

STORAGE NAME: h3359a.leps

DATE: March 25, 1998

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
LAW ENFORCEMENT & PUBLIC SAFETY
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 3359

RELATING TO: Protective Services for Certain Victims and Witnesses

SPONSOR(S): Representative Stafford

COMPANION BILL(S): SB 526 (s)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) LAW ENFORCEMENT & PUBLIC SAFETY YEAS 5 NAYS 0
- (2) CRIMINAL JUSTICE APPROPRIATIONS
- (3)
- (4)
- (5)

I. SUMMARY:

House Bill 3359 extends protective services to victims and witnesses who are at risk of harm when they cooperate in an investigation or prosecution of serious felony offence by adding criminal attempt, criminal solicitation, or criminal conspiracy to the definition of enumerated serious offences in s. 914.25, F.S. The enumerated "serious felony offenses" includes murder, manslaughter, sexual battery, aggravated stalking, aggravated battery, car jacking, home invasion robbery, burglary, arson, robbery, kidnaping, racketeering, and trafficking in controlled substances. Upon a determination by the statewide prosecutor or a state attorney that a victim or witness is critical to a criminal investigation or prosecution, the statewide prosecutor or state attorney must certify such a need and the protective services, which may include temporary relocation, shall be provided. If the service involves relocation, the Florida Department of Law Enforcement shall be notified and the department, in consultation with the statewide prosecutor or state attorney, and any law enforcement agencies involved with the case, shall coordinate the relocation. The lead law enforcement agency providing the service or relocation may seek reimbursement for expenses from the Victim and Witness Protection Review Committee.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Section 914.25, F.S., establishes the protocol for providing protective service to those victims and witnesses who cooperated in the investigation or prosecution of a serious felony offense. Serious felony offenses includes murder, manslaughter, sexual battery, aggravated stalking, aggravated battery, car jacking, home invasion robbery, burglary, arson, robbery, kidnaping, racketeering, and trafficking in controlled substances. The protective services is not available to victims and witnesses who are at risk of harm when they cooperate in the investigation or prosecution of criminal attempt, criminal solicitation or criminal conspiracy to commit any of the enumerated felonies.

Under current law, a law enforcement agency, state attorney, or the statewide prosecutor can identify a victim or witness who is believed to be critical to the investigation or prosecution and is at risk of harm because of any assistance or cooperation they provide in the case. A victim or witness can qualify as an "at risk" person if he or his immediate family has been subjected to violence, substantial threats of violence, or other acts of intimidation. If a determination is made by the appropriate state attorney or statewide prosecutor that the victim or witness is critical, then the witness or victim can be certified for special protection or temporary relocation services.

The law enforcement agency, in consultation with the certifying state attorney or statewide prosecutor, is responsible for providing the appropriate witness protection services. If the state attorney or statewide prosecutor finds a compelling need to temporarily relocate a victim or witness, the Florida Department of Law Enforcement coordinates with the state attorney and the investigating law enforcement agency to accomplish the relocation. Victims and witnesses can be protected for up to a year or until the risks have diminished. However, due to extenuating circumstances, protective services can be extended an additional year upon recertification by the appropriate state attorney or statewide prosecutor.

The lead law enforcement agency providing the protective service is authorized to seek reimbursement from the Victim and Witness Protection Review Committee. This committee, which is created within the Florida Violent Council, consist of the statewide prosecutor or a state attorney, a sheriff, a chief of police, and a designee of the executive director of the Florida Department of Law Enforcement. The committee is responsible for establishing the criteria for disbursing the funds and determining the amount of reimbursement. According to the Florida Department of Law Enforcement, there were eight request for protective services reimbursement during the current fiscal year. Of these, three request for reimbursement amounting to \$8,510.10 have been approved, three request amounting to \$6,335.05 are pending review, and one request was rescinded by the submitting agency.

B. EFFECT OF PROPOSED CHANGES:

House Bill 3359 makes protective services available to victims and witnesses who are at risk of harm because of their cooperation in an investigation or prosecution involving any of the enumerated serious felony offenses in s. 914.25, F.S., as well as the investigation or prosecution a criminal attempt, criminal solicitation, or criminal conspiracy to commit any of these enumerated felonies. For example, if there is a determination made by a state attorney that a victim of *attempted* murder is at risk of harm by virtue of his or her cooperation in the investigation or prosecution of this crime, the victim will be eligible for protective services under the bill. Without the bill, the victim in this example will remain ineligible for assistance under s. 914.25, F.S.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

N/A

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

N/A

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

N/A

b. Does the bill require or authorize an increase in any fees?

N/A

c. Does the bill reduce total taxes, both rates and revenues?

N/A

d. Does the bill reduce total fees, both rates and revenues?

N/A

e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

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- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

N/A

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

- (1) parents and guardians?

N/A

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(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

914.25, F.S.

E. SECTION-BY-SECTION RESEARCH:

This section need be completed only in the discretion of the Committee.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

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3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

N/A

3. Effects on Competition, Private Enterprise and Employment Markets:

N/A

D. FISCAL COMMENTS:

In FY 1997-98, the Florida Department of Law Enforcement received an appropriation of \$500,000 to implement this program. Thus far, FDLE has reimbursed \$8,510.10 for victim and witness protective services cost and has requests for \$6335.05 pending review by the Victim and Witness Protective Review Committee.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

N/A

V. COMMENTS:

N/A

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VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON Law Enforcement & Public Safety:

Prepared by:

Legislative Research Director:

James S. Trunzo

Kurt Ahrendt