 914.21, Florida Statutes, is	5.80
4	created to read:	5.81
5	<u>914.21 Definitions.--As used in ss. 914.22, 914.23,</u>	1:1us
6	<u>and 914.24:</u>	5.82
7	<u>(1) "Official proceeding" means:</u>	1:1us
8	<u>(a) A proceeding before a judge or court or a grand</u>	5.83
9	<u>jury;</u>	
10	<u>(b) A proceeding before the Legislature; or</u>	5.84
11	<u>(c) A proceeding before a Federal Government agency</u>	1:1us
12	<u>which is authorized by law.</u>	6.1
13	<u>(2) "Physical force" means physical action against</u>	1:1us
14	<u>another, and includes confinement.</u>	6.2
15	<u>(3) "Misleading conduct" means:</u>	1:1us
16	<u>(a) Knowingly making a false statement;</u>	6.3
17	<u>(b) Intentionally omitting information from a</u>	1:1us
18	<u>statement and thereby causing a portion of such statement to</u>	6.4
19	<u>be misleading, or intentionally concealing a material fact,</u>	6.5
20	<u>and thereby creating a false impression by such statement;</u>	6.6
21	<u>(c) With intent to mislead, knowingly submitting or</u>	1:1us
22	<u>inviting reliance on a writing or recording that is false,</u>	6.7
23	<u>forged, altered, or otherwise lacking in authenticity;</u>	6.8
24	<u>(d) With intent to mislead, knowingly submitting or</u>	1:1us
25	<u>inviting reliance on a sample, specimen, map, photograph,</u>	6.9
26	<u>boundary mark, or other object that is misleading in a</u>	
27	<u>material respect; or</u>	6.10
28	<u>(e) Knowingly using a trick, scheme, or device with</u>	1:1us
29	<u>intent to mislead.</u>	6.11
30	<u>(4) "Bodily injury" means:</u>	1:1us
31	<u>(a) A cut, abrasion, bruise, burn, or disfigurement;</u>	6.12

1	(c) Hinder, delay, or prevent the communication to a	6.28
2	law enforcement officer or judge of information relating to	6.29
3	the commission or possible commission of an offense or a	
4	violation of conditions of probation, parole, or release	6.30
5	pending judicial proceedings;	
6		
7	shall be guilty of a felony of the second degree, punishable	6.31
8	as provided in s. 775.082, s. 775.083, or s. 775.084.	6.32
9	(2) Whoever intentionally harasses another person and	6.32
10	thereby hinders, delays, prevents, or dissuades any person	6.33
11	from:	
12	(a) Attending or testifying in an official proceeding;	6.34
13	(b) Reporting to a law enforcement officer or judge	6.34
14	the commission or possible commission of an offense or a	6.35
15	violation of conditions of probation, parole, or release	
16	pending judicial proceedings;	6.36
17	(c) Arresting or seeking the arrest of another person	6.36
18	in connection with an offense; or	6.37
19	(d) Causing a criminal prosecution, or a parole or	6.37
20	probation revocation proceeding, to be sought or instituted,	6.38
21	or assisting in such prosecution or proceeding;	6.39
22		
23	or attempts to do so, shall be guilty of a felony of the third	6.39
24	degree, punishable as provided in s. 775.082, s. 775.083, or	6.40
25	s. 775.084.	
26	(3) In a prosecution for an offense under this	6.41
27	section, it is an affirmative defense, as to which the	
28	defendant has the burden of proof by a preponderance of the	6.42
29	evidence, that the conduct consisted solely of lawful conduct	6.43
30	and that the defendant's sole intention was to encourage,	
	induce, or cause the other person to testify truthfully.	6.44

1 (4) For the purposes of this section: 6.4

2 (a) An official proceeding need not be pending or 6.4
3 about to be instituted at the time of the offense; and 6.4

4 (b) The testimony, or the record, document, or other 6.4
5 object need not be admissible in evidence or free of a claim 6.4
6 of privilege.

7 (5) In a prosecution for an offense under this 6.4
8 section, no state of mind need be proved with respect to the 6.4
9 circumstance: 6.4

10 (a) That the official proceeding before a judge, 6.4
11 court, magistrate, grand jury, or government agency is before 6.5
12 a judge or court of the state, a state or local grand jury, or 6.5
13 a state agency; or 6.5

14 (b) That the judge is a judge of the state or that the 6.5
15 law enforcement officer is an officer or employee of the state 6.5
16 or a person authorized to act for or on behalf of the state or 6.5
17 serving the state as an adviser or consultant.

18 Section 16. Section 914.23, Florida Statutes, is 6.5
19 created to read: 6.5

20 914.23 Retaliating against a witness, victim, or an 1:1
21 informant.--Whoever knowingly engages in any conduct and 6.5
22 thereby causes bodily injury to another person or damages the 6.5
23 tangible property of another person, or threatens to do so, 6.5
24 with intent to retaliate against any person for: 6.5

25 (1) The attendance of a witness or party at an 1:1
26 official proceeding, or any testimony given or any record, 16.5
27 document, or other object produced by a witness in an official 6.6
28 proceeding; or

29 (2) Any information relating to the commission or 1:1
30 possible commission of an offense or a violation of conditions 6.6

31

1 of probation, parole, or release pending judicial proceedings 6.63
 2 given by a person to a law enforcement officer;
 3
 4 or attempts to do so, shall be guilty of a felony of the 6.64
 5 second degree, punishable as provided in s. 775.082, s.
 6 775.083, or s. 775.084. 6.65
 7 Section 17. Section 914.24, Florida Statutes, is 6.65
 8 created to read: 6.66
 9 914.24 Civil action to restrain harassment of a victim 1:lus
 10 or witness.-- 6.67
 11 (1) (a) A circuit court, upon application of the state 1:lus
 12 attorney, shall issue a temporary restraining order 6.69
 13 prohibiting harassment of a victim or witness in a criminal
 14 case if the court finds, from specific facts shown by 6.70
 15 affidavit or by verified complaint, that there are reasonable 6.72
 16 grounds to believe that harassment of an identified victim or
 17 witness in a criminal case exists or that such order is 6.73
 18 necessary to prevent and restrain an offense under s. 914.22,
 19 other than an offense consisting of misleading conduct, or 6.74
 20 under s. 914.23.
 21 (b) 1. A temporary restraining order may be issued 1:lus
 22 under this section without written or oral notice to the 6.76
 23 adverse party or such party's attorney in a civil action under
 24 this section if the court finds, upon written certification of 6.77
 25 facts by the state attorney, that such notice should not be 6.78
 26 required and that there is a reasonable probability that the
 27 state will prevail on the merits. 6.79
 28 2. A temporary restraining order issued without notice 1:lus
 29 under this section shall be endorsed with the date and hour of 6.80
 30 issuance and be filed forthwith in the office of the clerk of 6.81
 31 the court issuing the order.

1 3. A temporary restraining order issued under this 6.8.
 2 section shall expire at such time, not to exceed 10 days from
 3 issuance, as the court directs. The court, for good cause 6.8'
 4 shown before expiration of such order, may extend the
 5 expiration date of the order for up to 10 days or for such 7.1
 6 longer period agreed to by the adverse party. 7.2

7 4. When a temporary restraining order is issued 1:1u
 8 without notice, the motion for a protective order shall be set 7.3
 9 down for hearing at the earliest possible time and takes
 10 precedence over all matters except older matters of the same 7.4
 11 character, and when such motion comes on for hearing, if the 7.5
 12 state attorney does not proceed with the application for a
 13 protective order, the court shall dissolve the temporary 7.6
 14 restraining order.

15 5. If on 2 days' notice to the state attorney or on 1:1u
 16 such shorter notice as the court may prescribe, the adverse 7.8
 17 party appears and moves to dissolve or modify the temporary
 18 restraining order, the court shall proceed to hear and 7.9
 19 determine such motion as expeditiously as the ends of justice 7.10
 20 require.

21 6. A temporary restraining order shall set forth the 1:1u
 22 reasons for the issuance of such order, be specific in terms, 7.11
 23 and describe in reasonable detail and not by reference to the 7.12
 24 complaint or other document the act or acts being restrained. 7.13

25 (2) (a) A circuit court, upon motion of the state 1:1u
 26 attorney shall issue a protective order prohibiting harassment 7.14
 27 of a victim or witness in a criminal case if the court, after 7.15
 28 a hearing, finds by a preponderance of the evidence that
 29 harassment of an identified victim or witness in a criminal 7.16
 30 case exists or that such order is necessary to prevent and

31

1	<u>restrain an offense under s. 914.22, other than an offense</u>	7.17
2	<u>consisting of misleading conduct, or under s. 914.23.</u>	7.18
3	(b) <u>At the hearing referred to in paragraph (a), any</u>	1:lus
4	<u>adverse party named in the complaint shall have the right to</u>	7.19
5	<u>present evidence and cross-examine witnesses.</u>	7.20
6	(c) <u>A protective order shall set forth the reasons for</u>	1:lus
7	<u>the issuance of such order, be specific in terms, and describe</u>	7.22
8	<u>in reasonable detail, and not by reference to the complaint or</u>	7.24
9	<u>other document, the act or acts being restrained.</u>	
10	(d) <u>The court shall set the duration of effect of the</u>	7.25
11	<u>protective order for such period as the court determines</u>	
12	<u>necessary to prevent harassment of the victim or witness but</u>	7.27
13	<u>in no case for a period in excess of 3 years from the date of</u>	7.28
14	<u>such order's issuance. The state attorney may, at any time</u>	7.29
15	<u>within 90 days before the expiration of such order, apply for</u>	
16	<u>a new protective order under this section.</u>	7.30
17	(3) <u>As used in this section:</u>	1:lus
18	(a) <u>"Harassment" means a course of conduct directed at</u>	7.32
19	<u>a specific person that:</u>	
20	1. <u>Causes substantial emotional distress in such</u>	7.33
21	<u>person; and</u>	
22	2. <u>Serves no legitimate purpose.</u>	7.34
23	(b) <u>"Course of conduct" means a series of acts over a</u>	1:lus
24	<u>period of time, however short, indicating a continuity of</u>	7.35
25	<u>purpose.</u>	
26	Section 18. Paragraph (h) of subsection (3) of section	7.36
27	119.07, Florida Statutes, is amended to read:	
28	119.07 Inspection and examination of records;	7.37
29	exemptions.--	
30	(3)	7.37

(h) Any criminal intelligence information or criminal investigative information including the photograph, name, address, or other fact or information which reveals the identity of the victim of any sexual battery as defined by chapter 794 or child abuse as defined by chapter 827 or which reveals the address, phone number, or place of employment of a victim or witness of any felony is exempt from the provisions of subsection (1).

Section 19. This act shall take effect October 1, 1984.

HOUSE SUMMARY

Creates the "Victim and Witness Protection Act of 1984" and with respect to victims and witnesses of crime:

1. Expands the authority of victims of crime to appear and make statements at sentencing hearings.

2. Authorizes the use in evidence of photographs of property wrongfully taken and provides for return of the property to the victim.

3. Changes the distribution of proceeds of literary or other accounts of a felon to give priority to the victim and to eliminate any distribution to the convicted felon or his family.

4. Requires the court to order a defendant to make restitution to the victim unless the court finds and discloses extraordinary and compelling reasons to the contrary. Specifies types of restitution which may be ordered and changes procedures applicable thereto.

5. Requires the Department of Corrections to order inmates working at paid employment to make restitution except for extraordinary reasons which must be disclosed.

6. Requires the courts to make such restitution a condition of probation and requires the Parole and Probation Commission to make such restitution a condition of parole.

7. Requires various state agencies and law enforcement officials to adopt specified guidelines for the fair treatment of victims and witnesses of crime.

8. Requires the imposition of specified conditions upon pretrial release on bail.

9. Expands and increases penalties applicable to unlawful tampering with witnesses and victims of crime, prohibits certain retaliation against witnesses and victims, and authorizes civil action to prevent harassment of witnesses and victims.

10. Prevents the disclosure of law enforcement information revealing certain information relating to a victim or witness of a felony.

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Vice Chairman

HB 774 by Reps. Lentinen
and Ros relating to victim
and witness protection

DATE: April 6, 1984

REVISED: _____

OTHER COMMITTEES OF REFERENCE:
Appropriations

REVISED: _____

SENATE BILL: _____

I. SUMMARY

A. PRESENT SITUATION:

Section 921.143, F.S., currently provides that the victim of a crime, in cases where the defendant has plead guilty or nolo contendere to the crime, may appear before the sentencing court to make a statement or submit a written statement under oath for the record or submit a written statement under oath to the sentencing court. Any such statements must relate to injuries, financial losses, and loss of earnings directly resulting from the crime for which the defendant is being sentenced

Section 944.512, F.S., currently delineates the order for distribution of proceeds from literary and motion picture accounts of crime for which a convicted felon is imprisoned. Proceeds shall be distributed as follows: twenty-five percent to the dependents of the convicted felon; twenty-five percent to the victim or victims of the crime or to their dependents, as may be determined by the court in lien enforcement proceedings; any amount necessary to pay court costs and per capita cost of imprisonment in the state correctional system, with the remainder to the convicted felon upon his or her release.

Section 775.087, F.S., provides that, in addition to any other punishment, the court may, in its discretion, order a defendant to make restitution to the aggrieved party only if the defendant is able or will be able to make such restitution. This section also states that the court shall consider the financial resources and the burden the payment of restitution will impose on the defendant. The defendant may petition the court for

remission from any payment of restitution or part thereof. If the defendant defaults in any payment of restitution, the court may punish such action through contempt proceedings or may modify the order requiring restitution.

Section 921.87, F.S., authorizes an order of restitution as an alternative for the disposition in criminal cases.

Section 943.091, F.S., provides that the Department of Corrections may require inmates working at paid employment to make restitution to the aggrieved party in an amount determined by the department.

Section 949.03, F.S., provides that restitution shall be a condition of probation or community control unless the court determines that compelling and extraordinary reasons exist not to impose such restitution.

Section 960.17, F.S., states that the court may set as a condition of probation, as provided in chapter 943, the payment of a debt owed to the state under the Florida Crimes Compensation Act by any person found, in either a criminal or civil proceeding in which he is a party, to have committed such criminal act. The Parole and Probation Commission may make payment of the debt owed to the state a condition of parole.

Section 947.181, F.S., gives the Parole and Probation Commission the authority to require reparation or restitution to an aggrieved party as a condition of parole. The maximum amount of reparation or restitution may be set by the court at the time of sentencing.

Section 918.14, F.S., currently provides that it is unlawful, in specified situations, to induce or cause a witness to (1) testify or inform falsely or (2) withhold any testimony, information, document, or thing. Violation of this section shall constitute a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Any person violating this section by use of force, deception, threat or offer of pecuniary benefit shall constitute a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Any person who (1) causes a witness to be placed in fear or threats of force, (2) makes an assault upon any witness or informant, or (3) harms a witness by unlawful act in retaliation against a witness for anything lawfully done in the capacity of witness or informant, shall be guilty of a felony of the third degree.

Section 119.07, F.S., specifies the exemptions under the Florida Public Records law. Criminal intelligence and investigative information is exempt from public disclosure. Information relating to a victim or witness of any felony is not specifically exempt under this section.

B. EFFECT OF PROPOSED CHANGES:

This bill creates the "Victim and Witness Protection Act of 1984". The Legislative intent and purposes of this act are to enhance and protect victims and witnesses in the criminal justice process and to ensure that the state does all that is possible within limits of available resources to assist victims and witnesses of crime.

Section 921.143 is amended to expand the authority of victims of crime to appear and make statements at the sentencing hearing. Victims as well as the next of kin of the victim (if the victim has died from causes related to the crime) could provide oral or written statements to the court regarding the crime. Such statements would include information relating to social and psychological harm that is the direct or indirect result of the crime.

Section 914.16 is created to authorize the use of photographs of property wrongfully taken and provides for an expedited return of such property to the owner from whom the property was taken.

Section 944.512 is amended to change the distribution of proceeds from literary or motion picture accounts of crime for which a defendant was imprisoned to give priority to the victim or victims of crime and to eliminate any distribution to the convicted felon or his family. The Crimes Compensation Trust Fund would receive the remainder of the proceeds after the victim and court costs are paid.

Section 775.089 is amended to require the court to order a defendant to make restitution to the victim unless the court finds and discloses compelling and extraordinary reasons not to order restitution. Subsection 775.089(1)(c) is created to define the term victim as including the aggrieved party, the aggrieved party's estate if the aggrieved party is deceased, and the aggrieved party's next of kin if the aggrieved party is deceased as a result of the offense. Subsection (2) is created to specify the types of restitution which may be ordered. If an offense results in bodily injury, the defendant may be ordered to pay the cost of: medical-related professional services; physical and occupational therapy; income lost by the victim as a result of the offense; and funeral and related services if the victim is deceased. Subsection (3) is created to change the procedures relating to orders requiring restitution. Subsection (4) is established to require that any restitution ordered under this section shall be a condition of probation or parole. Subsection (5) is created to enforce an order of restitution. Subsections (6) and (7) specify the factors which must be considered when the court is determining whether to order restitution and the amount. Subsection (8) states that conviction shall prevent the defendant from denying certain allegations of that offense in any civil proceedings.

Subsection (7) of section 921.187 is created to require that the court order an offender to make restitution pursuant to s. 775.091 unless the court finds and discloses extraordinary and compelling reasons to the contrary.

Section 945.091 is amended to require the Department of Corrections to order inmates working at paid employment to make restitution except in extraordinary cases, the reason for which must be disclosed by the department.

Section 948.03 is amended to require that the court disclose the reasons for not ordering restitution or only ordering partial restitution when an offender is placed on probation or community control.

Section 960.17 is amended to conform to other provisions of this bill.

Section 947.181 is amended to require the Parole and Probation Commission to order restitution as a condition of parole except in extraordinary cases. The amount of such reparation or restitution would be determined by the Parole and Probation Commission.

Section 960.30 is created to require various state agencies, i.e., the Department of Legal Affairs, the state attorneys, the Department of Corrections, the Parole and Probation Commission, the State Courts Administrator, the Department of Law Enforcement, and every sheriff's department, police department, or other law enforcement agency, to develop and implement guidelines for the fair treatment of victims and witnesses of crime. Such guidelines shall, as much as possible, have the following objectives: (1) services to victims of crime; (2) victim notification of scheduling changes; (3) prompt notification to victims of serious crimes; (4) consultation with victim; (5) separate waiting areas; (6) expedited property returns; (7) notification to employer; and (8) general victim assistance.

Section 903.047 is established to state that the court shall, as a condition of bail, require the defendant to refrain from criminal activity of any kind and refrain from any contact with the victim except through pretrial discovery.

Sections 914.21, 914.22 and 914.23, are created to provide definitions with respect to illegal activities concerning victims, witnesses, and informants of criminal activity. Section 914.22 expands and increases penalties applicable to unlawful tampering with victims and witnesses of crime. Whoever knowingly uses intimidation or physical force, or threatens or attempts to threaten another person with intent to influence the testimony of another person in an official proceeding or cause or induce any person to engage or fail to engage in certain activities shall be guilty of a felony of the second degree. Whoever harasses another person and thereby hinders, delays, or prevents any person from engaging in certain activities shall be guilty of a felony of the third degree.

Section 914.23 is created to prohibit retaliation against a witness, victim, or an informant under certain circumstances. Any actual retaliation or attempted retaliation is punishable as a felony of the third degree.

Section 914.24 is created to authorize initiation of a civil action to prevent harassment of witnesses and victims. The circuit court, upon application of the state attorney, shall issue a restraining order prohibiting harassment of a victim or witness if the court finds reasonable grounds for such an order. A protective order prohibiting harassment may also be issued. "Harassment" is defined in this section to mean conduct directed at a specific person that causes substantial emotional distress in such victim or witness and serves no legitimate purpose.

Section 119.07 is amended to exclude certain information relating to a victim or witness of any felony from disclosure under the Public Records law.

Page 5

II. FISCAL IMPACT

The provisions of this bill have a potential impact on many components of the criminal justice system. Expanding the provisions relating to restitution may result in increased costs associated with the judicial and correctional systems. Mechanisms to collect such restitution may require expansion. Court hearings may be delayed due to the extended authority of victims of crime to appear and make statements at sentencing hearings. Expert testimony may be necessary to support information presented at such a hearing relevant to social, psychological or physical harm, directly or indirectly, resulting from the crime. There also may be additional expenses associated with an increase in administrative responsibilities within the clerks' offices.

