

# 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 144  
SPONSOR: Criminal Justice Committee and Senator Cowin and others  
SUBJECT: Sexual Assault Victim Services  
DATE: March 13, 2003 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Clodfelter</u>	<u>Cannon</u>	<u>CJ</u>	<u>Favorable/CS</u>
2.	<u>                    </u>	<u>                    </u>	<u>HC</u>	<u>Withdrawn</u>
3.	<u>Keating</u>	<u>Johansen</u>	<u>FT</u>	<u>Favorable</u>
4.	<u>                    </u>	<u>                    </u>	<u>AHS</u>	<u>                    </u>
5.	<u>                    </u>	<u>                    </u>	<u>AP</u>	<u>                    </u>
6.	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>

## I. Summary:

The CS creates a new section of the Florida Statutes (to be numbered s. 938.085, F.S.) which provides that a sentencing court shall impose an additional \$151 surcharge against offenders who violate specified statutes concerning assault, battery, stalking or sexual battery. Collected costs (less a \$1 court clerk fee) are to be deposited in the Rape Crisis Program Trust Fund which is to be created by SB 146. The trust fund is to be used to provide sexual assault recovery services to victims and their families, and the CS defines nine services and programs that meet the definition of “sexual assault services.”

The CS requires that the Department of Health contract with a statewide not-for-profit association whose primary purpose is to represent and provide assistance to rape crisis centers. This association is to receive 95 percent of the funds in the Rape Crisis Program Trust Fund. Funds must be allocated and distributed by county, taking into account population and rural characteristics. No more than 15 percent may be used for statewide initiatives and no more than 5 percent may be used for administrative costs.

The department is required to ensure that funds are properly expended and is given authority to require an annual audit of expenditures. It is required to provide an annual report to the Legislature.

The CS creates two new sections of the Florida Statutes: one is to be numbered s. 938.085, F.S., and the other is as yet unnumbered.

## II. Present Situation:

There are currently 38 rape crisis centers in the State of Florida. The services available, as well

as the structure of the programs, vary widely from county to county. Services are performed by community-based programs in some areas and by county or city funded programs in others. Most service providers rely upon Victims of Crime Act (VOCA) funding from the Office of the Attorney General to augment their community's support of their programs. A few programs also receive funds from the Violence Against Women Act funding administered by the Department of Children and Families and from prevention education and service funding administered by the Department of Health.

Section 775.083(1) F.S., provides that a person who have been convicted of an offense other than a capital felony may be sentenced to pay a fine in addition to any punishment described in s. 775.082, F.S. Fines for designated crimes and for non-criminal violations shall not exceed:

- 1) \$15,000 when conviction is of a life felony.
- 2) \$10,000 when the conviction is of a felony of the first or second degree.
- 3) \$5,000 when the conviction is of a felony of the third degree.
- 4) \$1,000 when the conviction is of a misdemeanor of the first degree.
- 5) \$500 when the conviction is of a misdemeanor of the second degree or a non-criminal violation.

In addition to the fines provided in s. 775.083(1), F.S., subsection (2) of s. 775.083, F.S., authorizes a county to adopt an ordinance imposing a fine upon any person who, with respect to a charge, indictment, or prosecution commenced in that county, pleads guilty or nolo contendere to, or is convicted of or adjudicated delinquent for, a felony, a misdemeanor, or a criminal traffic offense. The fine is \$50 for a felony and \$20 for any other offense. The clerk of the court shall collect and deposit the fines in an appropriate county account for disbursement. These funds must be used for the costs of collecting the fines and for crime prevention programs in the county.

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

The CS does not directly affect the current funding sources or operations of local rape crisis centers. However, it creates a new source of revenue and guidelines for allocation and distribution of the newly-generated funds.

The CS creates s. 938.085, F.S., which requires a sentencing court to impose a \$151 surcharge upon anyone who violates one of the following statutes:

- s. 784.011, F.S. Assault
- s. 784.021, F.S. Aggravated assault
- s. 784.03, F.S. Battery; felony battery
- s. 784.041, F.S. Felony battery
- s. 784.045, F.S. Aggravated battery
- s. 784.048, F.S. Stalking
- s. 784.07, F.S. Assault on a law enforcement officers, firefighters, emergency medical care providers, public transit employees or agents, or other specified officers
- s. 784.08, F.S. Assault or battery on persons 65 years of age or older
- s. 784.081, F.S. Assault or battery on specified officials or employees

- s. 784.082, F.S. Assault or battery by a person who is being detained in a prison, jail, or other detention facility upon visitor or other detainee
- s. 784.083, F.S. Assault or battery on code inspectors
- s. 784.085, F.S. Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials
- s. 794.011, F.S. Sexual battery

The surcharge is to be imposed in addition to any other sanction and is to be assessed as a condition of probation, community control or other court ordered supervision. The CS directs that \$150 of the surcharge be deposited in the Rape Crisis Program Trust Fund and that the clerk of court receive \$1 as a service charge for each surcharge that the clerk collects.

