

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 2066

SPONSOR: Criminal Justice Committee and Senator Smith

SUBJECT: Crime Victims

DATE: March 4, 2002

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Dugger</u>	<u>Cannon</u>	<u>CJ</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>JU</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

## I. Summary:

If a victim's restitution order is converted to a civil lien or civil judgment against a defendant, the CS would require the clerk of the court to provide information, in the form of written instructions, for victims on enforcing such civil lien or judgment. If an Internet website is available, the CS would require this information to be posted there as well.

This CS substantially amends section 960.001 of the Florida Statutes.

## II. Present Situation:

The Florida Constitution grants crime victims "the right to be informed, to be present, and to be heard when relevant, at all crucial stages of criminal proceedings, to the extent that these rights do not interfere with the constitutional rights of the accused." Art. I, s. 16(b), Fla. Const.

Chapter 960, F.S., entitled "Victim Assistance," contains numerous provisions relating to victims' rights and procedures. For example, s. 960.21, F.S., establishes the Crimes Compensation Trust Fund. Section 960.292, F.S., provides that the crime victim may petition the court to enter a civil restitution lien against the offender.

Section 960.001, F.S., provides comprehensive "guidelines for fair treatment of victims and witnesses" during criminal proceedings. The statute specifies the criminal justice agencies that are responsible for implementing these guidelines, including the following: the state attorneys, the Department of Corrections, the Department of Juvenile Justice, the Parole Commission, the Department of Legal Affairs, the State Courts Administrator and circuit court administrators, the Department of Law Enforcement, and all sheriff's offices, police departments, and other law enforcement agencies.

The guidelines include notice and the right to be heard during all criminal proceedings, the right to consult with the state attorney about the disposition of the case, the right to submit victim impact statements, the right to receive advance notification of judicial proceedings (when possible) and of scheduling changes, the right to request victim restitution, and the right to other general victim assistance.

Under 960.001(1)(j), F.S., law enforcement agencies and the state attorney are required to inform the victim of his or her right to request and receive restitution, and to enforce it if the offender does not comply with the restitution order. The state attorney is also required to inform the victim if and when restitution is ordered.

Section 775.089, F.S., provides that in sentencing an adult offender, in addition to any other punishment, the court must order restitution to the victim, unless the court finds clear and compelling reasons not to so order. Section 985.231, F.S., provides comparable restitution provisions for juvenile offenders. A victim can enforce a restitution order in the same manner as a judgment in a civil action.

### **III. Effect of Proposed Changes:**

If a victim's restitution order is converted to a civil lien or civil judgment against a defendant, the CS would require the clerk of the court to provide information, in the form of written instructions, for victims on enforcing such civil lien or judgment. The clerk would also be required to post this information on an Internet website, if one is available.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

### **V. Economic Impact and Fiscal Note:**

#### **A. Tax/Fee Issues:**

None.

#### **B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

According to the Florida Association of Court Clerks and Comptrollers, there should be no fiscal impact upon them by providing information for victims regarding civil liens.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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