Further, separate waiting areas for victims and other prosecution witnesses may result in capital outlay or rental expenditures for the judicial circuits.


III. COMMENTS

IV. AMENDMENTS

Prepared by:


Marie A. Mattox

Staff Director:


J. Thomas Wright

Copy to Sponsor: April 6, 1984

Notice of
COMMITTEE MEETING
House of Representatives

To _____

April 5, 1984

Criminal Code _____ subcommittee of
(strike if not applicable)

the Committee on Criminal Justice _____

will meet in Committee Room 314 HOB _____ at 1:15 _____ P.M. XXXXX

on April 9, 1984 _____ to consider
(date)

COPY

FILED BY
FLORIAN STATE ARCHIVES
DATE _____
TIME _____
SERIAL _____
Series 11 Copy 346

1:15 - 2:15 Victim-Witness Bills

- Panel w/ amendment*
- t.p.* HB 743 - Combee - tampering with victims
 - Panel w/ amendment* HB 875 - Hawkins, L. R. - Theft. photo evidence
 - t.p.* HB 774 - Lehtinen - Victims/witness rights
 - t.p.* HB 754 - Bailey - Victims/witness resource office
 - t.p.* HB 819 - Gordon - Victim/witness assistance programs
 - t.p.* HB 600 - Messersmith - Crimes compensation

2:15 - 2:45 DUI - DWI Bills

- Panel w/ amendment*
- t.p.* HB 1003 - Hollingsworth - DUI: Vehicle forfeiture
 - Panel w/ amendment* HB 1037 - Mackenzie and Gordon - DUI: Penalties
 - Panel w/ amendment* HB 316 - Arnold - DWI: Penalties
 - Panel w/ amendment* HB 370 - Deutsch & Carlton - DWI: Blood alcohol level
 - Panel w/ amendment* HB 485 - Carlton - DWI: Blood alcohol level

2:45 - 3:15 Other Bills

- Panel w/ amendment*
- t.p.* HB 272 - Danson & others - Bail: Drug "street value"
 - HB 835 - Sanderson - aircraft registration
 - HB 948 - Mitchell - state attorney's offices
 - t.p.* HB 1019 - Friedman - Security of communications

Chairman

I certify this notice was received in the Office of the Sergeant at Arms at _____ o'clock, on _____.

I certify this notice was filed by me in the Office of the Sergeant at Arms and the Office of the Clerk on _____, and copies have been sent in compliance with House Rules.

Sergeant at Arms

Committee Secretary

White - to be posted
Canary - Calendar
Pink - Computer
Goldenrod - your file

H-14(1982)

SUBCOMMITTEE REPORT

File with Parent Committee

To Chairman, Committee on Criminal Justice

The Subcommittee on Criminal Code

met at 1:15 o'clock on April 9, 1984

in Room 314 HOB, and considered HB 774

On motion to report the bill FAVORABLE

FAVORABLE WITH 20 AMENDMENTS (number)

the vote was

YEA	MEMBER	NAY	YEA	MEMBER	NAY
X	Grant		X	Wetherell	
X	Meffert		X	Upchurch, Chm.	
X	McEwan				
X	Ready				
	Thomas				
X	Tubone				
TOTAL 7			TOTAL 0		

(Subcommittee Chairman)

SUBCOMMITTEE APPEARANCE RECORD

The following persons (other than legislators) appeared before the subcommittee during consideration of this bill

NAME	REPRESENTING	ADDRESS
Larry Russell	President's Task Force	McLean, Va.
David Wasserman	Victims of Crime	Dade Co. State Atty's Office Miami
Bob Preston	Just for Surviv. Victims	Bonita Beach
William R. Bryant	MADD	Pensacola Fla.

(If additional persons, enter on reverse side and check here)

Mary Holchak
 Nancy Weinstein
 Office of the Gov. Tallahassee
 Parents of Murdered Children Miami

Received by Parent Committee
Date

Received by

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AMENDMENT -- FOR DRAFTING ONLY

(MUST BE TYPED ON FORM H-29 OR H-39 BEFORE PRESENTATION)

Representative s/The Committee on Lehtinen, Titone, Combee

①

HB 774

SB _____

offered the following amendment:

On page 6, line 12, strike

"compelling and extraordinary"

and insert: _____

Mr _____ moved the adoption of the amendment,

which was adopted

which failed of adoption

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4-9-84

AMENDMENT -- FOR DRAFTING ONLY

(MUST BE TYPED ON FORM H-29 OR H-39 BEFORE PRESENTATION)

Representative s/ The Committee on Lehtinen, Titone, Combee

2

HB 774

SB _____

offered the following amendment:

On page 12, line 3, strike

"compelling and extraordinary"

and insert: _____

Mr _____ moved the adoption of the amendment,

which was adopted

which failed of adoption

AMENDMENT -- FOR DRAFTING ONLY

(MUST BE TYPED ON FORM H-29 OR H-39 BEFORE PRESENTATION)

Representative ~~a~~ / The Committee on Lehtinen, Titone, Combee

3

HB 774

SB _____

offered the following amendment:

On page 12, line 16, strike

"compelling and extraordinary"

and insert: _____

Mr _____ moved the adoption of the amendment,

which was adopted

which failed of adoption

AMENDMENT -- FOR DRAFTING ONLY

(MUST BE TYPED ON FORM H-29 OR H-39 BEFORE PRESENTATION)

Representative The Committee on Lehtinen, Titone, Combee

(4)

HB 774

SB _____

offered the following amendment

On page 13, line 1, strike

"compelling and extraordinary"

and insert: _____

Mr. _____ moved the adoption of the amendment,

which was adopted

which failed of adoption.

AMENDMENT -- FOR DRAFTING ONLY

(MUST BE TYPED ON FORM H-29 OR H-39 BEFORE PRESENTATION)

Representative s/ The Committee on Lehtinen, Titone, Combee

5

HB 774

SB _____

offered the following amendment:

On page 13, line 14, strike

"compelling and extraordinary"

and insert: _____

Mr _____ moved the adoption of the amendment,

which was adopted

which failed of adoption.

AMENDMENT -- FOR DRAFTING ONLY

(MUST BE TYPED ON FORM H-29 OR H-39 BEFORE PRESENTATION)

Representative s/ The Committee on Lehtinen, Titone, Combee

6

HB 774

SB _____

offered the following amendment:

On page 14, line 2, strike

"compelling and extraordinary"

and insert: _____

Mr _____ moved the adoption of the amendment,

which was adopted

which failed of adoption

AMENDMENT -- FOR DRAFTING ONLY

(MUST BE TYPED ON FORM H-29 OR H-39 BEFORE PRESENTATION)

Representative / The Committee on Lehtinen, Titone, Combee

(7)

HB 774

Offered the following amendment

SB

On page 6, line 30, strike

and insert: prior to "method," the following word:

"recognized"

adopted

failed of adoption

AMENDMENT -- FOR DRAFTING ONLY

(MUST BE TYPED ON FORM H-29 OR H-39 BEFORE PRESENTATION)

Representative s/ The Committee on Lehtinen, Titone, Combee

(8)

HB 774

Offered the following amendment

SB _____

On page 8, line 29, strike

The "." period

and insert:

" , and restitution under this section shall not bar any subsequent civil remedy or recovery but such restitution shall be a setoff against any such subsequent civil remedy."

adopted

failed of adoption

AMENDMENT -- FOR DRAFTING ONLY

(MUST BE TYPED ON FORM H-29 OR H-39 BEFORE PRESENTATION)

Representative 5 / The Committee on Lehtinen, Titone, Combee

(9)

HB 774

Offered the following amendment

SB _____

On page 16, line 30, strike

Bureau of Crimes Compensation

and insert: Governor's Office

adopted

failed of adoption

AMENDMENT -- FOR DRAFTING ONLY

(MUST BE TYPED ON FORM H-29 OR H-39 BEFORE PRESENTATION)

Representative s / The Committee on Lehtinen, Titone, Combee

(10)

HB 774

Offered the following amendment

SB _____

On page 17, line 7, strike

Bureau of Crimes Compensation

and insert: Governor's Office

adopted

failed of adoption

AMENDMENT -- FOR DRAFTING ONLY

(MUST BE TYPED ON FORM H-29 OR H-39 BEFORE PRESENTATION)

Representative The Committee on Lehtinen/Titone/Ros

11

HB 774

offered the following amendment:

SB _____

On page 14, line 22, strike

and insert: after the word "Administrator" the following:

and circuit court administrators

adopted

failed of adoption

AMENDMENT -- FOR DRAFTING ONLY

(MUST BE TYPED ON FORM H-29 OR H-39 BEFORE PRESENTATION)

Representative / The Committee on Lehtinen/Titone/Ros

12

HB 774

SB

offered the following amendment:

On page 14, line 29, strike

Law

and insert: Witness coordination offices as provided in s.43.35 shall
gather information regarding the following in the geographic boundaries
of their respective circuits and shall provide such information to each
law enforcement agency with jurisdiction within its geographic boundaries,
and law

adopted

failed of adoption

AMENDMENT -- FOR DRAFTING ONLY

(MUST BE TYPED ON FORM H-29 OR H-39 BEFORE PRESENTATION)

Representative s / The Committee on Lehtinen/Titone/Ros

13

HB 774

SB _____

offered the following amendment:

On page 15, line 12, strike

and insert: after the word "notified" the following:
by the agency scheduling their appearance

adopted

failed of adoption

AMENDMENT -- FOR DRAFTING ONLY

(MUST BE TYPED ON FORM H-29 OR H-39 BEFORE PRESENTATION)

Representative ~~a~~/The Committee on Lehtinen/Titone/Ros

14

HB 774 _____

SB _____

offered the following amendment:

On page 15, line 19, strike

official

and insert: agency as identified below

adopted

failed of adoption

AMENDMENT -- FOR DRAFTING ONLY

(MUST BE TYPED ON FORM H-29 OR H-39 BEFORE PRESENTATION)

Representative a / The Committee on Lehtinen/Titone/Ros

HB 774

offered the following amendment:

15

SB _____

On page 15 after line 31, strike

to insert: the following new paragraph

The appropriate agency for #1 and #2 above is the arresting law enforcement agency, and the appropriate agency for #3 and #4 above is the state attorney, except that for release of the accused from imprisonment the appropriate agency is the Department of Corrections.

adopted

failed of adoption

AMENDMENT -- FOR DRAFTING ONLY

(MUST BE TYPED ON FORM H-29 OR H-39 BEFORE PRESENTATION)

Representative / The Committee on Lehtinen, Titone, Combee

HB 774

16

Offered the following amendment

SB

On page 19, line 16, strike

and insert after the comma, the following:

" or offer pecuniary benefit or gain to another person,"

adopted

failed of adoption

AMENDMENT -- FOR DRAFTING ONLY

(MUST BE TYPED ON FORM H-29 OR H-39 BEFORE PRESENTATION)

Representative 5 / The Committee on Lehtinen, Titone, Combee

HB 774

Offered the following amendment

(17)

SB _____

On page 20, line 7, strike

second

and insert: third

adopted

failed of adoption

AMENDMENT -- FOR DRAFTING ONLY

(MUST BE TYPED ON FORM H-29 OR H-39 BEFORE PRESENTATION)

Representative a / The Committee on Lehtinen, Titone, Combee

18

HB 774

SB _____

Offered the following amendment

On page 20, line 23-24, strike

felony of the third degree

and insert: misdemeanor of the first degree

adopted

failed of adoption

AMENDMENT -- FOR DRAFTING ONLY

(MUST BE TYPED ON FORM H-29 OR H-39 BEFORE PRESENTATION)

Representative s/ The Committee on Lehtinen, Titone, Combee

HB 774

Offered the following amendment

19

SB _____

On page 22, line 6, strike

The period

and insert: " , except that an offense under this section involving only damage to, or threats to damage, the tangible property of another person, shall be punishable as a felony of the third degree, punishable as provided in s.775.082, s. 775.083, or s. 775.084

[Handwritten initials]

adopted

failed of adoption

AMENDMENT -- FOR DRAFTING ONLY

(MUST BE TYPED ON FORM H-29 OR H-39 BEFORE PRESENTATION)

Representative s/ The Committee on Lehtinen, Titone, Combee

HB 774

Offered the following amendment

20

SB _____

On page 24, line 26-30, strike
& p. 25, lines 1-8

all of said lines

(strike all of section 18)

and insert: _____

and re-number subsequent sections

adopted

failed of adoption

AMENDMENT -- FOR DRAFTING ONLY

(MUST BE TYPED ON FORM H-29 OR H-39 BEFORE PRESENTATION)

Representative ~~McEwan~~ Ready / The Committee on _____

HB _____

SB _____

offered the following amendment

On page ~~27~~ 24, line ~~26~~ 26, ~~insert~~

21

and insert: ~~On line 9 and renumber subsequent~~

Section 18. Section 914.17, Florida Statutes, is created to read:

914.17 Presence of Victims at Trial. -- The victim of a ~~crime~~ crime, or, if the victim is deceased ~~from causes connected~~ from causes connected to the crime, the victim's next of kin, ~~shall not~~ shall not be excluded from the trial of the crime; except that, if the victim or next of kin is to be called as a witness for the prosecution, the victim or next of kin may be excluded until called to testify by the prosecution; and except that the court may ~~at~~ ^{adopted} ~~at~~ all times maintain proper order and decorum in the courtroom. _{failed of adoption}

VICTIM and WITNESS RIGHTS and PROTECTION

Provisions of HB 774, as amended, by Lehtinen, Ros, Titone, Combee and others

(draft #3)

<u>SUBJECT</u>	<u>DESCRIPTION</u>	<u>PROPOSED PROVISION</u>	<u>SOURCE (RECOMMENDED BY)*</u>
1. <u>Victim Impact Statement</u> (Victim appearance at sentencing)	Expands: -- right to appear to <u>all felony proceedings</u> (now limited to pleas) -- scope of statement to include <u>direct and indirect impact, and social, psychological and physical harm</u> -- definition of victim to include <u>next of kin</u> if victim deceased from crime	Sec. 3, HB 774	- National Task Force Rec. 10(a) - Federal Victim Protection Act, s. 3 - ABA Guidelines #11 (NTF & FVPA refer to "financial, social, psychological, and physical" harm; ABA refers to "financial, psychological, and medical" harm) (all sources refer to "any" and "all" impact, "harm," or "repercussions"; none limit to "direct" as opposed to "indirect" harm) - California Victims Bill of Rights (next of kin; other sources also generally define victim as next of kin of decedent)
2. <u>Photographic Evidence</u> (Prompt return of stolen property)	Allows <u>photographs</u> to be used in evidence in place of property wrongfully taken (so <u>stolen property can be returned to victim</u>)	Sec. 4, HB 774	- ABA Guidelines #13 - Kansas statute, HB2910,h173(1980) (Exact wording is from Kansas statute, recommended by ABA) - National Task Force Rec. 10(d)(6) - Federal Victim Prot. Act, s. 6(a)(7)
3. <u>Sale of Criminal Story</u> (“Son of Sam” provision)	Prohibits <u>profit by criminal</u> from sale of criminal story; distributes such profits to victims, court costs, and Crimes Compensation Trust Fund	Sec. 5, HB 774	- National Task Force Rec. 10(e) - Fla Statutes, 944.512, existing “Son of Sam” provision (partial prohibition of profit)
4. <u>Restitution</u> (Mandatory restitution absent compelling situation)	<u>Requires</u> sentencing court (and other authorities) to order <u>restitution</u> by defendant unless court finds reasons to the contrary, and puts such reasons in writing; expands procedural provisions	HB 774: Sec. 6, 7, & 9: Courts Sec. 8: Corrections Dept Sec. 10: Crimes Comp. Fund Sec. 11: Parole	- National Task Force Rec. 10(c) - ABA Guidelines #12 - Federal Victim Protection Act, Sec. 5 (all sources recommend restitution unless court finds otherwise; federal act requires written reasons) - Existing Fla. statute, 948.03(1)(e), already requires restitution as condition of probation absent “compelling and extraordinary” reasons

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5.19/1346

(c o n t i n u e d)

VICTIM and WITNESS RIGHTS and PROTECTION (cont)

<u>SUBJECT</u>	<u>DESCRIPTION</u>	<u>PROPOSED PROVISION</u>	<u>SOURCE (RECOMMENDED BY)</u>
5. <u>Guidelines</u> (Agency standards of fair treatment)	Requires criminal justice/law enforcement agencies (state attorneys, sheriffs and police, court administrators, Parole Commission, etc) to <u>adopt guidelines for fair treatment of victims and witnesses</u> ; guidelines must implement standards specified in within this section "within limits of resources available," and must explain in material filed with Bureau of Crimes Compensation when and why any standard cannot be met. <u>Guidelines include standards on advice about victims services, notification of scheduling changes, prompt notification of victims when certain events occur (such as arrest, bail release, sentencing, parole hearing, release from prison, etc), consultation with the victim regarding plea bargaining, etc</u>	Sec. 12, HB 774	- National Task Force Rec. 10(d) - ABA Guidelines (all recommended guidelines) - Federal Victim Protection Act, Sec. 6 (guidelines concept and structure are patterned after federal act, consistent with NTF and ABA)
6. <u>Victim/Witness Intimidation</u> (Tougher anti-intimidation and tampering laws)	Provides <u>stronger prohibitions</u> against intimidating, tampering with, or retaliating against victims, witnesses, or informants; provides for <u>temporary restraining orders</u> against harassment of victims/witnesses.	HB 774: Secs. 14, 15, 16 Intimidation prohibitions Sec. 17: Temporary restr. orders	- Federal Victim Protection Act, Sec. 4 (proposed language is taken from this act) - ABA Guidelines #3 - National Task Force Rec. 10(c)

*The various sources in the left-hand column are identified as follows.

- "National Task Force" or "NTF" is the President's Task Force on Victims of Crime, Final Report, December, 1982.
- "ABA Guidelines" is ABA Guidelines for Fair Treatment of Victims and Witnesses in the Criminal Justice System, Victims Committee, American Bar Association, 1983.
- "Federal Victim Protection Act" is The Victim and Witness Protection Act of 1982, Public Law 97-291, 97th Congress, October 12, 1982.

Lehtinen/Ros 3/8/84
3/12/84
4/9/84

To _____

April 16, 1984

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Series _____ Carton _____

_____ subcommittee of
(strike if not applicable)

the Committee on Criminal Justice

will meet in Committee Room 314 HOB at 3:30 ~~XXXX~~
p.m.

on April 18, 1984 to consider:
(date)

3:30 - 4:30

- Passed C/S* HB 105 - Ward - death warrants
- Failed* HB 820 - Burke - death penalty: jury recommendation
- Passed & Referred* HB 443 - Bankhead - death penalty: aggravating circumstances
- PCB 4 - capital punishment: juveniles
- PCB 7 - capital punishment: death warrants

4:30 - 5:00

- Passed w/ amendment* HB 91 - Burke - jury discrimination

5:00 - 6:00

- Passed CS* HB 257 - Wetherell - Organized Crime Council: witnesses
- Passed w/ amendment* HB 542 - Gordon - misprison of forcible felony
- 1/5 Passed* HB 588 - Selph - destruction of diseased animals
- C/S Passed* HB 624 - Selph - officers: taking of oaths
- Passed w/ amendment* HB 875 - Hawkins, L. R. - theft: photographic evidence
- Passed* HB 930 - Murphy & Gordon - perjury: recantation
- Passed* HB 1089 - Cosgrove - fraudulent identification cards
- Passed w/ amendment* HB 484 - Jones, F. - meat inspection: penalties
- Passed C/S* HB 507 - Clements - motor vehicle salvage
- Passed* HB 724 - Johnson, R. M. - charitable raffles
- Passed* HB 868 - Hawkins, L. R. - chance drawing/charitable organizations

6:00 - 7:00

- C/S Passed* HB 364 - Cortina - handicapped/elderly crime victim
- Passed C/S* HB 774 - Lehtinen - victims/witness rights
- tp* HB 58 - Titone - victim/witness rights

Elin L. Martine
Chairman

I certify this notice was received in the Office of the Sergeant at Arms at _____ o'clock, on _____.

Sergeant at Arms

I certify this notice was filed by me in the Office of the Sergeant at Arms and the Office of the Clerk on _____, and copies have been sent in compliance with House Rules.