The CS provides that funds received under the provisions of the new s. 938.085, F.S., must be used to provide sexual assault recovery services to victims and their families. Sexual assault recovery services are defined to include the following services provided to victims by a rape crisis center: a telephone hotline operated 24 hours a day and answered by a sexual assault counselor or trained volunteer; information and referral services; crisis-intervention services; advocacy services; support services; therapy services; service coordination; medical intervention; and community awareness programs.

A rape crisis center is defined to be any public or private agency that offers at least five of the sexual assault recovery services to victims and their families. The term “victim” is not limited only to the person against whom an act of sexual assault or sexual battery was directed, nor does it require completion of the criminal act. Rather, the term includes any person who consults a sexual assault counselor or a trained volunteer for the purpose of securing advice, counseling, or assistance concerning a mental, physical, or emotional condition caused by an alleged, attempted, or completed sexual assault or sexual battery.

The CS requires the Department of Health to contract with a statewide non-profit association whose primary purpose is to represent and provide assistance to rape crisis centers. This association is to receive 95 percent of the funds in the Rape Crisis Program Trust Fund. Allocation and distribution of the funds is to be made by county based upon the county’s population and rural characteristics. No more than 15 percent may be used for statewide initiatives including developing service standards and a certification process for rape crisis centers, and no more than 5 percent may be used for administrative costs.

The department is responsible for ensuring that the funds are expended properly and may require an annual audit of expenditures. The department also must submit an annual report to the Legislature.

The CS has an effective date of July 1, 2003.

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

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

None.

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

None.

**C. Trust Funds Restrictions:**

The CS mandates that 95 percent of the money in the Rape Crisis Program Trust Fund must be directed to the statewide non-profit association with which the Department of Health contracts. Furthermore, no more than 15 percent of the money may be used for statewide initiatives and no more than 5 percent of the money may be used to pay for administration of the program.

**V. Economic Impact and Fiscal Note:****A. Tax/Fee Issues:**

In addition to any other fine imposed under chapter 775, F.S., the CS authorizes the imposition of a surcharge of \$151 against offenders who violate specified statutes concerning assault, battery, stalking or sexual battery. The \$151 surcharge is to be collected in the same manner as other fines, by the clerk of the court. \$150 of the surcharge is to be deposited into the Rape Crisis Program Trust Fund, which is created in SB 146 and \$1 of the surcharge is to be kept by clerk of the court.

Based on figures provided by the Department of Corrections, (See Government Sector Impact) the additional \$151 fee could generate the following revenues:

- \$917,000 to the Rape Crisis Program Trust Fund
- \$69,000 to the General Revenue Fund from the 7% General Revenue Service Charge
- \$11,000 to the Clerks of the Court

The Revenue Estimating Conference has not reviewed CS/SB 144.

**B. Private Sector Impact:**

The CS will require sexual batterers to pay \$151 in addition to any costs that they currently pay.

**C. Government Sector Impact:**

The CS creates a funding source for a new Rape Crisis Program Trust Fund and also creates a mechanism for allocation and distribution of trust fund moneys. Administration of the program should not have a fiscal impact because it is self funded. However, there may be some additional processing costs incurred by the clerks of court that are not covered by the \$1 processing fee. Also, there are possible future costs relating to probation violations and collection costs if convicted offenders do not pay the assessed cost.

Statistics provided by the Department of Corrections indicate that, during the last fiscal year, approximately 15,000 offenders were admitted to prison or placed on supervision with the department for the offenses enumerated in the CS. Approximately 4,000 of these offenders were placed in prison without a probation to follow, so will not be likely to pay the costs. The department collects approximately 60 percent of court costs, although the collection rate for surcharges may be somewhat lower. Based upon this rough estimate of collecting 60 percent of the surcharge from 11,000 offenders, as much as \$996,000 may be collected for the trust fund.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

Senate Bill 146 is a linked bill that creates the Rape Crisis Program Trust Fund. It has been passed favorably by this committee and by the Committee on Children and Families.

**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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