

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: SB 146

SPONSOR: Senator Cowin

SUBJECT: Rape Crisis Program Trust Fund

DATE: April 8, 2003

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Dowds</u>	<u>Whiddon</u>	<u>CF</u>	<u>Favorable</u>
2.	<u>Clodfelter</u>	<u>Cannon</u>	<u>CJ</u>	<u>Fav/1 amendment</u>
3.			<u>HC</u>	<u>Withdrawn</u>
4.	<u>Keating</u>	<u>Johansen</u>	<u>FT</u>	<u>Favorable</u>
5.	<u>Peters</u>	<u>Belcher</u>	<u>AHS</u>	<u>Favorable</u>
6.			<u>AP</u>	<u>Withdrawn: Favorable</u>

I. Summary:

Senate Bill 146 creates the Rape Crisis Program Trust Fund for the purpose of providing funds to rape crisis centers for services to victims of sexual assault. The trust fund is established within the Department of Health, which is directed by the bill to establish rules for the distribution of the trust fund moneys to the rape crisis centers. The source of the moneys to be credited to the trust fund are court assessments collected from individuals who plead guilty or nolo contendere to or are found guilty of an act of sexual battery as defined in s. 794.011, F.S. The bill provides for the termination of the trust fund on July 1, 2007, and for the statutorily required review prior to the scheduled termination.

This bill creates an undesignated section of law.

II. Present Situation:

Rape Crisis Centers

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 in Florida 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. The law provides for criminal offenses for the commission of sexual battery.¹

¹ See s. 794.011, F.S.

Creation, Operation and Termination of Trust Funds

Section 215.32(2)(b), F.S., designates a trust fund as moneys received by the state which, under law or under trust fund agreement, are segregated for a purpose authorized by law. The Florida Constitution prohibits the creation by law of a trust fund of the state or other public body without a three-fifths vote of the membership of each house of the Legislature². The conditions further specify that such a trust fund must be created by a separate bill for that purpose only.

Furthermore, the Legislature has articulated statutory criteria governing the establishment of trust funds.³ The statutory language creating a trust fund must, at a minimum, specify the following:

- The name of the trust fund;
- The agency or branch of state government responsible for the administration of the trust fund;
- The requirements or purposes that the trust fund is established to meet; and
- The sources of moneys or receipts to be credited to or deposited in the trust fund.

By constitutional requirement, trust funds created after November 4, 1992, shall terminate not more than 4 years after the effective date of the act authorizing the creation of the trust fund, unless the Legislature by law sets a shorter authorization period for the trust fund.⁴ The constitution exempts specified types of trust funds from this automatic termination.⁵ A bill that creates a trust fund should specify its date of termination.

The Legislature has provided a schedule and process for reviewing trust funds.⁶ Before the regular session of the Legislature immediately preceding the scheduled termination date of an executive branch trust fund (or an earlier date if specified by the Legislature), the agency responsible for the administration of the trust fund and the Governor must recommend to the Legislature whether the trust fund should be allowed to terminate or should be re-created.⁷ Each recommendation to re-create the trust fund may include suggested modifications to the purpose, sources of receipts and allowable expenditures for the trust fund. All cash balances and income in trust funds terminated and not immediately re-created are deposited into the General Revenue Fund.⁸ The agency is to pay any outstanding debts of the trust fund and remove the trust fund from the various state accounting systems.

III. Effect of Proposed Changes:

The bill creates the Rape Crisis Program Trust Fund for the purpose of providing funds to rape crisis centers for services to victims of sexual assault. The trust fund is established within the Department of Health, which is directed by the bill to establish rules for the distribution of the trust fund moneys to the rape crisis centers. The source of the moneys to be credited to the trust

² Section 19(f) of Article III of the State Constitution governs the creation of trust funds.

³ See s. 215.3207, F.S.

⁴ See s. 19(f)(2), Art. III, State Constitution

⁵ See s. 19(f)(3), Art. III, State Constitution

⁶ See ss. 215.3206 and 215.3208, F.S.

⁷ See s. 215.3206(1), F.S.

⁸ See s. 215.3206(2), F.S.

fund are funds imposed as an additional court assessments collected from individuals who plead guilty or nolo contendere to or are found guilty of an act of sexual battery as defined in s. 794.011, F.S. The bill provides for the termination of the trust fund on July 1, 2007, and for the statutorily required review prior to the scheduled termination.

This bill contains each of the elements required in s. 215.3207, F.S., for the establishment of trust funds. The termination date of the trust fund is in accordance with s. 19(f)(2) of Article III of the State Constitution since the trust fund does not appear to meet any of the specified types of trust funds that are exempt from automatic termination.

The bill will take effect on July 1, 2003, but only upon the passage of Senate Bill 144, or similar legislation, which creates the Sexual Assault Victims' Access to Services Act. Senate Bill 144 is a separate bill that sets forth the framework for the funds of the Rape Crisis Program Trust Fund to be generated and used, including identifying the services to be provided to victims of sexual assault, setting forth parameters for the distribution of the funds, providing for the court assessment for acts of sexual battery and directing the clerk of the court to deposit collected assessments into the Rape Crisis Program Trust Fund.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Art. VII, s. 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Art. I, s. 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The bill creates the Rape Crisis Program Trust Fund for the purpose of providing funds to rape crisis centers for services to sexual assault victims. The bill appears to comply with the requirements of s. 19(f), Article III of the State Constitution relating to the creation and termination of trust funds.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of Health will incur costs to adopt rules to establish criteria for the distribution of funds under this bill, which should have a minimal fiscal impact on the department.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Criminal Justice:

Adds the bill number which is tied to this trust fund bill.

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