Committee Secretary

White - to be posted
Canary - Calendar
Pink - Computer
Goldenrod - your file

CS HB 5.774, 58 & 743

DUPLICATE

DUPLICATE

A BILL relating to
(Brief statement of subject)

victim and witness protection;

HOUSE ACTION

SENATE ACTION

Read 1st Time

Read 1st Time

Referred to Committees on				
Fav	Unfav	With Amend	Com	Sub
Fav	Unfav	With Amend	Com	Sub
Fav	Unfav	With Amend	Com	Sub

Referred to Committees on				
Fav	Unfav	With Amend	Com	Sub
Fav	Unfav	With Amend	Com	Sub
Fav	Unfav	With Amend	Com	Sub

By *Committee on Criminal Justice, Bethover, P., Titus, Conner and others*

Note: List last name only unless more than one Member has same last name. List all sponsors and co-sponsors on the fifth copy with prime sponsors on line above and co-sponsors below. On all other copies you need show only the prime sponsor and the words "and others"

Read 2nd Time

Read 2nd Time

Read 3rd Time

Read 3rd Time

and

and

Clerk, House of Representatives

Secretary of Senate

- Immediately Certified to Senate
- Committee Substitute taken up
- Companion SB _____ substituted
- Laid on Table under Rule
- Motion to Reconsider Laid on Table
- Motion to Reconsider pending

- Immediately Certified to House

- SENATE AMENDMENTS ACTION - See reverse side
- CONFERENCE COMMITTEE ACTION - See reverse side

H-1(1980)

(Additional Co-sponsors on reverse side)

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1	A bill to be entitled	
2	An act relating to victim and witness	
3	protection; providing a short title; providing	
4	intent; amending s. 921.143, F.S., expanding	1.4
5	provisions relating to victims' statements at	
6	sentencing proceedings; creating s. 914.16,	1.5
7	F.S., authorizing use in evidence of	
8	photographs of property wrongfully taken in a	
9	crime; amending s. 775.089, F.S., requiring the	1.6
10	court to order restitution except in certain	1.7
11	cases; specifying types of restitution and	
12	providing for enforcement thereof; amending ss.	1.8
13	921.187, 945.091, 948.03, and 960.17, F.S., to	
14	conform; amending s. 947.181, F.S., requiring	1.9
15	the Parole and Probation Commission to order	
16	restitution as a condition of parole except in	1.10
17	certain cases; creating s. 960.30, F.S.,	
18	providing for the creation of guidelines for	1.11
19	the treatment of victims and witnesses of	
20	crime; creating s. 903.047, F.S., creating	1.12
21	certain conditions of pretrial release on bail;	
22	creating ss. 914.21, 914.23, and 914.24, F.S.,	1.13
23	and amending s. 918.14, F.S., providing	
24	definitions; expanding provisions prohibiting	
25	tampering with witnesses to include victims and	1.14
26	informants; prohibiting retaliation against	
27	such persons; authorizing civil actions to	1.15
28	restrain harassment; creating s. 914.17, F.S.,	
29	providing for presence of victims at trial;	1.16
30	providing an effective date.	
31		

1	Be It Enacted by the Legislature of the State of Florida:	1:enc
2		
3	Section 1. This act shall be known and may be cited as	1.16
4	the "Victim and Witness Protection Act of 1984."	1.17
5	Section 2. Findings and intent.--	1.17
6	(1) The Legislature finds and declares that:	1.18
7	(a) Even though there is a growing recognition that	1.18
8	the criminal justice system would cease to function without	1.19
9	the cooperation of victims and witnesses, the historic	1.20
10	unresponsiveness of the criminal justice system to the real	
11	needs of victims and witnesses has not yet been fully	1.21
12	corrected.	
13	(b) Although in recent years Florida has made	1.22
14	substantial positive strides toward ensuring that victims and	
15	witnesses are properly treated, victims and witnesses are	1.23
16	sometimes still either ignored by the criminal justice system	1.24
17	or used simply as tools to identify and punish offenders.	
18	(c) Despite commendable efforts by many state	1.25
19	attorneys and law enforcement agencies to increase cooperation	
20	with, and responsiveness to, victims and witnesses,	1.26
21	occasionally these individuals are not even notified when the	1.27
22	defendant is released on bail, the case is dismissed, a plea	
23	for a lesser charge is accepted, or a court date is changed.	1.28
24	(d) While state law provides the option of financial	1.29
25	restitution to victims by defendants, most victims are never	1.30
26	fully or even partially compensated by defendants for their	
27	injuries and other losses.	1.31
28	(e) Under current law, the legal prohibitions against	1.32
29	threats and harassment of victims and witnesses and the	1.33
30	protections of victims and witnesses against intimidation are	
31	not adequate.	1.34

1	(f) The victim may lose valuable property to a	1.34
2	criminal, only to lose it again for long periods of time to	1.35
3	law enforcement officials, until the trial and sometimes until	1.36
4	appeals are ended.	
5	(2) The legislative intent and purposes of this act	1.37
6	are:	
7	(a) To enhance and protect the necessary role of	1.38
8	victims and witnesses in the criminal justice process; and	
9	(b) To ensure that the state does all that is possible	1.39
10	within limits of available resources to assist victims and	1.40
11	witnesses of crime without infringing on the constitutional	
12	rights of defendants.	1.41
13	Section 3. Section 921.143, Florida Statutes, is	1.41
14	amended to read:	
15	921.143 Appearance of victim to make statement at	1.42
16	sentencing hearing; submission of written statement.--	
17	(1) At the sentencing hearing, and prior to the	1.44
18	imposition of sentence upon any defendant who has <u>been</u>	1.45
19	<u>convicted of any felony or who has</u> pleaded guilty or nolo	1.46
20	contendere to any crime, the sentencing court shall permit the	1.48
21	victim of the crime for which the defendant is being	1.50
22	<u>sentenced, or the next of kin of the victim if the victim has</u>	
23	<u>died from causes related to the crime,</u> to:	1.51
24	(a) Appear before the sentencing court for the purpose	1.52
25	of making a statement under oath for the record; or	1.53
26	(b) Submit a written statement under oath to the	1.54
27	office of the state attorney, which shall be filed with the	1.56
28	sentencing court.	
29	(2) The state attorney or any assistant state attorney	1.58
30	shall advise all victims <u>or, where appropriate, their next of</u>	1.59
31	<u>kin</u> that statements, whether oral or written, shall relate	1.62

1	solely to the facts of the case and the extent of any <u>harm,</u>	1:1us
2	<u>including social, psychological, or physical harm injuries,</u>	1:1os
3	financial losses, and loss of earnings directly <u>or indirectly</u>	1.65
4	resulting from the crime for which the defendant is being	1.67
5	sentenced.	
6	(3) The court may refuse to accept a negotiated plea	1.69
7	and order the defendant to stand trial.	1.70
8	Section 4. Section 914.16, Florida Statutes, is	1.71
9	created to read:	
10	<u>914.16 Photographs of property wrongfully taken; use</u>	1:1us
11	<u>in prosecution, procedure; return of property to owner.--In</u>	1.74
12	<u>any prosecution for a crime involving the wrongful taking of</u>	
13	<u>property, photographs of the property alleged to have been</u>	1.75
14	<u>wrongfully taken may be deemed competent evidence of such</u>	1.76
15	<u>property and may be admissible in the prosecution to the same</u>	
16	<u>extent as if such property had been introduced as evidence.</u>	1.77
17	<u>Such photographs shall bear a written description of the</u>	1.78
18	<u>property alleged to have been wrongfully taken, the name of</u>	1.79
19	<u>the owner of the property taken, the location where the</u>	
20	<u>alleged wrongful taking occurred, the name of the</u>	1.80
21	<u>investigating law enforcement officer, the date the photograph</u>	
22	<u>was taken, and the name of the photographer. Such writing</u>	1.82
23	<u>shall be made under oath by the investigating law enforcement</u>	
24	<u>officer and the photograph identified by the signature of the</u>	1.83
25	<u>photographer. Upon the filing of such photograph and writing</u>	1.84
26	<u>with the law enforcement authority or court holding such</u>	2.1
27	<u>property as evidence, such property may be returned to the</u>	
28	<u>owner from whom the property was taken.</u>	2.2
29	Section 5. Section 775.089, Florida Statutes, is	2.3
30	amended to read:	
31	775.089 Restitution.--	2.4

1	(1)(a) In addition to any punishment, the court <u>shall</u>	2.6
2	<u>may order the defendant to make restitution to the <u>victim</u></u>	1:lus
3	<u>aggrieved-party for damage or loss caused <u>directly or</u></u>	2.8
4	<u>indirectly by the defendant's offense, <u>unless the court finds</u></u>	1:lus
5	<u>reasons not to order if the defendant is able or will be able</u>	2.11
6	<u>to make such restitution. Restitution may be monetary or</u>	2.12
7	<u>nonmonetary restitution. The court <u>shall</u> may make the payment</u>	2.13
8	<u>of restitution a condition to probation in accordance with s.</u>	2.15
9	<u>948.03.</u>	
10	<u>(b) If the court does not order restitution, or orders</u>	1:lus
11	<u>only partial restitution, under this section, the court shall</u>	2.17
12	<u>state on the record the reasons therefor.</u>	2.18
13	<u>(c) The term "victim" as used in this section and in</u>	1:lus
14	<u>any provision of law relating to restitution shall include the</u>	2.19
15	<u>aggrieved party, the aggrieved party's estate if the aggrieved</u>	2.20
16	<u>party is deceased, and the aggrieved party's next of kin if</u>	
17	<u>the aggrieved party is deceased as a result of the offense.</u>	2.21
18	<u>(2) When an offense results in bodily injury to a</u>	2.22
19	<u>victim, the court may require that the defendant:</u>	
20	<u>(a) Pay the cost of necessary medical and related</u>	2.24
21	<u>professional services and devices relating to physical,</u>	
22	<u>psychiatric, and psychological care, including nonmedical care</u>	2.25
23	<u>and treatment rendered in accordance with a recognized method</u>	2.26
24	<u>of healing.</u>	
25	<u>(b) Pay the cost of necessary physical and</u>	1:lus
26	<u>occupational therapy and rehabilitation.</u>	2.28
27	<u>(c) Reimburse the victim for income lost by such</u>	1:lus
28	<u>victim as a result of such offense.</u>	2.29
29	<u>(d) In the case of an offense resulting in bodily</u>	1:lus
30	<u>injury that also results in the death of a victim, pay an</u>	2.30
31		

1	<u>amount equal to the cost of necessary funeral and related</u>	2.31
2	<u>services.</u>	
3	<u>(3)(a) The court may require that such defendant make</u>	2.32
4	<u>restitution under this section within a specified period or in</u>	
5	<u>specified installments.</u>	2.33
6	<u>(b) The end of such period or the last such</u>	1:1us
7	<u>installment shall not be later than:</u>	2.34
8	<u>1. The end of the period of probation, if probation is</u>	1:1us
9	<u>ordered;</u>	2.35
10	<u>2. Five years after the end of the term of</u>	1:1us
11	<u>imprisonment imposed, if the court does not order probation;</u>	2.36
12	<u>or</u>	
13	<u>3. Five years after the date of sentencing in any</u>	2.37
14	<u>other case.</u>	
15	<u>(c) If not otherwise provided by the court under this</u>	2.38
16	<u>subsection, restitution shall be made immediately.</u>	
17	<u>(4) If a defendant is placed on probation or paroled,</u>	2.39
18	<u>any restitution ordered under this section shall be a</u>	
19	<u>condition of such probation or parole. The court may revoke</u>	2.41
20	<u>probation and the Parole and Probation Commission may revoke</u>	
21	<u>parole if the defendant fails to comply with such order. In</u>	2.43
22	<u>determining whether to revoke probation or parole, the court</u>	
23	<u>or Parole and Probation Commission shall consider the</u>	2.44
24	<u>defendant's employment status, earning ability, financial</u>	
25	<u>resources, the willfulness of the defendant's failure to pay,</u>	2.45
26	<u>and any other special circumstances that may have a bearing on</u>	2.47
27	<u>the defendant's ability to pay.</u>	
28	<u>(5) An order of restitution may be enforced by the</u>	2.48
29	<u>state or a victim named in the order to receive the</u>	
30	<u>restitution in the same manner as a judgment in a civil</u>	2.49
31	<u>action.</u>	

1	<u>(6) The court, in determining whether to order</u>	2.50
2	<u>restitution and the amount of such restitution, shall consider</u>	
3	<u>the amount of the loss sustained by any victim as a result of</u>	2.51
4	<u>the offense, the financial resources of the defendant, the</u>	2.52
5	<u>financial needs and earning ability of the defendant and the</u>	
6	<u>defendant's dependents, and such other factors as the court</u>	2.53
7	<u>deems appropriate.</u>	
8	<u>(7) Any dispute as to the proper amount or type of</u>	1:1us
9	<u>restitution shall be resolved by the court by the</u>	2.55
10	<u>preponderance of the evidence. The burden of demonstrating</u>	2.56
11	<u>the amount of the loss sustained by a victim as a result of</u>	
12	<u>the offense shall be on the state attorney. The burden of</u>	2.58
13	<u>demonstrating the financial resources of the defendant and the</u>	
14	<u>financial needs of the defendant and such defendant's</u>	2.59
15	<u>dependents shall be on the defendant. The burden of</u>	2.60
16	<u>demonstrating such other matters as the court deems</u>	
17	<u>appropriate shall be upon the party designated by the court as</u>	2.61
18	<u>justice requires.</u>	
19	<u>(8) A conviction of a defendant for an offense</u>	2.62
20	<u>involving the act giving rise to restitution under this</u>	
21	<u>section shall estop the defendant from denying the essential</u>	2.63
22	<u>allegations of that offense in any subsequent civil</u>	
23	<u>proceeding. Restitution under this section shall not bar any</u>	2.65
24	<u>subsequent civil remedy or recovery but such restitution shall</u>	2.66
25	<u>be a setoff against any such subsequent civil remedy.</u>	
26	(2)--In-determining-the-amount-and-method-of-payment-of	1:1os
27	restitution;-the-court-shall-consider-the-financial-resources	2.69
28	of-the-defendant-and-the-burden-the-payment-of-restitution	2.70
29	will-impose-on-the-defendant;	
30	(3)--Any-defendant-ordered-to-make-restitution-may	2.71
31	petition-the-court-which-ordered-him-to-make-such-restitution	2.72

STATE OF FLORIDA
HOUSE OF REPRESENTATIVES

CS/HBs 774,
58 & 743
Bill Number

Prepared 5/21/84
by the Committee on
Appropriations

1984
FISCAL NOTE

In compliance with Rule 7.16, there is hereby submitted a fiscal note on the above listed bill relative to the effect on revenues, expenditures, or fiscal liability of the State, and of Local Governments as a whole.

I. DESCRIPTION OF BILL

A. Fund or Tax Affected

General Revenue

B. Principal Agency Affected

Department of Legal Affairs
State Attorneys
State Courts System
Law Enforcement Agencies

C. Narrative Summary

This bill creates the "Victim and Witness Protection Act of 1984". It expands the authority of victims of crimes to appear and make statements at sentencing hearings. It authorizes the use of photographs in evidence proceedings of property wrongfully taken and provides for an expedited return of stolen property to the victim.

It requires the court to order a defendant to make restitution to the victim unless the court finds reason not to order restitution. Types of such restitution are specified.

The bill requires the Department of Corrections to order inmates working at paid employment to make restitution except in certain cases. The reason for not ordering restitution must be disclosed. The bill requires the court to make such restitution a condition of probation and requires the Parole and Probation Commission to make it a condition of parole. If the court or commission find reasons for not ordering restitution or only ordering partial restitution, those reasons must be disclosed on record.

The bill requires various state agencies and law enforcement officials to adopt specified guidelines for the fair treatment of victims and witnesses of crime.

It requires as a condition of pretrial release on bail that defendants refrain from criminal activity and avoid contact with the victim. The bill expands and increases penalties applicable to unlawful tampering with witnesses and victims of crime, prohibits certain retaliation against witnesses and victims, and authorizes civil action to prevent harassment of witnesses and victims.

Effective date: October 1, 1984

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II. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS

A. Non-Recurring or First Year Start-up Effects

None

B. Recurring or Annualized Continuation Effects

See Appropriations Consequences and Comments

C. Long Run Effects other than Normal Growth

None

STATE OF FLORIDA
HOUSE OF REPRESENTATIVES

CS/HBs 774,
58 & 743
BILL Number

Prepared 5/21/84
by the Committee on
Appropriations

1984
FISCAL NOTE

D. Appropriations Consequences

Some fiscal impact on the State Attorneys offices may occur depending on the number of instances in which they are required to demonstrate the amount of a victim's loss in restitution disputes. Another area in which additional costs may be incurred would be the need to notify victims on bail modification proceedings. These costs cannot be determined.

III. COMMENTS:

The bill requires the affected organizations and agencies to perform many new functions relating to victims and witnesses of crime. The bill specifies that many of the additional functions shall be performed within available resources.


Staff Director


State Analyst

COMMITTEE INFORMATION RECORD

House of Representatives

Committee on Appropriations

Bill No. CS/HB's 774, 58
& 743

Date of meeting May 25, 1984

Time 8:00 a.m.

Place Morris Hall

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FINAL ACTION: FAVORABLE
 FAVORABLE WITH _____ AMENDMENTS
 FAVORABLE WITH SUBSTITUTE
 UNFAVORABLE

VOTE:

YEA	MEMBER	NAY
X	Davis	
X	Easley	
X	Friedman	
X	Gallagher	
X	Gardner	
X	Gordon	
X	Gustafson	
	Hargrett	
X	Hazouri	
	Hodges	
X	Johnson, R.	
X	Jones, C.F.	

YEA	MEMBER	NAY
	Kutun	
X	Lehtinen	
X	Lippman	
	Martin	
	Martinez	
X	Messersmith	
X	Mills	
	Ogden	
	Pajcic	
	Thompson	
	Upchurch	
X	Wallace	
X	Ward	
	Weinstock	
X	Wetherell	
X	Young	
X	Morgan	

Total
Yeas 22

COMMITTEE APPEARANCE RECORD

[Signature]
Chairman

Total
Nays -0-

The following persons (other than legislators) appeared before the committee during the consideration of this bill

Name Representing Address

NOTE: Please indicate by an "X" any State employee appearing at the request of Committee Chairman.

(If additional persons, enter on reverse side and check here_)

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**GENERAL ACTS
RESOLUTIONS AND MEMORIALS
ADOPTED BY THE
EIGHTH LEGISLATURE OF FLORIDA
UNDER THE CONSTITUTION**

AS REVISED IN 1968

**During the Second Regular Session
April 3, 1984 through June 1, 1984**



Volume I, Part Two

Published by Authority of Law

Under Direction of the

**JOINT LEGISLATIVE MANAGEMENT
COMMITTEE**

TALLAHASSEE

1984

Section 2. Organizations qualified for a refund pursuant to chapter 83-338, Laws of Florida, shall not be required to pay sales tax on purchases made prior to the effective date of this act on which sales tax was not charged at the time of the purchase.

Section 3. Youth recreational organizations are hereby authorized to apply to the Department of Revenue for a refund of any sales taxes paid during fiscal year 1983-84 on bona fide purchases of items or services necessary to conduct their recreational activities. Affected recreational groups shall submit a refund request, along with invoices or other acceptable proof of purchase, to the department by January 1, 1985. Refund applications deemed valid by the department shall be submitted to the Comptroller for payment to the applicant.

Section 4. Section 212.082, F.S., is created to read:

(1) It is the intent of the Legislature that political subdivisions of the state and public libraries shall utilize their sales tax exemption certificates for purchasing, with funds provided by the following groups, services, equipment, supplies and items necessary for the operation of such groups, in addition to the normal exempt purchases political subdivisions and libraries are empowered to make:

(a) School districts shall purchase necessary goods and services requested by Parent-Teacher organizations.

(b) Counties and municipalities shall purchase necessary goods and services requested by REACT groups, neighborhood crime watch groups, and state or locally recognized organizations solely engaged in youth activities identical to those discussed in s. 212.08(7)(u).

(c) Public libraries shall purchase necessary goods and services requested by groups solely engaged in fund raising activities for such libraries.

Section 5. This act shall take effect August 1, 1984.

Approved by the Governor June 29, 1984.

Filed in Office Secretary of State June 29, 1984.

