

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1315 Crime Stoppers Programs  
**SPONSOR(S):** Beltran  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1766

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Justice Appropriations Subcommittee	10 Y, 0 N	Jones	Gusky
2) Criminal Justice Subcommittee			
3) Appropriations Committee			

### SUMMARY ANALYSIS

Crime Stoppers organizations are nonprofit entities that partner with law enforcement and the community to fight crime by receiving information about alleged criminal activity through a designated hotline or through electronic means and then forwarding such information to appropriate law enforcement agencies. These organizations often create incentives to report crimes by providing monetary rewards and by allowing the person reporting the crime to remain anonymous.

Funds collected in the Crime Stoppers Trust Fund, housed within the Department of Legal Affairs, are annually awarded as grants to counties with an official crime stoppers organization. These grants are awarded based on court costs deposited into the Fund from that county's judicial circuit. These grant funds may be used to reward a provider of a tip that leads to an arrest, arrest warrant, or recovery of stolen property or drugs.

Several other states classify communications with a crime stoppers organization as privileged, as is the identity of the tipster and any information or tangible things collected from tipsters by crime stopper organizations. While at least six other states provide criminal penalties for the disclosure of such information, currently Florida does not.

HB 1315 expands the use of crime stopper grant funds for rewards for tips, and allows up to 50 percent of unencumbered funds returned to the Crime Stoppers Trust Fund from a previous grant year be reallocated to other judicial circuits for special crime stoppers initiatives or other programs of the Florida Association of Crime Stoppers.

The bill also adds communication between a person and a crime stoppers organization as *privileged* within the Florida Evidence Code and classifies certain information connected with such communication as *protected*. A person who discloses such communication or protected information commits a third degree felony.

The Criminal Justice Impact Conference reviewed a similar provision in 2018 (CS/SB 706), and determined the bill would have a positive insignificant prison bed impact (an increase of fewer than 10 prison beds).

The provisions of the bill related to rewards and grant funding (section 1) take effect July 1, 2019; the provisions of the bill that create the criminal penalty (section 2) take effect October 1, 2019. The bill takes effect upon becoming law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

##### Crime Stoppers Organizations

Crime Stoppers organizations are nonprofit entities that partner with law enforcement and the community to fight crime.<sup>1</sup> Crime Stoppers organizations receive information about alleged criminal activity through a designated hotline or through electronic means and then forward the information to appropriate law enforcement agencies.<sup>2</sup> Such organizations often create incentives to report crimes by providing monetary rewards and by allowing the person reporting the crime to remain anonymous.<sup>3</sup>

In Florida, Crime Stoppers refers to members of the Florida Association of Crime Stoppers, Inc.<sup>4</sup> There are 27 official Crime Stopper organizations serving 61 of Florida's 67 counties.<sup>5</sup>

##### *Crime Stoppers Funding*

In 1991, the Legislature created s. 16.555, F.S., which required the Department of Legal Affairs to establish a Crime Stoppers Trust Fund.<sup>6</sup> At the time, the Crime Stoppers Trust Fund was solely funded through federal, state, and private grants awarded to the Department.<sup>7</sup>

In 1998, the Legislature added a funding source in s. 938.06, F.S., by imposing a \$20 court cost on persons convicted of any criminal offense.<sup>8</sup> The proceeds from the \$20 court cost are deposited in a separate account within the Crime Stoppers Trust Fund and designated according to the judicial circuit from which they were collected.<sup>9</sup> Counties may apply to the Department for an annual grant from the funds collected by their judicial circuit.<sup>10</sup> However, grants may only be awarded to counties that are served by a Crime Stoppers program that is an official member of the Florida Association of Crime Stoppers.<sup>11</sup> The Department is required to award grants to eligible counties as equitably as possible based on amounts collected in each county.<sup>12</sup>

In Fiscal Year 2017-2018, the Crime Stoppers Trust Fund received approximately \$3.8 million in funds and disbursed \$3.3 million. The Trust Fund had a balance of over \$9 million as of June 30, 2018, of which \$4,282,258 is encumbered through Fiscal Year 2018-2019.<sup>13</sup>

##### *Use of Crime Stoppers Grants*

Eligible programs must complete and submit a performance-based grant proposal outlining its annual operational plan.<sup>14</sup> Grant funds are used to fund Crime Stoppers programs, to purchase and distribute

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<sup>1</sup> See Florida Association of Crime Stoppers, <https://www.facsflorida.org> (last visited Mar. 20, 2019).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> S. 16.555(1)(c), F.S.

