

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** CS/HB 229

Rape Crisis Programs

**SPONSOR(S):** Jenne

**TIED BILLS:**

**IDEN./SIM. BILLS:** SB 400

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	<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
1)	Criminal & Civil Justice Appropriations Committee	11 Y, 0 N, As CS	McAuliffe	Davis
2)	Public Safety & Domestic Security Policy Committee			
3)	Full Appropriations Council on Education & Economic Development			
4)				
5)				

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**SUMMARY ANALYSIS**

Current law provides a \$151 surcharge on offenders convicted of sexual battery and other offenses including many of the aggravated battery and battery offenses. This bill provides additional offenses that would require the offender to pay the current surcharge. Funds are used to provide services for victims of sexual assault.

Current law also provides a \$201 surcharge on offenders convicted of sexual battery and domestic violence offenses. \$85 of this fee is deposited into the Domestic Violence Trust Fund. This bill increases that surcharge to \$301, and the amount deposited into the trust fund to \$185. Funds are used by the Department of Children and Family Services to fund domestic violence centers.

This bill will have a positive fiscal impact on the Rape Crisis Program Trust Fund and the Domestic Violence Trust Fund.

## HOUSE PRINCIPLES

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

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

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Rape Crisis Program Trust Fund**

In 2003, the Florida legislature created the Sexual Battery Victims' Access to Services Act (s. 794.055, F.S.) and the Rape Crisis Program Trust Fund (s. 794.056, F.S.) in the Department of Health.

The Sexual Battery Victims' Access to Services Act acknowledges that victims of sexual assault in the state of Florida should have access to basic services including: 24-hour hotline; information and referral service; crisis intervention; advocacy and support services; therapy; medical intervention; system coordination; and community awareness. The Rape Crisis Program Trust Fund was created to accept collected surcharges and other funds designated for rape crisis services. The Department of Health contracts with the Florida Council Against Sexual Violence to distribute the trust fund monies to rape crisis centers throughout Florida. Funds are distributed to rape crisis centers based on an allocation formula that takes into account the population and rural characteristics of each county. No more than 15 percent of the funds may be used by the statewide nonprofit association for statewide initiatives and no more than five percent of the funds may be used by the Department of Health for administrative costs (s. 794.055, F.S.).

Current law provides a \$151 (\$1 goes to the clerks of the court) surcharge on offenders convicted of sexual battery and other offenses including many of the aggravated battery and battery offenses be deposited into the Rape Crisis Program Trust Fund.

This bill provides additional offenses that would require the offender to pay the current surcharge. These offenses include: luring or enticing a child; human trafficking and smuggling; unlawful sexual activity with certain minors; female genital mutilation; procuring a person under 18 for prostitution; selling or buying minors into sex trafficking or prostitution; forcing, compelling, or coercing another to become a prostitute; sex trafficking; deriving support from prostitution; retaining space for lewdness or prostitution and other prostitution related crimes; exposure of sexual organs; voyeurism; home invasion robbery; home invasion by false personation; abuse of elderly or disabled person; lewd or lascivious offenses upon elderly or disabled person; written threats to kill or do bodily harm; computer pornography with a minor; transmission of pornography to minor; selling or buying of minors; and registering as a sexual offender.

##### **Domestic Violence Trust Fund**

Section 741.01, F.S., establishes the Domestic Violence Trust Fund within the Executive Office of the Governor for the purpose of collecting and disbursing funds generated from certain fees and

surcharges. Those funds are directed to the Department of Children and Family Services (department) for the specific purpose of funding domestic violence centers.

The department certifies and monitors domestic violence centers across the state of Florida. There are currently 42 certified domestic violence centers which provide crisis intervention and support services to adult victims of domestic violence and their children. The department also provides oversight of state and federal funding for domestic violence services. Section 39.903 (7), F.S., requires the department to contract with a statewide association (Florida Coalition Against Domestic Violence) to implement, administer, and evaluate all services provided by the domestic violence centers.

Current law (s. 938.08, F.S.) provides a \$201 surcharge on offenders convicted of sexual battery and other offenses including many of the aggravated battery and domestic violence offenses. Of this fee, \$85 is deposited into the Domestic Violence Trust Fund to fund domestic violence centers; the clerk of the court retains \$1; and the remainder of the surcharge is provided to the governing board of counties to defray the costs of incarcerating persons sentenced for domestic violence crimes and to provide additional training to law enforcement personnel in combating domestic violence.

This bill increases the surcharge to \$301, and provides that the entire \$100 increase be deposited into the Domestic Violence Trust Fund.

#### B. SECTION DIRECTORY:

- Section 1. Amends s. 794.056, F.S., providing additional offenses which require a surcharge payment.
- Section 2. Amends s. 938.08, F.S., increasing a surcharge payment.
- Section 3. Amends s. 938.085, F.S., providing additional offenses which require a surcharge payment.
- Section 4. Reenacts s. 20.435, F.S., incorporating the amendments made by this act.
- Section 5. Reenacts s. 794.055, F.S., incorporating the amendments made by this act.
- Section 6. Provides an effective date of July 1, 2010.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

This bill will have a positive fiscal impact on the Rape Crisis Program Trust Fund. According to the Florida Department of Law Enforcement, in 2008 there were 2,086 people convicted of the additional offenses in this bill that would require payment of the \$151 surcharge (\$1 goes to the courts). This would generate approximately \$312,900 for the Rape Crisis Program Trust Fund to fund sexual battery victims services.

This bill will have a positive fiscal impact on the Domestic Violence Trust Fund. According to the Florida Department of Law Enforcement, in 2008 there were 20,888 people convicted of the offenses assessed the surcharge under s. 938.08, F.S. According to these numbers, the \$100 increase for the Domestic Violence Trust Fund in this bill would generate approximately \$2,088,800 for domestic violence centers.

This will not affect the advance of this surcharge which is currently provided to the governing board of the county.

##### 2. Expenditures:

None.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

##### 1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 26, 2010, the Criminal and Civil Justice Appropriations Committee adopted an amendment that raised the surcharge on offenders convicted of sexual battery and domestic violence offenses from \$201 to \$301, and provides the \$100 increase will be deposited into the Domestic Violence Trust Fund.