CHAPTER 84-363

Committee Substitute for Senate Bill No. 238

An act relating to victim and witness protection; providing a short title; providing intent; amending s. 921.143, F.S.; expanding provisions relating to victims' statements at sentencing proceedings; creating s. 914.16, F.S.; authorizing use in evidence of photographs of property wrongfully taken in a crime; amending s. 775.089, F.S.; requiring the court to order restitution unless reasons exist not to order same; specifying types of restitution and providing for enforcement thereof; amending ss. 921.187, 945.091, 948.03, and 960.17, F.S.; to conform; amending s. 947.181, F.S.; requiring the Parole and Probation Commission to order restitution as a

condition of parole unless reasons exist not to order same; creating s. 960.30, F.S.; providing for the creation of guidelines for the treatment of victims and witnesses of crime; creating s. 903.047, F.S.; creating certain conditions of pretrial release on bail; creating ss. 914.21, 914.23, and 914.24, F.S.; and amending s. 918.14, F.S.; providing definitions; expanding provisions prohibiting tampering with witnesses to include victims and informants; prohibiting retaliation against such persons; authorizing civil actions to restrain harassment; providing an effective date.

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

Section 1. This act may be cited as the "Victim and Witness Protection Act."

Section 2. Findings and intent.--

(1) The Legislature finds and declares that:

(a) Even though there is a growing recognition that the criminal justice system would cease to function without the cooperation of victims and witnesses, the historic unresponsiveness of the criminal justice system to the real needs of victims and witnesses has not yet been fully corrected.

(b) Although in recent years Florida has made substantial positive strides toward ensuring that victims and witnesses are properly treated, victims and witnesses are sometimes still either ignored by the criminal justice system or used simply as tools to identify and punish offenders.

(c) Despite commendable efforts by many state attorneys and law enforcement agencies to increase cooperation with, and responsiveness to, victims and witnesses, occasionally these individuals are not notified when the defendant is released on bail, the case is dismissed, a plea for a lesser charge is accepted, or a court date is changed.

(d) While state law provides the option of financial restitution to victims by defendants, most victims are never fully or even partially compensated by defendants for their injuries and other losses.

(e) Under current law, the legal prohibitions against threats and harassment of victims and witnesses and the protections of victims and witnesses against intimidation are not adequate.

(f) The victim may lose valuable property to a criminal, only to suffer continued loss for long periods of time to law enforcement officials, until the trial or appeal has been completed.

(2) The legislative intent and purposes of this act are:

(a) To enhance and protect the necessary role of victims and witnesses in the criminal justice process; and

(b) To ensure that the state, its agencies, and subdivisions do all that is possible within limits of available resources to assist

victims and witnesses of crime without infringing on the constitutional rights of defendants.

Section 3. Section 921.143, Florida Statutes, is amended to read:

921.143 Appearance of victim to make statement at sentencing hearing; submission of written statement.--

(1) At the sentencing hearing, and prior to the imposition of sentence upon any defendant who has been convicted of any felony or who has pleaded guilty or nolo contendere to any crime, the sentencing court shall permit the victim of the crime for which the defendant is being sentenced, or the next of kin of the victim if the victim has died from causes related to the crime, to:

(a) Appear before the sentencing court for the purpose of making a statement under oath for the record; or

(b) Submit a written statement under oath to the office of the state attorney, which shall be filed with the sentencing court.

(2) The state attorney or any assistant state attorney shall advise all victims or, where appropriate, their next of kin that statements, whether oral or written, shall relate solely to the facts of the case and the extent of any harm, including social, psychological, or physical harm injuries, financial losses, and loss of earnings directly or indirectly resulting from the crime for which the defendant is being sentenced.

(3) The court may refuse to accept a negotiated plea and order the defendant to stand trial.

Section 4. Section 914.16, Florida Statutes, is created to read:

914.16 Photographs of property wrongfully taken; use in prosecution, procedure; return of property to owner.--In any prosecution for a crime involving the wrongful taking of property, photographs of the property alleged to have been wrongfully taken may be deemed competent evidence of such property and may be admissible in the prosecution to the same extent as if such property had been introduced as evidence. Such photographs shall bear a written description of the property alleged to have been wrongfully taken, the name of the owner of the property taken, the location where the alleged wrongful taking occurred, the name of the investigating law enforcement officer, the date the photograph was taken, and the name of the photographer. Such writing shall be made under oath by the investigating law enforcement officer and the photograph identified by the signature of the photographer. Upon the filing of such photograph and writing with the law enforcement authority or court holding such property as evidence, such property may be returned to the owner from whom the property was taken.

Section 5. Section 775.089, Florida Statutes, is amended to read:

775.089 Restitution.--

(1)(a) In addition to any punishment, the court ~~shall~~ may order the defendant to make restitution to the victim aggrieved--party for damage or loss caused directly or indirectly by the defendant's offense, unless the court finds reasons not to order if the defendant is able or will be able to make such restitution. Restitution may be

monetary or nonmonetary restitution. The court shall may make the payment of restitution a condition to probation in accordance with s. 948.03.

(b) If the court does not order restitution, or orders only partial restitution, under this section, the court shall state on the record the reasons therefor.

(c) The term "victim" as used in this section and in any provision of law relating to restitution shall include the aggrieved party, the aggrieved party's estate if the aggrieved party is deceased, and the aggrieved party's next of kin if the aggrieved party is deceased as a result of the offense.

(2) When an offense results in bodily injury to a victim, the court may require that the defendant:

(a) Pay the cost of necessary medical and related professional services and devices relating to physical, psychiatric, and psychological care, including nonmedical care and treatment rendered in accordance with a recognized method of healing.

(b) Pay the cost of necessary physical and occupational therapy and rehabilitation.

(c) Reimburse the victim for income lost by such victim as a result of such offense.

(d) In the case of an offense resulting in bodily injury that also results in the death of a victim, pay an amount equal to the cost of necessary funeral and related services.

(3)(a) The court may require that such defendant make restitution under this section within a specified period or in specified installments.

(b) The end of such period or the last such installment shall not be later than:

1. The end of the period of probation, if probation is ordered;
2. Five years after the end of the term of imprisonment imposed, if the court does not order probation; or
3. Five years after the date of sentencing in any other case.

(c) If not otherwise provided by the court under this subsection, restitution shall be made immediately.

(4) If a defendant is placed on probation or paroled, any restitution ordered under this section shall be a condition of such probation or parole. The court may revoke probation and the Parole and Probation Commission may revoke parole if the defendant fails to comply with such order. In determining whether to revoke probation or parole, the court or Parole and Probation Commission shall consider the defendant's employment status, earning ability, financial resources, the willfulness of the defendant's failure to pay, and any other special circumstances that may have a bearing on the defendant's ability to pay.

(5) An order of restitution may be enforced by the state or a victim named in the order to receive the restitution in the same manner as a judgment in a civil action.

(6) The court, in determining whether to order restitution and the amount of such restitution, shall consider the amount of the loss sustained by any victim as a result of the offense, the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate.

(7) Any dispute as to the proper amount or type of restitution shall be resolved by the court by the preponderance of the evidence. The burden of demonstrating the amount of the loss sustained by a victim as a result of the offense shall be on the state attorney. The burden of demonstrating the financial resources of the defendant and the financial needs of the defendant and such defendant's dependents shall be on the defendant. The burden of demonstrating such other matters as the court deems appropriate shall be upon the party designated by the court as justice requires.

(8) A conviction of a defendant for an offense involving the act giving rise to restitution under this section shall estop the defendant from denying the essential allegations of that offense in any subsequent civil proceeding. An order of restitution hereunder shall not bar any subsequent civil remedy or recovery but the amount of such restitution shall be set off against any subsequent independent civil recovery.

~~(2) In determining the amount and method of payment of restitution, the court shall consider the financial resources of the defendant and the burden the payment of restitution will impose on the defendant.~~

~~(3) Any defendant ordered to make restitution may petition the court which ordered him to make such restitution for remission from any payment of restitution or from any unpaid portion thereof. If the court finds that the payment of restitution due will impose an undue hardship on the defendant or his family, the court may grant remission from any payment of restitution or modify the method of payment.~~

~~(9)(4) When a corporation or unincorporated association is ordered to make restitution, the person authorized to make disbursements from the assets of such corporation or association shall pay restitution from such assets, and such person may be held in contempt for failure to make such restitution.~~

~~(5) If a defendant who is required to make restitution defaults in any payment of restitution or installment thereof, the court may hold him in contempt unless such defendant has made a good faith effort to make restitution; if the defendant has made a good faith effort to make restitution, the court may, upon motion of the defendant, modify the order requiring restitution by:~~

~~(a) Providing for additional time to make any payment in restitution;~~

~~(b) Reducing the amount of any payment in restitution or installment thereof;~~

~~(e)--Granting--a--remission--from--any--payment--of--restitution--or--part thereof:~~

(10)~~(6)~~ Any default in payment of restitution may be collected by any means authorized by law for enforcement of a judgment.

(11)~~(7)~~ The court may order the clerk of the court to collect and dispense restitution payments in any case.

Section 6. Section 921.187, Florida Statutes, is amended to read:

921.187 Disposition and sentencing; alternatives.--

(1) The following alternatives for the disposition of criminal cases shall be used in a manner which will best serve the needs of society, which will punish criminal offenders, and which will provide the opportunity for rehabilitation. A court may:

(a)~~(1)~~ Place an offender on probation with or without an adjudication of guilt pursuant to s. 948.01.

(b)~~(2)~~ Impose a fine and probation pursuant to s. 948.011 when the offense is punishable by both a fine and imprisonment and probation is authorized.

(c)~~(3)~~ Place a felony offender into community control requiring intensive supervision and surveillance pursuant to chapter 948.

(d)~~(4)~~ Impose, as a condition of probation or community control, a period of treatment which shall be restricted to either a county facility, a Department of Corrections probation and restitution center, or a community residential or nonresidential facility, excluding a community correctional center as defined in s. 944.026, which is owned and operated by any public or private entity providing such services. Before admission to such a facility, the court shall obtain an individual assessment and recommendations on the appropriate treatment needs pursuant to the Community Control Implementation Manual, which assessment and recommendations shall be considered by the court in ordering such placements. Placement in such a facility may not exceed 364 days. Early termination of placement shall be recommended to the court, when appropriate, by the center supervisor.

(e)~~(5)~~ Sentence an offender pursuant to s. 922.051 to imprisonment in a county jail when a statute directs imprisonment in a state prison, if the offender's cumulative sentence, whether from the same circuit or from separate circuits, is not more than 364 days.

(f)~~(6)~~ Sentence an offender who is to be punished by imprisonment in a county jail to a jail in another county if there is no jail within the county suitable for such prisoner pursuant to s. 950.01.

(g)~~(7)~~ Impose a split sentence whereby the offender is to be placed on probation upon completion of any specified period of such sentence, which period may include a term of years or less.

(h)~~(8)~~ Require the offender to participate in a work-release or educational or vocational training program pursuant to s. 951.24 while serving a sentence in a county jail, if such a program is available.

~~(9) Require an offender to make restitution pursuant to s. 775.089.~~

(1)(10) Require an offender to perform a specified public service pursuant to s. 775.091.

(j)(11) Require an offender who violates chapter 893 or violates any law while under the influence of a controlled substance or alcohol to participate in a substance abuse program.

(k)(12) Sentence an offender to imprisonment in a state correctional institution.

(l)(13) Make any other disposition that is authorized by law.

(2) The court shall require an offender to make restitution pursuant to s. 775.089, unless the court finds reasons not to order such restitution as provided therein. If the court does not order restitution, or orders only partial restitution, the court shall state on the record the reasons therefor.

Section 7, Paragraph (a) of subsection (6) of section 945.091, Florida Statutes, is amended to read:

945.091 Extend the limits of confinement; restitution by employed inmates.--

(6)(a) The department shall may require inmates working at paid employment as provided in paragraph (1)(b) to provide restitution to the aggrieved party for the damage or loss caused by the offense of the inmate, in an amount to be determined by the department, unless the department finds reasons not to order such restitution. If restitution or partial restitution is not ordered, the department shall state on the record the reasons therefor.

Section 8, Paragraph (e) of subsection (1) of section 948.03, Florida Statutes, is amended to read:

948.03 Terms and conditions of probation or community control.--

(1) The court shall determine the terms and conditions of probation or community control and may include among them the following, that the probationer or offender in community control shall:

(e) Make reparation or restitution to the aggrieved party for the damage or loss caused by his offense in an amount to be determined by the court. The court shall make such reparation or restitution a condition of probation, unless the court determines that compelling and--extraordinary reasons exist to the contrary. If the court does not order restitution, or orders only partial restitution, the court shall state on the record the reasons therefor.

Section 9, Subsections (2) and (3) of section 960.17, Florida Statutes, are amended to read:

960.17 Award constitutes debt owed to state.--

(2) The court, when placing on probation as provided in chapter 948 any person who owes a debt to the state as a consequence of a criminal act, shall may set as a condition of probation the payment

of the debt to the state. The court may also set the schedule or amounts of payments subject to modification based on change of circumstances unless the court finds reasons to the contrary. If the court does not order payment, or orders only partial payment, the court shall state on the record the reasons therefor.

(3) The Parole and Probation Commission shall ~~have the right to~~ make payment of the debt to the state a condition of parole under chapter 947, unless the commission finds reasons to the contrary. If the commission does not order payment, or orders only partial payment, the commission shall state on the record the reasons therefor subject to modification based on change of circumstances.

Section 10. Section 947.181, Florida Statutes, is amended to read:

947.181 Victim restitution.--

(1) The Parole and Probation Commission shall ~~may~~ require, as a condition of parole, reparation or restitution to the aggrieved party for the damage or loss caused by the offense for which the parolee was imprisoned unless the commission finds reasons to the contrary. If the commission does not order restitution, or orders only partial restitution, the commission shall state on the record the reasons therefor. The maximum amount of reparation or restitution allowable may be determined by the court at the time of sentencing. The amount of such reparation or restitution shall be determined by the Parole and Probation Commission.

(2) If the parolee fails to make the reparation or restitution to the aggrieved party, as authorized in subsection (1), it shall be considered by the commission as a violation of parole as specified in s. 947.21 and may be cause for revocation of his parole.

Section 11. Section 960.30, Florida Statutes, is created to read:

960.30 Guidelines for fair treatment of victims and witnesses in the criminal justice system.--

(1) No later than January 1, 1985, the Department of Legal Affairs, the state attorneys, the Department of Corrections, the Parole and Probation Commission, the State Courts Administrator and circuit court administrators, the Department of Law Enforcement, and every sheriff's department, police department, or other law enforcement agency as defined in s. 943.10(3) shall develop and implement guidelines for the use of their respective agencies consistent with the purposes of this act and designed to achieve, as much as possible and within the limits of resources available, the following objectives:

(a) Services to victims of crime.--Witness coordination offices as provided in s. 43.35 shall gather information regarding the following in the geographic boundaries of their respective circuits and shall provide such information to each law enforcement agency with jurisdiction within its geographic boundaries, and law enforcement personnel shall ensure that victims are routinely given information of the following:

1. Availability of crime victim compensation, where applicable;
2. Community-based victim treatment programs;

3. The role of the victim in the criminal justice process, including what the victim can expect from the system as well as what the system expects from the victim; and

4. Stages in the criminal justice process of significance to a crime victim, and the manner in which information about such stages can be obtained.

(b) Notification of availability of protection.--A victim or witness shall routinely be furnished with information on steps available to law enforcement officers and state attorneys to protect victims and witnesses from intimidation.

(c) Scheduling changes.--All victims and witnesses who have been scheduled to attend criminal justice proceedings shall be notified by the agency scheduling their appearance as soon as possible of any scheduling changes which will affect their appearances.

(d) Prompt notification to victims of crimes.--Victims, witnesses, relatives of those victims and witnesses who are minors, and relatives of homicide victims shall, if such persons provide the appropriate agency as identified below with a current address and telephone number, receive prompt advance notification, if possible, of judicial proceedings relating to their case, including:

1. The arrest of an accused;

2. The release of the accused pending judicial proceedings; and

3. Proceedings in the prosecution of the accused, including the arraignment, disposition of the accusatory instrument, trial, sentencing, appellate review, and, where a term of imprisonment or involuntary commitment is imposed, the release of the defendant from such imprisonment or commitment.

The appropriate agency for notification under subparagraph (d)1. is the arresting law enforcement agency and the appropriate agency for notification under subparagraph (d)2. and this subparagraph is the state attorney, unless the notification relates to the release of the accused from imprisonment, in which case the appropriate agency is the Department of Corrections.

(e) Consultation with victim.--In addition to notification of the provisions of s. 921.143, the victim of a felony involving physical or emotional injury or trauma, or in the case of a minor child or a homicide, the guardian or family of the victim, shall be consulted by the state attorney in order to obtain the views of the victim or family about the disposition of any criminal case brought as a result of such crime, including the views of the victim or family about:

1. Release of the accused pending judicial proceedings;

2. Plea agreements; and

3. Participation in pretrial diversion programs.

(f) Property return.--Law enforcement agencies and the state attorney shall promptly return victim's property held for evidentiary purposes unless there is a compelling law enforcement reason for retaining it. The trial court exercising jurisdiction over the

criminal proceeding may enter appropriate orders to implement the provisions of this subsection.

(g) Notification to employer.--A victim or witness who so requests shall be assisted by law enforcement agencies and state attorneys in informing employers that the need for victim and witness cooperation in the prosecution of the case may necessitate absence of that victim or witness from work. A victim or witness who, as a direct result of a crime or of cooperation with law enforcement agencies or a state attorney, is subjected to serious financial strain shall be assisted by such agencies and attorneys in explaining to creditors the reason for such serious financial strain.

(h) Local witness coordination office.--The requirements for notification provided for in paragraphs (1)(c), (d), and (g), may be performed by the local witness coordinating office as established by s. 43.35, as appropriate.

(i) Training by law enforcement training facilities.--Victim assistance education and training shall be offered to persons taking courses at law enforcement training facilities and to state attorneys so that victims may be promptly, properly, and completely assisted.

(j) General victim assistance.--Victims and witnesses shall be provided with such other assistance, such as transportation, parking, separate pretrial waiting areas, and translator services in attending court, as is practicable.

(2)(a) A copy of the guidelines adopted by each agency shall be filed with the Governor no later than January 15, 1985, and subsequent changes or amendments thereto shall be likewise filed when adopted.

(b) When the objectives stated in this section cannot be achieved by an agency for any reason, such as lack of resources, the agency shall so state in a memorandum or other document accompanying the filing of its guidelines with the Governor and shall therein explain in detail the nature of the obstacles or other causes for its inability to achieve the objectives.

(3) Nothing in this section or in the guidelines adopted pursuant to this section shall be construed as creating a cause of action against the state or any of its agencies or political subdivisions.

Section 12. Section 903.047, Florida Statutes, is created to read:

903.047 Conditions of bail.--

(1) As a condition of pretrial release, whether such release is by surety bail bond, recognizance bond, or other form, the court shall require that:

(a) The defendant refrain from criminal activity of any kind.

(b) The defendant refrain from any contact of any type with the victim, except through pretrial discovery pursuant to the Florida Rules of Criminal Procedure.

(2) Upon motion by the defendant when bail is set, or upon later motion properly noticed pursuant to law, the court may modify the

condition required by paragraph (1)(b) if good cause is shown and the interests of justice so require. The victim shall be permitted to be heard at any proceeding in which such modification is considered and the state attorney shall notify the victim of the provisions of this subsection and of the pendency of any such proceeding.

Section 13. Section 914.21, Florida Statutes, is created to read:

914.21 Definitions.--As used in ss. 914.22-914.24:

(1) "Official proceeding" means:

(a) A proceeding before a judge or court or a grand jury;

(b) A proceeding before the Legislature; or

(c) A proceeding before a Federal Government agency which is authorized by law.

(2) "Physical force" means physical action against another, and includes confinement.

(3) "Misleading conduct" means:

(a) Knowingly making a false statement;

(b) Intentionally omitting information from a statement and thereby causing a portion of such statement to be misleading, or intentionally concealing a material fact, and thereby creating a false impression by such statement;

(c) With intent to mislead, knowingly submitting or inviting reliance on a writing or recording that is false, forged, altered, or otherwise lacking in authenticity;

(d) With intent to mislead, knowingly submitting or inviting reliance on a sample, specimen, map, photograph, boundary mark, or other object that is misleading in a material respect; or

(e) Knowingly using a trick, scheme, or device with intent to mislead.