<sup>5</sup> Office of Attorney General/Department of Legal Affairs, *Division of Victim Services and Criminal Justice Programs Annual Report 2017-2018*, p. 11.

<sup>6</sup> Ch. 91-205, L.O.F.

<sup>7</sup> *Id.*

<sup>8</sup> Ch. 98-319, L.O.F.

<sup>9</sup> Ss. 938.06 and 16.555, F.S.

<sup>10</sup> Section 16.555(5), F.S.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> OAG/DLA, *supra* note 5, at 1.

<sup>14</sup> Florida Association of Crime Stoppers, *Funding*, <https://www.facsflorida.org/who-we-are/62-2/> (last visited Mar. 18, 2019).

promotional and educational items about Crime Stoppers, and to fund student crime watch programs.<sup>15</sup> Grant funds are also used to reimburse rewards to tipsters, but require the reward must have been for a tip that lead to an arrest, arrest warrant, or recovery of stolen property or drugs.<sup>16</sup> Additionally, to receive reimbursement, the tip must have been processed in such a way to protect the anonymity of the tipster with the tipster remaining anonymous to the organization and law enforcement.

### Privileged Communications in the Florida Evidence Code

The Florida Evidence Code (Code) specifies what types of evidence and testimony are admissible in court.<sup>17</sup> The Code makes certain communications privileged, meaning their disclosure generally cannot be compelled, even in legal proceedings. Examples of generally privileged communications include communications between a lawyer and client,<sup>18</sup> communications between a husband and wife,<sup>19</sup> and communications between a psychotherapist and a patient.<sup>20</sup>

Typically, such communication only loses its privileged status if the person who made the original disclosure of such information waives the privilege, thus permitting the communication to be subject to general rules of evidence. A person is deemed to have waived the privilege if he or she voluntarily discloses or makes the communication when he or she does not have a reasonable expectation of privacy, or consents to the disclosure of any significant part of the communication.<sup>21</sup>

### Crime Stoppers Privileged Communication in Other States

Several other states classify communications with a crime stoppers organization as privileged, as is the identity of the tipster and any information or tangible things collected from tipsters by crime stopper organizations.<sup>22</sup> At least six states have created criminal penalties for the prohibited disclosure of such protected information; however, the criminal penalty is generally a misdemeanor, rather than a felony.<sup>23</sup>

## **Effect of Proposed Changes**

### Use of Crime Stoppers Funding

HB 1315 allows up to 50 percent of unencumbered funds returned to the Crime Stoppers Trust Fund from a previous grant year be reallocated to other judicial circuits for special crime stoppers initiatives or other programs of the Florida Association of Crime Stoppers, as determined by the Association and Department of Legal Affairs.

The bill lists out and expands the use of crime stopper grant funds, providing that a county awarded a crime stoppers grant under s. 16.555, F.S., may use such funds to pay rewards for tips that result in:

- An arrest;
- Recovery of stolen property, illegal narcotics, the body of a homicide victim, an illegal firearm, or an illegal weapon on a K-12 school campus;

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<sup>15</sup> S. 16.555(5), F.S.

<sup>16</sup> R. 2A-9.006, F.A.C.

<sup>17</sup> Ch. 90, F.S.

<sup>18</sup> S. 90.502, F.S.

<sup>19</sup> S. 90.504, F.S.

<sup>20</sup> S. 90.503, F.S.

<sup>21</sup> S. 90.507, F.S.

<sup>22</sup> These states include: Arkansas, Colorado, Connecticut, Kentucky, Louisiana, Michigan, Mississippi, New Mexico, Oklahoma, and Texas. See ARK. CODE § 16-90-1005; COLO. REV. STAT. § 16-5.7-104; CONN. GEN. STAT. § 29-1d; KY. REV. STAT. ANN. § 431.580; LA. REV. STAT. ANN. § 15:477.1; MICH. COMP. LAWS § 600.2157B; MISS. CODE ANN. § 45-39-7; N.M. STAT. § 29-12A-4; OKLA. STAT. tit. 12, § 2510.1; and TEX. CODE ANN. § 414.008.