(4) "Bodily injury" means:

(a) A cut, abrasion, bruise, burn, or disfigurement;

(b) Physical pain;

(c) Illness;

(d) Impairment of the function of a bodily member, organ, or mental faculty; or

(e) Any other injury to the body, no matter how temporary.

Section 14. Section 918.14, Florida Statutes, is renumbered as section 914.22, Florida Statutes, and amended to read:

(Substantial rewording of section. See s. 918.14, F.S., for present text.)

914.22 Tampering with a witness, victim, or an informant.--

(1) Whoever knowingly uses intimidation or physical force, or threatens another person, or attempts to do so, or engages in misleading conduct toward another person, or offers pecuniary benefit or gain to another person, with intent to:

(a) Influence the testimony of any person in an official proceeding;

(b) Cause or induce any person to:

1. Withhold testimony, or withhold a record, document, or other object, from an official proceeding;

2. Alter, destroy, mutilate, or conceal an object with intent to impair the object's integrity or availability for use in an official proceeding;

3. Evade legal process summoning that person to appear as a witness, or to produce a record, document, or other object, in an official proceeding; or

4. Be absent from an official proceeding to which such person has been summoned by legal process; or

5. Hinder, delay, or prevent the communication to a law enforcement officer or judge of information relating to the commission or possible commission of an offense or a violation of conditions of probation, parole, or release pending judicial proceedings;

shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Whoever intentionally harasses another person and thereby hinders, delays, prevents, or dissuades any person from:

(a) Attending or testifying in an official proceeding;

(b) Reporting to a law enforcement officer or judge the commission or possible commission of an offense or a violation of conditions of probation, parole, or release pending judicial proceedings;

(c) Arresting or seeking the arrest of another person in connection with an offense; or

(d) Causing a criminal prosecution, or a parole or probation revocation proceeding, to be sought or instituted, or assisting in such prosecution or proceeding;

or attempts to do so, shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) In a prosecution for an offense under this section, it is an affirmative defense, as to which the defendant has the burden of proof by a preponderance of the evidence, that the conduct consisted

914.22, other than an offense consisting of misleading conduct, or under s. 914.23.

(b)1. A temporary restraining order may be issued under this section without written or oral notice to the adverse party or such party's attorney in a civil action under this section if the court finds, upon written certification of facts by the state attorney, that such notice should not be required and that there is a reasonable probability that the state will prevail on the merits.

2. A temporary restraining order issued without notice under this section shall be endorsed with the date and hour of issuance and be filed forthwith in the office of the clerk of the court issuing the order.

3. A temporary restraining order issued under this section shall expire at such time, not to exceed 10 days from issuance, as the court directs. The court, for good cause shown before expiration of such order, may extend the expiration date of the order for up to 10 days or for such longer period agreed to by the adverse party.

4. When a temporary restraining order is issued without notice, the motion for a protective order shall be set down for hearing at the earliest possible time and takes precedence over all matters except older matters of the same character, and when such motion comes on for hearing, if the state attorney does not proceed with the application for a protective order, the court shall dissolve the temporary restraining order.

5. If on 2 days' notice to the state attorney or on such shorter notice as the court may prescribe, the adverse party appears and moves to dissolve or modify the temporary restraining order, the court shall proceed to hear and determine such motion as expeditiously as the ends of justice require.

6. A temporary restraining order shall set forth the reasons for the issuance of such order, be specific in terms, and describe in reasonable detail and not by reference to the complaint or other document the act or acts being restrained.

(2)(a) A circuit court, upon motion of the state attorney shall issue a protective order prohibiting harassment of a victim or witness in a criminal case if the court, after a hearing, finds by a preponderance of the evidence that harassment of an identified victim or witness in a criminal case exists or that such order is necessary to prevent and restrain an offense under s. 914.22, other than an offense consisting of misleading conduct, or under s. 914.23.

(b) At the hearing referred to in paragraph (a), any adverse party named in the complaint shall have the right to present evidence and cross-examine witnesses.

(c) A protective order shall set forth the reasons for the issuance of such order, be specific in terms, and describe in reasonable detail, and not by reference to the complaint or other document, the act or acts being restrained.

(d) The court shall set the duration of effect of the protective order for such period as the court determines necessary to prevent harassment of the victim or witness but in no case for a period in excess of 3 years from the date of such order's issuance. The state

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solely of lawful conduct and that the defendant's sole intention was to encourage, induce, or cause the other person to testify truthfully.

(4) For the purposes of this section:

(a) An official proceeding need not be pending or about to be instituted at the time of the offense; and

(b) The testimony, or the record, document, or other object need not be admissible in evidence or free of a claim of privilege.

(5) In a prosecution for an offense under this section, no state of mind need be proved with respect to the circumstance:

(a) That the official proceeding before a judge, court, magistrate, grand jury, or government agency is before a judge or court of the state, a state or local grand jury, or a state agency; or

(b) That the judge is a judge of the state or that the law enforcement officer is an officer or employee of the state or a person authorized to act for or on behalf of the state or serving the state as an adviser or consultant.

Section 15. Section 914.23, Florida Statutes, is created to read:

914.23 Retaliating against a witness, victim, or an informant.-- Whoever knowingly engages in any conduct and thereby causes bodily injury to another person or damages the tangible property of another person, or threatens to do so, with intent to retaliate against any person for:

(1) The attendance of a witness or party at an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official proceeding; or

(2) Any information relating to the commission or possible commission of an offense or a violation of conditions of probation, parole, or release pending judicial proceedings given by a person to a law enforcement officer;

or attempts to do so, shall be guilty of a felony of the second degree if bodily injury occurs, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the conduct results only in damages to property, he shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 16. Section 914.24, Florida Statutes, is created to read:

914.24 Civil action to restrain harassment of a victim or witness.--

(1)(a) A circuit court, upon application of the state attorney, shall issue a temporary restraining order prohibiting harassment of a victim or witness in a criminal case if the court finds, from specific facts shown by affidavit or by verified complaint, that there are reasonable grounds to believe that harassment of an identified victim or witness in a criminal case exists or that such order is necessary to prevent and restrain an offense under s.

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attorney may, at any time within 90 days before the expiration of such order, apply for a new protective order under this section.

(3) As used in this section:

(a) "Harassment" means a course of conduct directed at a specific person that:

1. Causes substantial emotional distress in such person; and
2. Serves no legitimate purpose.

(b) "Course of conduct" means a series of acts over a period of time, however short, indicating a continuity of purpose.

(4) Nothing in this section shall preclude a court from entering any other order or remedy which may be appropriate in the circumstances.

Section 17. This act shall take effect October 1, 1984.

Approved by the Governor June 29, 1984.

Filed in Office Secretary of State June 29, 1984.

CHAPTER 84-364

Committee Substitute for Senate Bill No. 365

An act relating to pharmacy; amending s. 465.016, F.S.; providing grounds for disciplinary action; providing for board action concerning impaired pharmacists and pharmacy interns; providing for the confidentiality of certain information; providing a privilege against civil liability for persons providing information to the department or board concerning any impaired pharmacist or pharmacy intern; providing an effective date.

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

Section 1. Paragraph (n) is added to subsection (1) of section 465.016, Florida Statutes, and subsections (5), (6), (7), (8), (9), and (10) are added to said section to read:

465.016 Disciplinary actions.--

(1) The following acts shall be grounds for disciplinary action set forth in this section:

(n) Violating a rule of the board or department or an order of the board or department previously entered in a disciplinary hearing.

(5) Whenever it is reported to the department and there is reason to believe that a pharmacist or pharmacy intern may be impaired as a result of the misuse and abuse of alcohol or medicinal drugs, or both, which could affect that individual's ability to practice his profession, the reporting of such impairment shall not constitute a complaint within the meaning of s. 455.225 so long as the probable cause panel of the board determines that;

HCMJ RE: 1984 HB 779 "tampering with victims"
TAPES

① CRIMINAL CODE SUBCMT 4/9/84
t.p. - NO DISC.

② Full cmt 4/18/84

Tape 1

H105, 820 B/same

Tape 2 ② HB 820 cont., 542, 588, 629, 464, 1069,
275, 656, 930, 527 ③ 527 (cont.), 257, 734,
774 (t.p.) - NO DISC

SJCR RE: (1984) SB 728
4/11/84

Tape 1

S. 625/601

Senate Judiciary - Criminal

A Noise Reduction
EQ Normal 120µs

Com **B** Noise Reduction
Normal 120µs

Cont'd of SB 338

SB 428

TDK
D90

Senate Judiciary - Criminal
Committee meeting 4-11-84
9:00 a.m. - 12 noon - pm "C" # 2

Senate Judiciary - Criminal

A Noise Reduction
Normal 120µs

Committee **B** Noise Reduction
Normal 120µs

SB 284

SB 322

SB 356

SB 327

SB 374

SB 446

SB 232

SB 238 (cont'd on tape # 2)

TDK
D90

Senate Judiciary - Criminal
Committee meeting 4-11-84
9:00 a.m. - 12 noon - pm "C" # 1

Florida Legislature

History of Legislation 1984 Regular Session

RE: Ch. 84-363

CS/SB 238 (Passed)

CS/HR 779 (Substituted)



prepared by:

Joint Legislative Management Committee

Legislative Information Division
Capitol Building, Room 826 — 488-4371

04/03/84 SENATE Introduced, referred to Transportation -SJ 00023; On Committee agenda-- Transportation, 04/05/84, 9 00 am, Rm C

04/05/84 SENATE Comm Report Favorable, placed on Calendar by Transportation -SJ 00087

04/10/84 SENATE Withdrawn from Calendar, rereferred to Appropriations -SJ 00092

04/27/84 SENATE Extension of time granted Committee Appropriations

05/10/84 SENATE Extension of time granted Committee Appropriations

05/23/84 SENATE Extension of time granted Committee Appropriations

05/24/84 SENATE On Committee agenda-- Appropriations, Temporarily postponed -SJ 00389

06/01/84 SENATE Died in Committee on Appropriations

S 0236 GENERAL BILL by Carlucci (Compare CS/S 1040)
Water Management Districts, requires each water management district to employ an internal auditor, provides that such internal auditor shall report to governing board of water management district. Effective Date 10/01/84

01/31/84 SENATE Prefiled

02/14/84 SENATE Referred to Natural Resources and Conservation, Appropriations

04/03/84 SENATE Introduced, referred to Natural Resources and Conservation, Appropriations -SJ 00023

04/16/84 SENATE Extension of time granted Committee Natural Resources and Conservation

04/19/84 SENATE On Committee agenda-- Natural Res. & Cons., 04/19/84, No action

04/27/84 SENATE Extension of time granted Committee Natural Resources and Conservation

05/09/84 SENATE Extension of time granted Committee Natural Resources and Conservation

05/18/84 SENATE Extension of time granted Committee Natural Resources and Conservation

05/30/84 SENATE Extension of time granted Committee Natural Resources and Conservation

06/01/84 SENATE Died in Committee, Iden /Sim /Compare Bill passed, refer to CS/CS/SB 1040 (Ch 84-341)

S 0237 GENERAL BILL by Dunn and others (Compare CS/H 0056, CS/S 0140)
Trials, expands applicability of provisions authorizing videotaping of testimony of certain minors; requires expedient consideration of request therefor Amends B18 17 Effective Date: 07/01/84

01/31/84 SENATE Prefiled

02/14/84 SENATE Referred to Judiciary-Criminal, Judiciary-Civil

02/17/84 SENATE On Committee agenda-- Judiciary-Criminal, 03/06/84, 9 00 am, Rm C

03/06/84 SENATE Comm Report: Favorable by Judiciary-Criminal, Now in Judiciary-Civil

04/03/84 SENATE Introduced, referred to Judiciary-Criminal, Judiciary-Civil SJ 00023, Comm Report Favorable by Judiciary-Criminal, Now in Judiciary-Civil -SJ 00053

04/10/84 SENATE On Committee agenda-- Judiciary-Civil, 04/12/84, 9.30 am, Rm B

04/12/84 SENATE CS combines this bill and CS/140, Comm Report CS/CS placed on Calendar by Judiciary-Civil -SJ 00124

04/18/84 SENATE CS read first time -SJ 00132

04/25/84 SENATE Placed on Special Order Calendar, Laid on table under Rule, refer to CS/ CS/SB 140 (Ch 84-36) -SJ 00178

S 0238 GENERAL BILL/CS by Judiciary-Criminal, Weinstein and others (Similar CS/H 0774, Compare H 0058, H 0073, H 0133, CS/H 0526, H 0743, S 0111, S 0611)
Victim & Witness Protection, expands provisions re victims' statements at sentencing proceedings, authorizes use in evidence of photographs of property wrongfully taken in crime, requires court to order restitution unless reasons exist not to order same, etc Amends F S Effective Date 10/01/84

01/31/84 SENATE Prefiled

CONTINUED ON NEXT PAGE

02/14/84 SENATE Referred to Judiciary-Criminal, Appropriations

03/06/84 SENATE On Committee agenda-- Judiciary-Criminal, 3/6/84, Temporarily postponed

04/03/84 SENATE Introduced, referred to Judiciary-Criminal, Appropriations -SJ 00023

04/09/84 SENATE On Committee agenda-- Judiciary-Criminal, 04/11/84, 9 00 am, Rm C

04/11/84 SENATE Comm Report: CS by Judiciary-Criminal -SJ 00103, CS read first time 04/12/84 -SJ 00117

04/12/84 SENATE Now in Appropriations -SJ 00103

04/27/84 SENATE Extension of time granted Committee Appropriations

05/10/84 SENATE Extension of time granted Committee Appropriations

05/23/84 SENATE Extension of time granted Committee Appropriations

05/24/84 SENATE Withdrawn from Appropriations -SJ 00406; Placed on Calendar

05/30/84 SENATE Placed on Special Order Calendar, CS passed, YEAS 28 NAYS 0 -SJ 00594

05/30/84 HOUSE In Messages

05/31/84 HOUSE Received, placed on Calendar -HJ 00920; Substituted for CS/HB 774; Read second time; Read third time, Passed, YEAS 110 NAYS 0 -HJ 00959

05/31/84 Ordered enrolled -SJ 00625

06/18/84 SENATE Signed by Officers and presented to Governor

06/29/84 Approved by Governor Chapter No 84-363

S 0239 GENERAL BILL by Dunn (Compare Eng/H 0380, H 0485, H 0535, S 0289, S 0469, S 1064)
Driving While Intoxicated, increases penalties for causing certain injuries to another by operation of a motor vehicle while intoxicated, expands provisions re certain damage caused by a person operating motor vehicle while under influence of certain chemical substances. Amends 316 1931 Effective Date 10/01/84

01/31/84 SENATE Prefiled

02/14/84 SENATE Referred to Judiciary-Criminal, Appropriations

04/03/84 SENATE Introduced, referred to Judiciary-Criminal, Appropriations -SJ 00023

04/13/84 SENATE On Committee agenda-- Judiciary-Criminal, 04/17/84, 9:00 am, Rm C

04/16/84 SENATE Extension of time granted Committee Judiciary-Criminal

04/17/84 SENATE CS combines this bill and 469.698&380, Comm Report CS by Judiciary-Criminal -SJ 00150, CS read first time 04/20/84 -SJ 00155

04/18/84 SENATE Now in Transportation -SJ 00150

04/27/84 SENATE Extension of time granted Committee Transportation

05/10/84 SENATE Extension of time granted Committee Transportation

05/16/84 SENATE On Committee agenda-- Transportation, 05/18/84, 9 00 am, Rm. C

05/18/84 SENATE Comm Report CS/CS by Transportation -SJ 00340; CS read first time 05/23/84 -SJ 00341

05/22/84 SENATE Now in Judiciary-Civil -SJ 00340

05/23/84 SENATE Withdrawn from Judiciary-Civil -SJ 00388, Now in Appropriations

05/24/84 SENATE On Committee agenda-- Appropriations, 05/24/84, 1 30 pm, Not heard -SJ 00406

05/30/84 SENATE Withdrawn from Appropriations -SJ 00571, Placed on Calendar

06/01/84 SENATE Placed on Consent Calendar; Laid on table under Rule, refer to CS/ CS/SB 469 (Laid on table, see HB 360--Ch 84-359) -SJ 00725

S 0240 GENERAL BILL by Dunn
Aged/Disabled Persons; provides that person is not abused or neglected or in need of emergency or protective services solely because he is furnished or relies upon treatment by certain spiritual means alone, authorizes H R S Dept to subpoena person who reports abuse, etc Amends Ch 415 Effective Date Upon becoming law

01/31/84 SENATE Prefiled

02/14/84 SENATE Referred to Health and Rehabilitative Services

04/03/84 SENATE Introduced, referred to Health and Rehabilitative

CONTINUED ON NEXT PAGE

manufacturer when new farm tractor does not conform to applicable express warranties, etc Effective Date. 10/01/84

03/01/84 HOUSE Prefiled

03/02/84 HOUSE Referred to Judiciary

04/03/84 HOUSE Introduced, referred to Judiciary -HJ 00076

04/05/84 HOUSE Subreferred to Subcommittee on Consumer, Probate and Family Law

04/06/84 HOUSE On Committee agenda-- Subcomm , Judiciary, 212 HOB, 1 15 pm, 04/10/84

04/13/84 HOUSE On Committee agenda-- Judiciary, 317 C, 1 15pm, 04/17/84

04/19/84 HOUSE Comm Report Favorable with amend placed on Calendar by Judiciary -HJ 00236

05/02/84 HOUSE Placed on Special Order Calendar

05/09/84 HOUSE Read second time, Amendments adopted -HJ 00348

05/10/84 HOUSE Read third time; Passed as amended, YEAS 111 NAYS 0 -HJ 00357

05/14/84 SENATE In Messages

05/15/84 SENATE Received, referred to Commerce, Economic, Community and Consumer Affairs -SJ 00261

05/28/84 SENATE Extension of time granted Committee Commerce

06/01/84 SENATE Died in Committee, Iden /Sim./Compare Bill passed, refer to HB 916 (Ch 84-217)

H 0770 03/09/84 HOUSE Withdrawn -HJ 00076

H 0771 GENERAL BILL/CS by Corrections, Probation & Parole, Armatrong (Compare CS/H 0924, CS/S 0192, Eng/S 0360, S 0989)
Probation & Community Control, provides that circuit courts shall place defendants on probation under supervision of Corrections Dept , requires immediate commencement of probation or community control following incarceration under certain circumstances, etc. Amends 948 01, 03, Effective Date Upon becoming law

03/01/84 HOUSE Prefiled

03/02/84 HOUSE Referred to Corrections, Probation & Parole, Appropriations

04/03/84 HOUSE Introduced, referred to Corrections, Probation & Parole, Appropriations -HJ 00076; On Committee agenda-- Subcomm , Corrections, 317 C, 2 15 pm, 04/04/84

04/06/84 HOUSE On Committee agenda-- Corrections, 317 C, 1 15 pm, 04/11/84

04/17/84 HOUSE Comm Report CS by Corrections, Probation & Parole -HJ 00226, Now in Appropriations

05/14/84 HOUSE Withdrawn from Appropriations -HJ 00413; Placed on Calendar

06/01/84 HOUSE Died on Calendar, Iden /Sim./Compare Bill passed, refer to CS/SB 192 (Vetoed by Governor - 05/25/84)

H 0772 GENERAL BILL by Jamerson and others (Identical S 0829)
Retirement System, adds certain detention care workers of H R S Dept to special risk class of membership Amends 121.0515 Effective Date 10/01/84

03/01/84 HOUSE Prefiled

03/02/84 HOUSE Referred to Retirement, Personnel & Collective Bargaining, Appropriations

04/03/84 HOUSE Introduced, referred to Retirement, Personnel & Collective Bargaining, Appropriations -HJ 00076

04/10/84 HOUSE On Committee agenda-- Subcomm , Retirement, 317 HOB, 1 15 pm, 04/12/84

04/17/84 HOUSE On Committee agenda-- Subcomm Retirement, 317 HOB 1 15pm, 04/19/84

04/24/84 HOUSE On Committee agenda-- Retirement, 413 C, 8 30am, 04/28/84

05/03/84 HOUSE Comm Report Unfavorable, laid on table under Rule by Retirement, Personnel & Collective Bargaining -HJ 00300

H 0773 LOCAL BILL by Lawson
Franklin Co /Dog Island; expands boundaries of Dog Island Conservation
CONTINUED ON NEXT PAGE

District Effective Date Contingent

03/01/84 HOUSE Prefiled

03/02/84 HOUSE Referred to Natural Resources, Community Affairs

03/14/84 HOUSE Subreferred to Subcommittee on Environmental Quality

04/03/84 HOUSE Introduced, referred to Natural Resources, Community Affairs -HJ 00076, Subreferred to Subcommittee on Environmental Quality

04/05/84 HOUSE On Committee agenda-- Subcomm , Nat. Resources, 413 C, 3 30pm, 04/09

04/09/84 HOUSE On Committee agenda, pending subcommittee action-- Natural Resources, 413 C, 1 15 pm, 04/11/84

04/13/84 HOUSE Comm Report Favorable by Natural Resources -HJ 00208, Now in Community Affairs

04/23/84 HOUSE On Committee agenda-- Community Affairs, 314 HOB, 1:15pm, 04/25/84

05/09/84 HOUSE Comm Report Favorable, placed on Calendar by Community Affairs -HJ 00352

05/10/84 HOUSE Placed on Local Calendar

05/14/84 HOUSE Read second and third times, Passed, YEAS 116 NAYS 0 -HJ 00384, Immediately certified

05/14/84 SENATE In Messages

05/21/84 SENATE Received, referred to Rules and Calendar -SJ 00333

05/29/84 SENATE Considered, placed on Local Calendar by Rules and Calendar -SJ 00490; Passed as amended, YEAS 34 NAYS 0 -SJ 00528

05/29/84 HOUSE In Messages

05/31/84 HOUSE Concurrent; Passed as amended; YEAS 107 NAYS 0 -HJ 00924

05/31/84 Ordered engrossed, then enrolled

06/07/84 HOUSE Signed by Officers and presented to Governor

06/23/84 Became Law without Governor's Signature Chapter No. 84-430

H 0774 GENERAL BILL/CS by Criminal Justice, Lehtinen, Combee, Ros, Titone and others (Similar CS/S 0238, Compare H 0058, H 0073, H 0133, CS/H 0526, H 0743, S 0111, S 0611)
Victim & Witness Protection, expands provisions re victims' statements at sentencing proceedings; authorizes use in evidence of photographs of property wrongfully taken in crime, requires court to order restitution except in certain cases, provides for presence of victims at trial, etc Amends F S Effective Date 10/01/84

03/01/84 HOUSE Prefiled

03/02/84 HOUSE Referred to Criminal Justice, Appropriations

03/07/84 HOUSE Subreferred to Subcommittee on Criminal Code

04/03/84 HOUSE Introduced, referred to Criminal Justice, Appropriations -HJ 00076; Subreferred to Subcommittee on Criminal Code

04/26/84 HOUSE Comm. Report CS by Criminal Justice -HJ 00266, CS combines this bill and 58&743; Now in Appropriations

05/23/84 HOUSE On Committee agenda-- Appropriations, 21 HOB, 10:00 am, 05/24/84

05/24/84 HOUSE On Committee agenda-- Approp , 21 HOB, 8 15am & after session, 05/25/84

05/28/84 HOUSE Comm Report Favorable, placed on Calendar by Appropriations -HJ 00728

05/30/84 HOUSE Placed on Special Order Calendar

05/31/84 HOUSE Iden /Sim Senate Bill substituted. Laid on table under Rule, Iden /Sim /Compare Bill passed, refer to CS/SB 238 (Ch 84-363) & CS/HB 526 (Ch 84-103) -HJ 00959

H 0775 GENERAL BILL/CS by Regulatory Reform, Metcalf and others (Similar CS/S 0881)
Respiratory Care Act, creates Respiratory Care Act, creates Advisory Council on Respiratory care under Medical Examiners Board, provides for qualifications for eligibility for certification as respiratory therapy technician or registration as respiratory therapist, etc Creates 468 401-.417 Effective Date 10/01/84

03/01/84 HOUSE Prefiled

03/02/84 HOUSE Referred to Regulatory Reform, Finance & Taxation,
CONTINUED ON NEXT PAGE

By Senator Weinstein

29-208A-84

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This public document was promulgated at a cost of \$8.78 per printed page for 1500 copies to inform the Legislature and the public of proposed legislation

1 A bill to be entitled
 2 An act relating to victims and witnesses of
 3 crime, providing findings and purpose;
 4 requiring law enforcement agencies to provide
 5 certain assistance to victims and witnesses of
 6 crime, requiring the adoption of guidelines,
 7 providing an effective date.
 8
 9 Be It Enacted by the Legislature of the State of Florida
 10
 11 Section 1. Legislative findings and purpose.--
 12 (1) The Legislature finds that:
 13 (a) Without the cooperation of victims and witnesses,
 14 the criminal justice system would cease to function; yet, with
 15 few exceptions these individuals are either ignored by the
 16 criminal justice system or simply used as tools to identify
 17 and punish offenders
 18 (b) All too often the victim of a serious crime is
 19 forced to suffer physical, psychological, or financial
 20 hardship first as a result of the criminal act and then as a
 21 result of contact with a criminal justice system unresponsive
 22 to the real needs of such victim.
 23 (c) Under current law, law enforcement agencies must
 24 have cooperation from a victim of crime and yet neither the
 25 agencies nor the legal system can offer adequate protection or
 26 assistance when the victim, as a result of such cooperation,
 27 is threatened or intimidated.
 28 (d) While the defendant is provided with counsel who
 29 can explain both the criminal justice process and the rights
 30 of the defendant, the victim or witness has no counterpart and
 31 is usually not even notified when the defendant is released on

1 bail, the case is dismissed, a plea to a lesser charge is
2 accepted, or a court date is changed

3 (e) The victim and witness who cooperate with the
4 prosecutor often find that the transportation, parking
5 facilities, and child care services at the court are
6 unsatisfactory and they must often share the pretrial waiting
7 room with the defendant or his family and friends

8 (f) The victim may lose valuable property to a
9 criminal only to lose it again for long periods of time to law
10 enforcement officials, until the trial or appeals are over,
11 and many times that property is damaged or lost, which is
12 particularly stressful for the elderly or poor.

13 (2) The Legislature declares that the purposes of this
14 act are

15 (a) To enhance and protect the necessary role of crime
16 victims and witnesses in the criminal justice process

17 (b) To ensure that the state does all that is possible
18 within limits of available resources to assist victims and
19 witnesses of crime without infringing on the constitutional
20 rights of the defendant.

21 Section 2 Assistance to victims and witnesses of
22 crime --

23 (1) SERVICES TO VICTIMS OF CRIME.--Each law
24 enforcement agency shall ensure that victims routinely receive
25 emergency social and medical services as soon as possible and
26 are given information on the following

27 (a) Availability of crime victim compensation

28 (b) Community-based victim treatment programs

29 (c) The role of the victim in the criminal justice
30 process, including what the victim can expect from the system
31 as well as what the system expects from him

1 (d) Stages in the criminal justice process of
2 significance to a crime victim, and the manner in which
3 information about such stages can be obtained.

4 (2) NOTIFICATION OF AVAILABILITY OF PROTECTION.--A
5 victim or witness shall routinely receive information on steps
6 that law enforcement officers and state attorneys can take to
7 protect victims and witnesses from intimidation

8 (3) SCHEDULING CHANGES --All victims and witnesses who
9 have been scheduled to attend criminal justice proceedings
10 shall be notified as soon as possible of any scheduling
11 changes which will affect their appearances.

12 (4) PROMPT NOTIFICATION TO VICTIMS OF CRIMES --
13 Victims, witnesses, relatives of those victims and witnesses
14 who are minors, and relatives of homicide victims shall, if
15 such persons provide the appropriate official with a current
16 address and telephone number, receive prompt advance
17 notification, of judicial proceedings relating to their case,
18 including:

19 (a) The arrest of an accused

20 (b) The initial appearance of an accused before a
21 judicial officer.

22 (c) The release of the accused pending ⁴judicial
23 proceedings

24 (d) Proceedings in the prosecution of the accused,
25 including entry of a plea of guilty, discretionary disposition
26 of the accusatory instrument, trial, sentencing, appellate
27 review, and, where a term of imprisonment or involuntary
28 commitment is imposed, the release of the accused from such
29 imprisonment or commitment.

30 (5) CONSULTATION WITH VICTIM --In addition to
31 notification of the provisions of s. 921.143, Florida

1 Statutes, the victim of a felony involving physical or
2 emotional injury or trauma, or in the case of a minor child or
3 a homicide, the family of such a victim, shall be consulted by
4 the state attorney in order to obtain the views of the victim
5 or family about the disposition of any criminal case brought
6 as a result of such crime, including the views of the victim
7 or family about:

- 8 (a) Dismissal
- 9 (b) Release of the accused pending judicial
- 10 proceedings.
- 11 (c) Plea negotiations
- 12 (d) Pretrial diversion program

13 (6) PROPERTY RETURN --Law enforcement agencies and the
14 state attorney shall promptly return victim's property held
15 for evidentiary purposes unless there is a compelling law
16 enforcement reason for retaining it

17 (7) NOTIFICATION TO EMPLOYER --A victim or witness who
18 so requests shall be assisted by law enforcement agencies and
19 state attorneys in informing employers that the need for
20 victim and witness cooperation in the prosecution of the case
21 may necessitate absence of that victim or witness from work
22 A victim or witness who, as a direct result of a crime or of
23 cooperation with law enforcement agencies or a state attorney,
24 is subjected to serious financial strain shall be assisted by
25 such agencies and attorneys in explaining to creditors the
26 reason for such serious financial strain

27 (8) TRAINING BY LAW ENFORCEMENT TRAINING FACILITIES --
28 Victim assistance education and training shall be offered to
29 persons taking courses at law enforcement training facilities
30 and to state attorneys so that victims may be promptly,
31 properly, and completely assisted

1 (9) GENERAL VICTIM ASSISTANCE.--Victims and witnesses
2 shall be provided with such other assistance, such as
3 transportation, parking, separate pretrial waiting areas, and
4 translator services for victims in court, as is practicable

5 (10) Nothing in this act shall be construed as
6 creating a cause of action against the state

7 (11) No later than January 1, 1985, each law
8 enforcement agency shall adopt guidelines consistent with this
9 section and shall file such guidelines with the Department of
10 Law Enforcement. Such guidelines shall take effect upon
11 approval by the department.

12 (12) The Department of Law Enforcement shall be the
13 agency for receipt of federal grants relating to witness or
14 victim assistance and shall distribute such grants as it deems
15 appropriate.

16 Section 3 This act shall take effect October 1, 1984.

17
18
19 *****

20 SENATE SUMMARY

21 Requires law enforcement agencies to provide certain
22 assistance to victims and witnesses of crime, including
23 emergency social and medical services, notification of
24 available services and judicial proceedings, consultation
25 regarding disposition of the case, prompt return of
26 property, and, upon request, notification of employers.
27 Requires law enforcement agencies adopt guidelines to
28 implement the act

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. Dugger <i>D.P.</i>	Liepshutz <i>ML</i>	1. JCR _____	_____
2. _____	_____	2. APP _____	_____
3. _____	_____	3. _____	_____

SUBJECT:

Victims & Witnesses of Crime

BILL NO. AND SPONSOR:

SB 238 by
Senator Weinstein

I. SUMMARY:

A. Present Situation:

There is no comprehensive law in Florida which requires the various agencies involved in the criminal justice system to provide specified services to crime victims and witnesses. However, located throughout the Florida Statutes are numerous provisions which are designed to protect or assist crime victims and witnesses. These provisions cover many diverse areas of the law, including the following: victim restitution; witness fees for trial participation; victim compensation; victim's right to be present and heard at sentencing and the Parole and Probation Commission hearings; prevention of crime against elderly victims; penalties for tampering with witnesses; and protection of sex offense and child abuse victims by various methods.

In addition to these protections, section 43.35, F.S., requires that each court administrator establish a witness coordination office in the counties within each judicial circuit. These offices are responsible for coordinating the witnesses' court appearances, contacting witnesses about these appearances as well as the cancellation of them, and contacting the witnesses' employers, when necessary, to confirm that the witness has been subpoenaed for a court appearance. According to the State Court Administrator's office, the fifty-one counties choosing to participate in this program receive reimbursement by the state for witness fees.

B. Effect of Proposed Changes:

In addition to the existing statutory provisions designed to assist crime victims and witnesses, this bill would require the various agencies involved in the criminal justice system to provide comprehensive services to crime victims and witnesses. Their services can be divided into nine areas of assistance.

The first area of assistance would require law enforcement officers to ensure that victims routinely receive emergency social and medical services as quickly as possible, as well as to give victims information concerning compensation, treatment programs, and the victim's role and the stages in the criminal justice process.

The second assistance area would require law enforcement officers and state attorneys to routinely inform victims and witnesses of the protection available to them from intimidation.

The third area would involve notifying victims and witnesses scheduled to attend criminal justice proceedings of any scheduling changes. However, the bill does not indicate who

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would be responsible for notification of these scheduling changes although, according to current law, section 43.35, F.S., this is one of the local witness coordination office's responsibilities.

The fourth area of assistance would involve giving prompt advance notice of judicial proceedings to victims, witnesses, and relatives of child and homicide victims who had provided an "appropriate official" with their address and phone number. The judicial proceedings would include the accused's arrest and initial appearance, the pretrial release of the accused, the accused's guilty plea, the accused's plea to lesser charges or the dropping of charges, the trial, sentencing, appellate review, and the accused's release from imprisonment. The bill however, does not specify who the "appropriate official" would be for requesting or making the notification in each instance.

The fifth assistance area would require the state attorney to consult with felony victims suffering injury or with the family of a child or homicide victim about the potential disposition of a case, including dismissal, pretrial release, plea negotiations, and pretrial diversion programs.

The sixth area would require the state attorney and law enforcement agencies to return promptly the victim's property unless there was a compelling law enforcement reason for retaining it.

The seventh area of assistance would require state attorneys and law enforcement agencies, when so requested by victims or witnesses, to explain to their employers or their creditors the reason for either their absence from work or their financial strain. Consequently, in addition to local witness coordinating offices being responsible for notifying the witnesses' employer as mandated by section 43.35, F.S., state attorney offices and the law enforcement agencies would also be required to do so under the bill.

The eighth area would require victim assistance education to be offered at law enforcement training facilities to persons taking courses there and to state attorneys.

The last area would provide general victim and witness assistance, when practicable, such as transportation, parking, separate pretrial waiting areas, and translator services.

In addition to specifying these nine areas of victim assistance, the bill would require each law enforcement agency to adopt guidelines by 1985 which would be filed with and approved by the Department of Law Enforcement. The Department would also be responsible for receiving and distributing any federal witness assistance grants.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

None.

B. Government:

The fiscal impact on the state attorney offices and the local law enforcement agencies is indeterminable because the amount of additional staff, if any, that would be needed to implement the bill's notification requirements is unknown. Not only is the potential loss of state attorney and law enforcement service hours because of training unknown, but also unknown is the cost to law enforcement agencies to ensure that victims routinely receive emergency services. Finally, if services

such as parking, transportation, and separate waiting areas provided for victims and witnesses, it could have a significant fiscal impact on the local agencies responsible for implementing these services. It is difficult to determine when such services would have to be provided since the bill only requires them on an "as is practicable" basis.

III. COMMENTS:

Approximately 14 other states have considered passing similar type legislation which would enumerate standards of fair treatment by the various criminal justice agencies for crime victims and witnesses, although only 5 of these states have actually enacted this legislation.

SB 238 is very similar to the Federal Victim and Witness Protection Act of 1982, as well as to HB 58 and HB 133, both of which are in the House Criminal Justice Committee.

SJR 111 recently passed out of the Senate Judiciary Criminal Committee. The resolution would give crime victims a state constitutional right to be present and heard at all stages of the criminal judicial proceedings. Although SB 238 addresses various victim services, primarily notification of the status of the criminal judicial proceedings, it does not necessarily address the extent of the broader constitutional right that would be granted by SJR 111.

The Florida Department of Law Enforcement expressed concern as to whether the language in SB 238 which says "victim assistance training shall be offered" means mandatory training or whether it means mandatory offering of the training, and optional taking of it. They expressed an additional concern that the bill does not specify any criteria for approving each law enforcement agency's guidelines, or for distributing potential federal witness assistance grants.

The Florida Sheriffs Association expressed some concern about the language requiring law enforcement agencies to "ensure that victims receive emergency social and medical services" because although the officers try to offer assistance whenever possible, to mandate this would place a significant responsibility on them that might be better handled by someone set up to offer those services. The Association also felt that the language "nothing in this act shall be construed as creating a cause of action against the state" should include some protective language for the local law enforcement agencies and other governmental entities.

IV. AMENDMENTS:

None.

SENATE COMMITTEE MEETINGCOMMITTEE: JUDICIARY-CRIMINAL

MEMBERS:

Ken Jenne (D-Hollywood), Chairman
 Richard Langley (R-Clermont), Vice-Chairman
 Malcolm Beard (D-Temple Terrace)
 Robert Crawford (D-Winter Haven)
 Harry Johnston, II (D-West Palm Beach)
 Jeanne Malchon (D-St. Petersburg)
 Lawrence Plummer (D-South Miami)
 Peter M. Weinstein (D-Margate)

TIME AND PLACE: 9:00 a.m. - 12 noon -- Room "C" S.O B

	Bill No. & Introducer	Relating to:	Bill History	Committee Action
1	SB 284 by Senator Myers	Drug Abuse Prevention & Control	No other committee of reference.	FAV/3 amend.
2	SB 322 by Senator Grant	Compensation of Appointed Counsel	Other committees of reference: Judiciary-Civil Appropriations	FAV/3 amend.
3	SB 428 by Senators Dunn & Stuart	Computer Related Crimes	No other committee of reference.	FAV.
4	SB 556 by Senator Kirkpatrick	Acceptance by Department of Law Enforcement of Fingerprints of Certain Persons	No other committee of reference.	FAV/1 amend.
5	SB 327 by Senator Hair	Use of Radar Speed-Measuring Devices	No other committee of reference.	FAV.
6	SB 374 by Senator Plummer	Graves	T.P. 4/4/84 meeting No other committee of reference.	FAV/2 amend.
7	SB 446 by Senator Plummer	Criminal Analysis Laboratories	Other committees of reference: Appropriations	FAV.
8	SB 232 by Senator Weinstein	Statewide Grand Juries	No other committee of reference.	FAV.
9	SB 238 by Senator Weinstein	Victims & Witnesses of Crime	T.P. 3/6/84 meeting Other committee of reference: Appropriations	FAV/CS

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COMMITTEE APPEARANCE RECORD
(Submit to Committee Chairman or Secretary)

11 April 1984
(date)

238
(Bill No.)

Name Bob Preston

Address 9426 So 102nd Place - Boynton Beach, FL 33437

Representing Justice For Surviving Victims, Inc

Lobbyist (Registered with Senate) Yes X No

Speaking: For X Against Information

Subject Victims Rights

If state employee-- Time: from .m. to .m.

(State employees are required to file the first copy of this form with Committee Chairman unless appearance is requested by chairman as a witness or for informational purposes)

COMMITTEE APPEARANCE RECORD
(Submit to Committee Chairman or Secretary)

4/11/84
(date)

CS to SB 230
(Bill No.)

Name ARTHUR I. JACOBI

Address P.O. Drawer I Fernandina Beach, Fla.

Representing FLA Prosecuting Attorneys Assoc.

Lobbyist (Registered with Senate) Yes ✓ No

Speaking: For Against Information ✓

Subject Victims/Witness

If state employee-- Time: from .m. to .m.

(State employees are required to file the first copy of this form with Committee Chairman unless appearance is requested by chairman as a witness or for informational purposes.)