<sup>23</sup> Six states that assign criminal penalties are Arkansas, Colorado, Kentucky, Mississippi, New Mexico, and Texas. The exception to the offense being classified as a misdemeanor is in Texas where the offense is a felony if the person divulged the information for the purposes of obtaining a monetary benefit. See ARK CODE § 16-90-1006; COLO. REV. STAT. § 16-15.7-104; KY. REV. STAT. ANN. § 431.585; MISS. CODE ANN. § 29-12A-5; and TEX. CODE ANN. § 414.009.

- Prevention of a terrorist act; or
- Solving and closing a homicide or other violent felony offense unsolved for at least one year after being reported to a law enforcement agency, and that has no viable and unexplored investigatory leads.

These changes (section 1 of the bill) take effect July 1, 2019.

### Crime Stoppers Privileged Communication

The bill adds communication between a person and a crime stoppers organization as *privileged* within the Florida Evidence Code.

The bill defines:

- "Crime stoppers organization" as a private, not-for-profit organization that collects and expends donations for rewards to persons who report to the organization information concerning criminal activity and forwards that information to appropriate law enforcement agencies.
- "Privileged communication" as the act of providing information to a crime stoppers organization for the purpose of reporting alleged criminal activity.
- "Protected information" as the identity of a person who engages in privileged communication with a crime stoppers program and any records, recordings, oral or written statements, papers, documents, or other tangible things provided to or collected by:
  - A crime stoppers organization,
  - A law enforcement crime stoppers coordinator or his or her staff, or
  - A law enforcement agency in connection with such privileged communication.

Except pursuant to criminal discovery, a person who discloses privileged communication or protected information, or any information concerning privileged communication or protected information, commits a third degree felony.<sup>24</sup> This does not apply to:

- The person who provides the privileged communication or protected information.
- A law enforcement officer, employee of a law enforcement agency, or employee of the Department of Legal Affairs when acting within the scope of his or her official duties.

These changes (section 2 of the bill) take effect October 1, 2019.

#### B. SECTION DIRECTORY:

**Section 1:** Amends s. 16.555, F.S., relating to Crime Stoppers Trust Fund; rulemaking.

**Section 2:** Creates s. 16.557, F.S., relating to Crime stopper organizations; disclosure of privileged communications or protected information.

**Section 3:** Provides the following effective dates of the bill: Section 1 takes effect July 1, 2019; Section 2 takes effect October 1, 2019; and Section 3 takes effect upon becoming law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

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

##### 1. Revenues:

None.

<sup>24</sup> Ss. 775.082 and 775.083, F.S., provide a third degree felony is punishable by up to 5 years in prison and a fine of up to \$5,000.

2. Expenditures:

The bill has not been reviewed by the Criminal Justice Impact Conference (CJIC). However, regarding the creation of the criminal penalty, the CJIC reviewed a similar provision in 2018 (CS/SB 706) and determined the bill would have a positive insignificant prison bed impact (an increase of 10 or fewer prison beds).<sup>25</sup>

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill may have a positive insignificant impact on jail beds as a result of the newly created criminal offense.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill allows the Department of Legal Affairs to reallocate 50 percent of unencumbered funds returned to the Crime Stoppers Trust Fund from a judicial circuit to other judicial circuits. This will likely have a positive impact on crime stopper organizations that could utilize funding in excess of what is available to them based on the amount of funds collected in their judicial circuit.

While the Crime Stoppers Trust Fund appears to have sufficient funds to accommodate changes made by the bill at this time, an increase in payouts for tips and expanded use of funds may negatively impact the trust fund over time, potentially impacting future Crime Stoppers grant funding.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to impact county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Department of Legal Affairs has sufficient rulemaking authority in current law to implement the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

For the purpose of adding communication between a person and a crime stoppers organization as *privileged* within the Florida Evidence Code, the bill defines “Crime stoppers organization” more broadly than the term “Crime Stoppers” is defined in current law.

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<sup>25</sup> Criminal Justice Impact Conference, Office of Economic and Demographic Research, Narrative Analysis of Adopted Impacts: CS/SB 706 – Crime Stoppers Organizations (Feb. 12, 2018).

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**