By Committee on Judiciary-Criminal and Senators Weinstein and Castor-

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A bill to be entitled
An act relating to victim and witness protection, providing a short title; providing intent, amending s. 921.143, F.S., expanding provisions relating to victims' statements at sentencing proceedings; creating s. 914.16, F.S., authorizing use in evidence of photographs of property wrongfully taken in a crime; amending s. 775.089, F.S., requiring the court to order restitution unless reasons exist not to order same, specifying types of restitution and providing for enforcement thereof, amending ss. 921.187, 945.091, 948.03, and 960.17, F.S., to conform, amending s. 947.181, F.S.; requiring the Parole and Probation Commission to order restitution as a condition of parole unless reasons exist not to order same; creating s. 960.30, F.S.; providing for the creation of guidelines for the treatment of victims and witnesses of crime, creating s. 903.047, F.S.; creating certain conditions of pretrial release on bail; creating ss. 914.21, 914.23, and 914.24, F.S., and amending s. 918.14, F.S.; providing definitions; expanding provisions prohibiting tampering with witnesses to include victims and informants, prohibiting retaliation against such persons, authorizing civil actions to restrain harassment; providing an effective date.

1 Be It Enacted by the Legislature of the State of Florida.

2
3 Section 1 This act may be cited as the "Victim and
4 Witness Protection Act."

5 Section 2 Findings and intent.--

6 (1) The Legislature finds and declares that:

7 (a) Even though there is a growing recognition that
8 the criminal justice system would cease to function without
9 the cooperation of victims and witnesses, the historic
10 unresponsiveness of the criminal justice system to the real
11 needs of victims and witnesses has not yet been fully
12 corrected

13 (b) Although in recent years Florida has made
14 substantial positive strides toward ensuring that victims and
15 witnesses are properly treated, victims and witnesses are
16 sometimes still either ignored by the criminal justice system
17 or used simply as tools to identify and punish offenders

18 (c) Despite commendable efforts by many state
19 attorneys and law enforcement agencies to increase cooperation
20 with, and responsiveness to, victims and witnesses,
21 occasionally these individuals are not notified when the
22 defendant is released on bail, the case is dismissed, a plea
23 for a lesser charge is accepted, or a court date is changed.

24 (d) While state law provides the option of financial
25 restitution to victims by defendants, most victims are never
26 fully or even partially compensated by defendants for their
27 injuries and other losses.

28 (e) Under current law, the legal prohibitions against
29 threats and harassment of victims and witnesses and the
30 protections of victims and witnesses against intimidation are
31 not adequate

1 (f) The victim may lose valuable property to a
2 criminal, only to suffer continued loss for long periods of
3 time to law enforcement officials, until the trial or appeal
4 has been completed.

5 (2) The legislative intent and purposes of this act
6 are:

7 (a) To enhance and protect the necessary role of
8 victims and witnesses in the criminal justice process, and

9 (b) To ensure that the state, its agencies, and
10 subdivisions do all that is possible within limits of
11 available resources to assist victims and witnesses of crime
12 without infringing on the constitutional rights of defendants.

13 Section 3. Section 921 143, Florida Statutes, is
14 amended to read:

15 921 143 Appearance of victim to make statement at
16 sentencing hearing, submission of written statement.--

17 (1) At the sentencing hearing, and prior to the
18 imposition of sentence upon any defendant who has been
19 convicted of any felony or who has pleaded guilty or nolo
20 contendere to any crime, the sentencing court shall permit the
21 victim of the crime for which the defendant is being
22 sentenced, or the next of kin of the victim if the victim has
23 died from causes related to the crime, to:

24 (a) Appear before the sentencing court for the purpose
25 of making a statement under oath for the record, or

26 (b) Submit a written statement under oath to the
27 office of the state attorney, which shall be filed with the
28 sentencing court.

29 (2) The state attorney or any assistant state attorney
30 shall advise all victims or, where appropriate, their next of
31 kin that statements, whether oral or written, shall relate

1 solely to the facts of the case and the extent of any harm,
 2 including social, psychological, or physical harm injuries,
 3 financial losses, and loss of earnings directly or indirectly
 4 resulting from the crime for which the defendant is being
 5 sentenced

6 (3) The court may refuse to accept a negotiated plea
 7 and order the defendant to stand trial

8 Section 4 Section 914 16, Florida Statutes, is
 9 created to read:

10 914 16 Photographs of property wrongfully taken, use
 11 in prosecution, procedure; return of property to owner --In
 12 any prosecution for a crime involving the wrongful taking of
 13 property, photographs of the property alleged to have been
 14 wrongfully taken may be deemed competent evidence of such
 15 property and may be admissible in the prosecution to the same
 16 extent as if such property had been introduced as evidence.
 17 Such photographs shall bear a written description of the
 18 property alleged to have been wrongfully taken, the name of
 19 the owner of the property taken, the location where the
 20 alleged wrongful taking occurred, the name of the
 21 investigating law enforcement officer, the date the photograph
 22 was taken, and the name of the photographer. Such writing
 23 shall be made under oath by the investigating law enforcement
 24 officer and the photograph identified by the signature of the
 25 photographer. Upon the filing of such photograph and writing
 26 with the law enforcement authority or court holding such
 27 property as evidence, such property may be returned to the
 28 owner from whom the property was taken.

29 Section 5. Section 775 089, Florida Statutes, is
 30 amended to read

31 775 089 Restitution --

1 (1)(a) In addition to any punishment, the court shall
 2 may order the defendant to make restitution to the victim
 3 aggrieved party for damage or loss caused directly or
 4 indirectly by the defendant's offense, unless the court finds
 5 reasons not to order if the defendant is able or will be able
 6 to make such restitution. Restitution may be monetary or
 7 nonmonetary restitution. The court shall may make the payment
 8 of restitution a condition to probation in accordance with s.
 9 94B 03.

10 (b) If the court does not order restitution, or orders
 11 only partial restitution, under this section, the court shall
 12 state on the record the reasons therefor.

13 (c) The term "victim" as used in this section and in
 14 any provision of law relating to restitution shall include the
 15 aggrieved party, the aggrieved party's estate if the aggrieved
 16 party is deceased, and the aggrieved party's next of kin if
 17 the aggrieved party is deceased as a result of the offense.

18 (2) When an offense results in bodily injury to a
 19 victim, the court may require that the defendant:

20 (a) Pay the cost of necessary medical and related
 21 professional services and devices relating to physical,
 22 psychiatric, and psychological care, including nonmedical care
 23 and treatment rendered in accordance with a recognized method
 24 of healing.

25 (b) Pay the cost of necessary physical and
 26 occupational therapy and rehabilitation.

27 (c) Reimburse the victim for income lost by such
 28 victim as a result of such offense.

29 (d) In the case of an offense resulting in bodily
 30 injury that also results in the death of a victim, pay an
 31

1 amount equal to the cost of necessary funeral and related
 2 services.

3 (3)(a) The court may require that such defendant make
 4 restitution under this section within a specified period or in
 5 specified installments.

6 (b) The end of such period or the last such
 7 installment shall not be later than

8 1. The end of the period of probation, if probation is
 9 ordered;

10 2. Five years after the end of the term of
 11 imprisonment imposed, if the court does not order probation;
 12 or

13 3. Five years after the date of sentencing in any
 14 other case.

15 (c) If not otherwise provided by the court under this
 16 subsection, restitution shall be made immediately.

17 (4) If a defendant is placed on probation or paroled,
 18 any restitution ordered under this section shall be a
 19 condition of such probation or parole. The court may revoke
 20 probation and the Parole and Probation Commission may revoke
 21 parole if the defendant fails to comply with such order. In
 22 determining whether to revoke probation or parole, the court
 23 or Parole and Probation Commission shall consider the
 24 defendant's employment status, earning ability, financial
 25 resources, the willfulness of the defendant's failure to pay,
 26 and any other special circumstances that may have a bearing on
 27 the defendant's ability to pay.

28 (5) An order of restitution may be enforced by the
 29 state or a victim named in the order to receive the
 30 restitution in the same manner as a judgment in a civil
 31 action.

1 (6) The court, in determining whether to order
 2 restitution and the amount of such restitution, shall consider
 3 the amount of the loss sustained by any victim as a result of
 4 the offense, the financial resources of the defendant, the
 5 financial needs and earning ability of the defendant and the
 6 defendant's dependents, and such other factors as the court
 7 deems appropriate.

8 (7) Any dispute as to the proper amount or type of
 9 restitution shall be resolved by the court by the
 10 preponderance of the evidence. The burden of demonstrating
 11 the amount of the loss sustained by a victim as a result of
 12 the offense shall be on the state attorney. The burden of
 13 demonstrating the financial resources of the defendant and the
 14 financial needs of the defendant and such defendant's
 15 dependents shall be on the defendant. The burden of
 16 demonstrating such other matters as the court deems
 17 appropriate shall be upon the party designated by the court as
 18 justice requires.

19 (8) A conviction of a defendant for an offense
 20 involving the act giving rise to restitution under this
 21 section shall estop the defendant from denying the essential
 22 allegations of that offense in any subsequent civil
 23 proceeding. An order of restitution hereunder shall not bar
 24 any subsequent civil remedy or recovery but the amount of such
 25 restitution shall be set off against any subsequent
 26 independent civil recovery.

27 (2) In determining the amount and method of payment of
 28 restitution, the court shall consider the financial resources
 29 of the defendant and the burden the payment of restitution
 30 will impose on the defendant.

1 ~~(3)~~ Any defendant ordered to make restitution may
 2 petition the court which ordered him to make such restitution
 3 for remission from any payment of restitution or from any
 4 unpaid portion thereof- if the court finds that the payment
 5 of restitution due will impose an undue hardship on the
 6 defendant or his family, the court may grant remission from
 7 any payment of restitution or modify the method of payment.

8 ~~(9)~~ ~~(4)~~ When a corporation or unincorporated
 9 association is ordered to make restitution, the person
 10 authorized to make disbursements from the assets of such
 11 corporation or association shall pay restitution from such
 12 assets, and such person may be held in contempt for failure to
 13 make such restitution.

14 ~~(5)~~ If a defendant who is required to make restitution
 15 defaults in any payment of restitution or installment thereof,
 16 the court may hold him in contempt unless such defendant has
 17 made a good faith effort to make restitution. If the
 18 defendant has made a good faith effort to make restitution,
 19 the court may, upon motion of the defendant, modify the order
 20 requiring restitution by-

21 ~~(a)~~ Providing for additional time to make any payment
 22 in restitution-

23 ~~(b)~~ Reducing the amount of any payment in restitution
 24 or installment thereof-

25 ~~(c)~~ Granting a remission from any payment of
 26 restitution or part thereof-

27 ~~(10)~~ ~~(6)~~ Any default in payment of restitution may be
 28 collected by any means authorized by law for enforcement of a
 29 judgment

30 ~~(11)~~ ~~(7)~~ The court may order the clerk of the court to
 31 collect and dispense restitution payments in any case.

1 Section 6. Section 921.187, Florida Statutes, is
 2 amended to read

3 921.187 Disposition and sentencing; alternatives.--

4 ~~(1)~~ The following alternatives for the disposition of
 5 criminal cases shall be used in a manner which will best serve
 6 the needs of society, which will punish criminal offenders,
 7 and which will provide the opportunity for rehabilitation. A
 8 court may

9 ~~(a)~~ ~~(1)~~ Place an offender on probation with or without
 10 an adjudication of guilt pursuant to s. 948.01.

11 ~~(b)~~ ~~(3)~~ Impose a fine and probation pursuant to s.
 12 948.011 when the offense is punishable by both a fine and
 13 imprisonment and probation is authorized.

14 ~~(c)~~ ~~(3)~~ Place a felony offender into community control
 15 requiring intensive supervision and surveillance pursuant to
 16 chapter 948.

17 ~~(d)~~ ~~(4)~~ Impose, as a condition of probation or
 18 community control, a period of treatment which shall be
 19 restricted to either a county facility, a Department of
 20 Corrections probation and restitution center, or a community
 21 residential or nonresidential facility, excluding a community
 22 correctional center as defined in s. 944.026, which is owned
 23 and operated by any public or private entity providing such
 24 services. Before admission to such a facility, the court
 25 shall obtain an individual assessment and recommendations on
 26 the appropriate treatment needs pursuant to the Community
 27 Control Implementation Manual, which assessment and
 28 recommendations shall be considered by the court in ordering
 29 such placements. Placement in such a facility may not exceed
 30 364 days. Early termination of placement shall be recommended
 31 to the court, when appropriate, by the center supervisor.

1 restrain an offense under s 914 22, other than an offense
2 consisting of misleading conduct, or under s. 914 23.

3 (b) At the hearing referred to in paragraph (a), any
4 adverse party named in the complaint shall have the right to
5 present evidence and cross-examine witnesses

6 (c) A protective order shall set forth the reasons for
7 the issuance of such order, be specific in terms, and describe
8 in reasonable detail, and not by reference to the complaint or
9 other document, the act or acts being restrained.

10 (d) The court shall set the duration of effect of the
11 protective order for such period as the court determines
12 necessary to prevent harassment of the victim or witness but
13 in no case for a period in excess of 3 years from the date of
14 such order's issuance. The state attorney may, at any time
15 within 90 days before the expiration of such order, apply for
16 a new protective order under this section.

17 (3) As used in this section:

18 (a) "Harassment" means a course of conduct directed at
19 a specific person that:

20 1 Causes substantial emotional distress in such
21 person, and

22 2 Serves no legitimate purpose

23 (b) "Course of conduct" means a series of acts over a
24 period of time, however short, indicating a continuity of
25 purpose

26 (4) Nothing in this section shall preclude a court
27 from entering any other order or remedy which may be
28 appropriate in the circumstances.

29 Section 17. This act shall take effect October 1,
30 1984.

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR SENATE BILL 238

1. Law enforcement agencies will be required to ensure that victims receive emergency services by furnishing certain information to them which is supplied to such agencies by the local witness coordination offices.
2. Victims and witnesses will not have to be notified of the accused's initial appearance, nor will they have to be consulted about the dismissal of the case. They will have to be consulted about plea agreements, not plea negotiations.
3. The local witness coordinating offices may perform the bill's various notification requirements instead of the state attorney offices or the law enforcement agencies, as appropriate.
4. The Department of Legal Affairs, the state attorneys, the Department of Corrections, the Parole and Probation Commission, the State Court Administrator and circuit court administrators, the Department of Law Enforcement, and every other law enforcement agency will be required to develop and implement guidelines for fair treatment of crime victims and witnesses within the limits of available resources by 1985 to be filed with the Governor.
5. Expands current law on victim appearance at sentencing by allowing the victim's next of kin to make a statement at sentencing if the victim is dead to include the extent of any social, psychological, or physical harm resulting from the crime.
Expands the procedural provisions for victim restitution and requires that restitution be mandatory unless the court finds reasons to the contrary.
7. Expands the current witness tampering laws to include victims and informants, as well as strengthening the current prohibition against witness retaliation by raising the penalty from a third degree felony to a second degree felony if bodily injury results.
8. Grants specific statutory authority for prompt return of victim's property wrongfully taken by providing that photographs of such property can be admissible as competent evidence.
9. Requires as a condition of pre-trial release that defendants refrain from criminal activity and avoid contact with the victim except through discovery.

A BILL relating to
(Brief statement of subject)

victim and witness protection;

DUPLICATE

Filed

FEB 1984

By *Lichten & Co.*

Note: List last name only unless more than one Member has same last name. List all sponsors and co-sponsors on the fifth copy with prime sponsors on line above and co-sponsors below. On all other copies you need show only the prime sponsor and the words "and others."

H-1(1980)

(Additional Co-sponsors on reverse side)

HB

DUPLICATE

HOUSE ACTION

SENATE ACTION

Read 1st Time

Referred to Committees on

Fav Unfav With Amend Com Sub
Fav Unfav With Amend Com Sub
Fav Unfav With Amend Com Sub

Read 2nd Time

Read 3rd Time

and

Clerk, House of Representatives

- Immediately Certified to Senate
- Committee Substitute taken up
- Companion S. _____ substituted
- Laid on Table under Rule
- Motion to Reconsider Laid on Table
- Motion to Reconsider pending

- SENATE AMENDMENTS ACTION - See reverse side
- CONFERENCE COMMITTEE ACTION - See reverse side

Read 1st Time

Referred to Committees on

Fav Unfav With Amend Com Sub
Fav Unfav With Amend Com Sub
Fav Unfav With Amend Com Sub

Read 2nd Time

Read 3rd Time

and

Secretary of Senate

- Immediately Certified to House

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SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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	<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1.	<u>Dugger</u> <i>D.P.</i>	<u>Liepshutz</u> <i>MM</i>	1. <u>JCR</u>	<u>T.P.</u>
2.	_____	_____	2. <u>APP</u>	_____
3.	_____	_____	3. _____	_____

SUBJECT:

Victims & Witnesses of Crime

BILL NO. AND SPONSOR:

Proposed CS/SB 238 by
Senator Weinstein

I. SUMMARY:

A. Present Situation:

There is no comprehensive law in Florida which requires the various agencies involved in the criminal justice system to provide specified services to crime victims and witnesses. However, located throughout the Florida Statutes are numerous provisions which are designed to protect or assist crime victims and witnesses. These provisions cover many diverse areas of the law, including the following: victim restitution; witness fees for trial participation; victim compensation; victim's right to be present and heard at sentencing and the Parole and Probation Commission hearings; prevention of crime against elderly victims; penalties for tampering with witnesses; and protection of sex offense and child abuse victims by various methods.

In addition to these protections, section 43.35, F.S., requires that each court administrator establish a witness coordinating office in the counties within each judicial circuit. These offices are responsible for coordinating the witnesses' court appearances, contacting witnesses about these appearances as well as the cancellation of them, and contacting the witnesses' employers, when necessary, to confirm that the witness has been subpoenaed for a court appearance. According to the State Court Administrator's office, the fifty-one counties choosing to participate in this program receive reimbursement by the state for witness fees.

B. Effect of Proposed Changes:

In addition to the existing statutory provisions designed to assist crime victims and witnesses, this bill would require the various agencies involved in the criminal justice system to provide comprehensive services to crime victims and witnesses. Their services can be divided into nine areas of assistance.

The first area of assistance would require law enforcement officers to ensure that victims routinely receive emergency social and medical services as quickly as possible by furnishing victims information concerning compensation, treatment programs, and the victim's role and the stages in the criminal justice process.

The second assistance area would require law enforcement officers and state attorneys to routinely inform victims and witnesses of the protection available to them from intimidation.

The third area would involve notifying victims and witnesses scheduled to attend criminal justice proceedings of any scheduling changes.

The fourth area of assistance would involve giving prompt advance notice of judicial proceedings to victims, witnesses, and relatives of child and homicide victims who had provided an "appropriate official" with their address and phone number. The judicial proceedings would include the accused's arrest, the pretrial release of the accused, the arraignment, the dropping of charges, the trial, sentencing, appellate review, and the defendant's release from imprisonment.

The fifth assistance area would require the state attorney to consult with felony victims suffering injury or with the family or guardian of a child or homicide victim about the potential disposition of a case, including pretrial release, plea agreements, and participation in pretrial diversion programs.

The sixth area would require the state attorney and law enforcement agencies to return promptly the victim's property unless there was a compelling law enforcement reason for retaining it. The trial court could enter appropriate orders to implement this requirement.

The seventh area of assistance would require state attorneys and law enforcement agencies, when so requested by victims or witnesses, to explain to their employers or their creditors the reason for either their absence from work or their financial strain.

The eighth area would require victim assistance education to be offered at law enforcement training facilities to persons taking courses there and to state attorneys.

The last area would provide general victim and witness assistance, when practicable, such as transportation, parking, separate pretrial waiting areas, and translator services.

In addition to specifying these nine areas of victim assistance, the bill would provide that the third, fourth, and seventh areas of assistance involving notification, could be performed by the local witness coordinating offices established by section 43.35, F.S., as appropriate. All law enforcement agencies and state attorneys would be required to adopt and file guidelines by 1985 with the clerk of the circuit court and with the local witness coordinating offices. The Department of Corrections and the Parole and Probation Commission would also be required to adopt and promulgate rules in accordance with their duties under the bill. The Department of Law Enforcement would be responsible for receiving and distributing any federal witness assistance grants.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

None.

B. Government:

There is a potential indeterminable fiscal impact on state attorney offices and on local law enforcement agencies because the amount of additional staff, if any, that might be needed to implement the bill's notification requirements is unknown. However, this would only be a concern if these agencies choose

not to use the local witness coordinating office or if one did not exist in that county to carry out the bill's notification requirements. Similarly, if the local witness coordinating offices are used to carry out the bill's notification requirements, instead of state attorneys and law enforcement, there could be an indeterminable fiscal impact on them. Also unknown is the potential loss of state attorney and law enforcement service hours because of the bill's training requirement.

Finally, if services such as parking, transportation, and separate waiting areas were provided for victims and witnesses, it could have a significant fiscal impact on the local agencies responsible for implementing these services. It is difficult to determine when such services would have to be provided since the bill only requires them on an "as is practicable" basis.

III. COMMENTS:

Approximately 14 other states have considered passing similar type legislation which would enumerate standards of fair treatment by the various criminal justice agencies for crime victims and witnesses, although only 5 of these states have actually enacted this legislation.

SB 238 is very similar to the Federal Victim and Witness Protection Act of 1982, as well as to HB 58 and HB 133, both of which are in the House Criminal Justice Committee.

SJR 111 recently passed out of the Senate Judiciary Criminal Committee. The resolution would give crime victims a state constitutional right to be present and heard at all stages of the criminal judicial proceedings. Although SB 238 addresses various victim services, primarily notification of the status of the criminal judicial proceedings, it does not necessarily address the extent of the broader constitutional right that would be granted by SJR 111.

The Florida Department of Law Enforcement expressed concern as to whether the language in SB 238 which says "victim assistance training shall be offered" means mandatory training or whether it means mandatory offering of the training, and optional taking of it. They expressed an additional concern that the bill does not specify any criteria for distributing potential federal witness assistance grants.

In the few counties where there is no local witness coordinating office, or where the state attorney or law enforcement agency choose not to use this office, there might be some confusion as to who would be responsible under the bill for notifying victims and witnesses of scheduling changes, and of the various judicial proceedings.

IV. AMENDMENTS:

None.

Bill Analysis



FLORIDA HOUSE OF REPRESENTATIVES

H. Lee Moffitt, Speaker Steve Pajele, Speaker pro tempore
Committee on Criminal Justice

Elvin L. Martinez
Chairman
Harold W. Spaet
Vice Chairman

HB 774 by Reps. Lehtinen
and Ros relating to victim
and witness protection

DATE: April 6, 1984

REVISED: _____

OTHER COMMITTEES OF REFERENCE:
Appropriations

REVISED: _____

SENATE BILL: _____

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CRIMINAL CODE
SUB-Committee
4/9/84

I. SUMMARY

A. PRESENT SITUATION:

Section 921.143, F.S., currently provides that the victim of a crime, in cases where the defendant has plead guilty or nolo contendere to the crime, may appear before the sentencing court to make a statement or submit a written statement under oath for the record or submit a written statement under oath to the sentencing court. Any such statements must relate to injuries, financial losses, and loss of earnings directly resulting from the crime for which the defendant is being sentenced

Section 944.512, F.S., currently delineates the order for distribution of proceeds from literary and motion picture accounts of crime for which a convicted felon is imprisoned. Proceeds shall be distributed as follows: twenty-five percent to the dependents of the convicted felon; twenty-five percent to the victim or victims of the crime or to their dependents, as may be determined by the court in lien enforcement proceedings; any amount necessary to pay court costs and per capita cost of imprisonment in the state correctional system, with the remainder to the convicted felon upon his or her release.

Section 775.087, F.S., provides that, in addition to any other punishment, the court may, in its discretion, order a defendant to make restitution to the aggrieved party only if the defendant is able or will be able to make such restitution. This section also states that the court shall consider the financial resources and the burden the payment of restitution will impose on the defendant. The defendant may petition the court for

remission from any payment of restitution or part thereof. If the defendant defaults in any payment of restitution, the court may punish such action through contempt proceedings or may modify the order requiring restitution.

Section 921.87, F.S., authorizes an order of restitution as an alternative for the disposition in criminal cases.

Section 943.091, F.S., provides that the Department of Corrections may require inmates working at paid employment to make restitution to the aggrieved party in an amount determined by the department.

Section 948.03, F.S., provides that restitution shall be a condition of probation or community control unless the court determines that compelling and extraordinary reasons exist not to impose such restitution.

Section 960.17, F.S., states that the court may set as a condition of probation, as provided in chapter 943, the payment of a debt owed to the state under the Florida Crimes Compensation Act by any person found, in either a criminal or civil proceeding in which he is a party, to have committed such criminal act. The Parole and Probation Commission may make payment of the debt owed to the state a condition of parole.

Section 947.181, F.S., gives the Parole and Probation Commission the authority to require reparation or restitution to an aggrieved party as a condition of parole. The maximum amount of reparation or restitution may be set by the court at the time of sentencing.

Section 918.14, F.S., currently provides that it is unlawful, in specified situations, to induce or cause a witness to (1) testify or inform falsely or (2) withhold any testimony, information, document, or thing. Violation of this section shall constitute a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Any person violating this section by use of force, deception, threat or offer of pecuniary benefit shall constitute a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Any person who (1) causes a witness to be placed in fear or threats of force, (2) makes an assault upon any witness or informant, or (3) harms a witness by unlawful act in retaliation against a witness for anything lawfully done in the capacity of witness or informant, shall be guilty of a felony of the third degree.

Section 119.07, F.S., specifies the exemptions under the Florida Public Records law. Criminal intelligence and investigative information is exempt from public disclosure. Information relating to a victim or witness of any felony is not specifically exempt under this section.

B. EFFECT OF PROPOSED CHANGES:

This bill creates the "Victim and Witness Protection Act of 1984". The Legislative intent and purposes of this act are to enhance and protect victims and witnesses in the criminal justice process and to ensure that the state does all that is possible within limits of available resources to assist victims and witnesses of crime.

Section 921.143 is amended to expand the authority of victims of crime to appear and make statements at the sentencing hearing. Victims as well as the next of kin of the victim (if the victim has died from causes related to the crime) could provide oral or written statements to the court regarding the crime. Such statements would include information relating to social and psychological harm that is the direct or indirect result of the crime.

Section 914.16 is created to authorize the use of photographs of property wrongfully taken and provides for an expedited return of such property to the owner from whom the property was taken.

Section 944.512 is amended to change the distribution of proceeds from literary or motion picture accounts of crime for which a defendant was imprisoned to give priority to the victim or victims of crime and to eliminate any distribution to the convicted felon or his family. The Crimes Compensation Trust Fund would receive the remainder of the proceeds after the victim and court costs are paid.

Section 775.089 is amended to require the court to order a defendant to make restitution to the victim unless the court finds and discloses compelling and extraordinary reasons not to order restitution. Subsection 775.089(1)(c) is created to define the term victim as including the aggrieved party, the aggrieved party's estate if the aggrieved party is deceased, and the aggrieved party's next of kin if the aggrieved party is deceased as a result of the offense. Subsection (2) is created to specify the types of restitution which may be ordered. If an offense results in bodily injury, the defendant may be ordered to pay the cost of: medical-related professional services; physical and occupational therapy; income lost by the victim as a result of the offense; and funeral and related services if the victim is deceased. Subsection (3) is created to change the procedures relating to orders requiring restitution. Subsection (4) is established to require that any restitution ordered under this section shall be a condition of probation or parole. Subsection (5) is created to enforce an order of restitution. Subsections (6) and (7) specify the factors which must be considered when the court is determining whether to order restitution and the amount. Subsection (8) states that conviction shall prevent the defendant from denying certain allegations of that offense in any civil proceedings.

Subsection (7) of section 921.187 is created to require that the court order an offender to make restitution pursuant to s. 775.091 unless the court finds and discloses extraordinary and compelling reasons to the contrary.

Section 945.091 is amended to require the Department of Corrections to order inmates working at paid employment to make restitution except in extraordinary cases, the reason for which must be disclosed by the department.

Section 948.03 is amended to require that the court disclose the reasons for not ordering restitution or only ordering partial restitution when an offender is placed on probation or community control.

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Section 960.17 is amended to conform to other provisions of this bill.

Section 947.181 is amended to require the Parole and Probation Commission to order restitution as a condition of parole except in extraordinary cases. The amount of such reparation or restitution would be determined by the Parole and Probation Commission.

Section 960.30 is created to require various state agencies, i.e., the Department of Legal Affairs, the state attorneys, the Department of Corrections, the Parole and Probation Commission, the State Courts Administrator, the Department of Law Enforcement, and every sheriff's department, police department, or other law enforcement agency, to develop and implement guidelines for the fair treatment of victims and witnesses of crime. Such guidelines shall, as much as possible, have the following objectives: (1) services to victims of crime; (2) victim notification of scheduling changes; (3) prompt notification to victims of serious crimes; (4) consultation with victim; (5) separate waiting areas; (6) expedited property returns; (7) notification to employer; and (8) general victim assistance.

Section 903.047 is established to state that the court shall, as a condition of bail, require the defendant to refrain from criminal activity of any kind and refrain from any contact with the victim except through pretrial discovery.

Sections 914.21, 914.22 and 914.23, are created to provide definitions with respect to illegal activities concerning victims, witnesses, and informants of criminal activity. Section 914.22 expands and increases penalties applicable to unlawful tampering with victims and witnesses of crime. Whoever knowingly uses intimidation or physical force, or threatens or attempts to threaten another person with intent to influence the testimony of another person in an official proceeding or cause or induce any person to engage or fail to engage in certain activities shall be guilty of a felony of the second degree. Whoever harasses another person and thereby hinders, delays, or prevents any person from engaging in certain activities shall be guilty of a felony of the third degree.

Section 914.23 is created to prohibit retaliation against a witness, victim, or an informant under certain circumstances. Any actual retaliation or attempted retaliation is punishable as a felony of the third degree.

Section 914.24 is created to authorize initiation of a civil action to prevent harassment of witnesses and victims. The circuit court, upon application of the state attorney, shall issue a restraining order prohibiting harassment of a victim or witness if the court finds reasonable grounds for such an order. A protective order prohibiting harassment may also be issued. "Harassment" is defined in this section to mean conduct directed at a specific person that causes substantial emotional distress in such victim or witness and serves no legitimate purpose.

Section 119.07 is amended to exclude certain information relating to a victim or witness of any felony from disclosure under the Public Records law.

II. FISCAL IMPACT

The provisions of this bill have a potential impact on many components of the criminal justice system. Expanding the provisions relating to restitution may result in increased costs associated with the judicial and correctional systems. Mechanisms to collect such restitution may require expansion. Court hearings may be delayed due to the extended authority of victims of crime to appear and make statements at sentencing hearings. Expert testimony may be necessary to support information presented at such a hearing relevant to social, psychological or physical harm, directly or indirectly, resulting from the crime. There also may be additional expenses associated with an increase in administrative responsibilities within the clerks' offices.

Further, separate waiting areas for victims and other prosecution witnesses may result in capital outlay or rental expenditures for the judicial circuits.

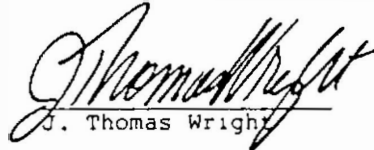
III. COMMENTS

IV. AMENDMENTS

Prepared by:


Marie A. Mattox

Staff Director:


J. Thomas Wright

Copy to Sponsor: April 6, 1984

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1	A bill to be entitled	
2	An act relating to victim and witness	
3	protection; providing a short title; providing	
4	intent; amending s. 921.143, F.S., expanding	1.5
5	provisions relating to victims' statements at	
6	sentencing proceedings; creating s. 914.16,	1.6
7	F.S., authorizing use in evidence of	
8	photographs of property wrongfully taken in a	
9	crime; amending s. 944.512, F.S., changing the	1.7
10	distribution of proceeds of literary or other	
11	accounts of a crime payable to the convicted	1.8
12	felon; amending s. 775.089, F.S., requiring the	
13	court to order restitution except in	1.9
14	extraordinary cases; specifying types of	
15	restitution and providing for enforcement	1.10
16	thereof; amending ss. 921.187, 945.091, 948.03,	
17	and 960.17, F.S., to conform; amending s.	1.11
18	947.181, F.S., requiring the Parole and	
19	Probation Commission to order restitution as a	
20	condition of parole except in extraordinary	1.12
21	cases; creating s. 960.30, F.S., providing for	
22	the creation of guidelines for the treatment of	1.13
23	victims and witnesses of crime; creating s.	
24	903.047, F.S., creating certain conditions of	1.14
25	pretrial release on bail; creating ss. 914.21,	
26	914.23, and 914.24, F.S., and amending s.	1.15
27	918.14, F.S., providing definitions; expanding	
28	provisions prohibiting tampering with witnesses	1.16
29	to include victims and informants; prohibiting	
30	retaliation against such persons; authorizing	1.17
31	civil actions to restrain harassment; amending	

1	s. 119.07, F.S., providing for the	1.18
2	confidentiality of certain law enforcement	
3	information relating to victims and witnesses;	
4	providing an effective date.	1.19
5		
6	Be It Enacted by the Legislature of the State of Florida:	1.19
7		
8	Section 1. This act shall be known and may be cited as	1.20
9	the "Victim and Witness Protection Act of 1984."	1.21
10	Section 2. Findings and intent.--	1.21
11	(1) The Legislature finds and declares that:	1.22
12	(a) Even though there is a growing recognition that	1.22
13	the criminal justice system would cease to function without	1.23
14	the cooperation of victims and witnesses, the historic	1.24
15	unresponsiveness of the criminal justice system to the real	
16	needs of victims and witnesses has not yet been fully	1.25
17	corrected.	
18	(b) Although in recent years Florida has made	1.26
19	substantial positive strides toward ensuring that victims and	
20	witnesses are properly treated, victims and witnesses are	1.27
21	sometimes still either ignored by the criminal justice system	1.28
22	or used simply as tools to identify and punish offenders.	
23	(c) Despite commendable efforts by many state	1.29
24	attorneys and law enforcement agencies to increase cooperation	
25	with, and responsiveness to, victims and witnesses,	1.30
26	occasionally these individuals are not even notified when the	1.31
27	defendant is released on bail, the case is dismissed, a plea	
28	for a lesser charge is accepted, or a court date is changed.	1.32
29	(d) While state law provides the option of financial	1.33
30	restitution to victims by defendants, most victims are never	1.34
31		

1	fully or even partially compensated by defendants for their	
2	injuries and other losses.	1.35
3	(e) Under current law, the legal prohibitions against	1.36
4	threats and harassment of victims and witnesses and the	1.37
5	protections of victims and witnesses against intimidation are	
6	not adequate.	1.38
7	(f) The victim may lose valuable property to a	1.38
8	criminal, only to lose it again for long periods of time to	1.39
9	law enforcement officials, until the trial and sometimes until	1.40
10	appeals are ended.	
11	(2) The legislative intent and purposes of this act	1.41
12	are:	
13	(a) To enhance and protect the necessary role of	1.42
14	victims and witnesses in the criminal justice process; and	
15	(b) To ensure that the state does all that is possible	1.43
16	within limits of available resources to assist victims and	1.44
17	witnesses of crime without infringing on the constitutional	
18	rights of defendants.	1.45
19	Section 3. Section 921.143, Florida Statutes, is	1.45
20	amended to read:	
21	921.143 Appearance of victim to make statement at	1.46
22	sentencing hearing; submission of written statement.--	
23	(1) At the sentencing hearing, and prior to the	1.48
24	imposition of sentence upon any defendant who has <u>been</u>	1.49
25	<u>convicted of any felony or who has pleaded guilty or nolo</u>	1.50
26	<u>contendere to any crime, the sentencing court shall permit the</u>	1.52
27	<u>victim of the crime for which the defendant is being</u>	1.54
28	<u>sentenced, or the next of kin of the victim if the victim has</u>	
29	<u>died from causes related to the crime, to:</u>	1.55
30	(a) Appear before the sentencing court for the purpose	1.56
31	of making a statement under oath for the record; or	1.57

1 and any other special circumstances that may have a bearing on 2.82
 2 the defendant's ability to pay.

3 (5) An order of restitution may be enforced by the 2.83
 4 state or a victim named in the order to receive the
 5 restitution in the same manner as a judgment in a civil 2.84
 6 action.

7 (6) The court, in determining whether to order 3.1
 8 restitution and the amount of such restitution, shall consider
 9 the amount of the loss sustained by any victim as a result of 3.2
 10 the offense, the financial resources of the defendant, the 3.3
 11 financial needs and earning ability of the defendant and the
 12 defendant's dependents, and such other factors as the court 3.4
 13 deems appropriate.

14 (7) Any dispute as to the proper amount or type of 1:1us
 15 restitution shall be resolved by the court by the 3.6
 16 preponderance of the evidence. The burden of demonstrating 3.7
 17 the amount of the loss sustained by a victim as a result of
 18 the offense shall be on the state attorney. The burden of 3.9
 19 demonstrating the financial resources of the defendant and the
 20 financial needs of the defendant and such defendant's 3.10
 21 dependents shall be on the defendant. The burden of 3.11
 22 demonstrating such other matters as the court deems
 23 appropriate shall be upon the party designated by the court as 3.12
 24 justice requires.

25 (8) A conviction of a defendant for an offense 3.13
 26 involving the act giving rise to restitution under this
 27 section shall estop the defendant from denying the essential 3.14
 28 allegations of that offense in any subsequent civil
 29 proceeding. 3.15

30 ~~(2) -- In determining the amount and method of payment of~~ 1:1os
 31 ~~restitution, the court shall consider the financial resources~~ 3.17

1	of the defendant and the burden the payment of restitution	3.18
2	will impose on the defendant.	
3	(3) -- Any defendant ordered to make restitution may	3.19
4	petition the court which ordered him to make such restitution	3.20
5	for remission from any payment of restitution or from any	3.21
6	unpaid portion thereof. -- If the court finds that the payment	3.22
7	of restitution due will impose an undue hardship on the	3.23
8	defendant or his family, the court may grant remission from	
9	any payment of restitution or modify the method of payment.	3.24
10	<u>(9)</u> (4) When a corporation or unincorporated	3.25
11	association is ordered to make restitution, the person	3.26
12	authorized to make disbursements from the assets of such	3.27
13	corporation or association shall pay restitution from such	
14	assets, and such person may be held in contempt for failure to	3.28
15	make such restitution.	
16	(5) -- If a defendant who is required to make restitution	1:105
17	defaults in any payment of restitution or installment thereof,	3.30
18	the court may hold him in contempt unless such defendant has	3.31
19	made a good faith effort to make restitution. -- If the	3.32
20	defendant has made a good faith effort to make restitution,	
21	the court may, upon motion of the defendant, modify the order	3.33
22	requiring restitution by	
23	(a) -- Providing for additional time to make any payment	3.34
24	in restitution.	
25	(b) -- Reducing the amount of any payment in restitution	3.35
26	or installment thereof.	
27	(c) -- Granting a remission from any payment of	3.36
28	restitution or part thereof.	
29	<u>(10)</u> (6) Any default in payment of restitution may be	3.37
30	collected by any means authorized by law for enforcement of a	3.38
31	judgment.	

1	<u>(11)</u> (7) The court may order the clerk of the court to	1:lus
2	collect and dispense restitution payments in any case.	3.41
3	Section 7. Section 921.187, Florida Statutes, is	3.42
4	amended to read:	
5	921.187 Disposition and sentencing; alternatives.--	3.44
6	<u>(1)</u> The following alternatives for the disposition of	3.45
7	criminal cases shall be used in a manner which will best serve	3.46
8	the needs of society, which will punish criminal offenders,	
9	and which will provide the opportunity for rehabilitation. A	3.48
10	court may:	
11	<u>(a)</u> (1) Place an offender on probation with or without	3.51
12	an adjudication of guilt pursuant to s. 948.01.	
13	<u>(b)</u> (2) Impose a fine and probation pursuant to s.	3.53
14	948.011 when the offense is punishable by both a fine and	3.54
15	imprisonment and probation is authorized.	
16	<u>(c)</u> (3) Place a felony offender into community control	3.56
17	requiring intensive supervision and surveillance pursuant to	3.57
18	chapter 948.	3.58
19	<u>(d)</u> (4) Impose, as a condition of probation or	1:lus
20	community control, a period of treatment which shall be	3.61
21	restricted to either a county facility, a Department of	
22	Corrections probation and restitution center, or a community	3.62
23	residential or nonresidential facility, excluding a community	
24	correctional center as defined in s. 944.026, which is owned	3.64
25	and operated by any public or private entity providing such	
26	services. Before admission to such a facility, the court	3.66
27	shall obtain an individual assessment and recommendations on	3.67
28	the appropriate treatment needs pursuant to the Community	
29	Control Implementation Manual, which assessment and	3.68
30	recommendations shall be considered by the court in ordering	
31	such placements. Placement in such a facility may not exceed	3.70