

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1167 Trust Funds/Creation/Florida Compensation Trust Fund for Survivors of Human Trafficking/EOG

SPONSOR(S): Civil Justice & Claims Subcommittee; Spano and others

TIED BILLS: CS/HB 1165 **IDEN./SIM. BILLS:** SB 970

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice & Claims Subcommittee	14 Y, 0 N, As CS	MacNamara	Bond
2) Appropriations Committee			
3) Judiciary Committee			

SUMMARY ANALYSIS

Section 19(f), Article III of the Florida Constitution governs the creation of trust funds. It provides that no trust fund of the state or other public body may be created without a three-fifths vote of the membership of each house of the Legislature in a separate bill for that purpose only.

The bill creates the Florida Compensation Trust Fund for Survivors of Human Trafficking. The purpose of the fund is to receive and administer funds from civil actions brought on behalf of the fund. The fund is to be administered by the Statewide Council on Human Trafficking.

The bill does not appear to have a fiscal impact on state or local governments.

The bill provides an effective date of July 1, 2017, if HB 1165 takes effect, and provides for a termination date of no later than July 1, 2021.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Trust Funds

The creation, recreation and termination of trust funds are governed by provisions in both the Florida Constitution and the Florida Statutes. Article III, s. 19(f), Fla. Const. governs the creation of trust funds. It provides that no trust fund of the state or other public body may be created without a three-fifths vote of the membership of each house of the Legislature in a separate bill for that purpose only.

The Florida Constitution also specifies that state trust funds shall terminate not more than 4 years after the effective date of the act authorizing the initial creation of the trust fund, unless the Legislature by law sets forth a shorter time period. Specified trust funds are exempted from this provision.

Statewide Council on Human Trafficking

The state has created the Statewide Council on Human Trafficking for the purpose of enhancing the development and coordination of state and local law enforcement and social services responses to fight commercial sexual exploitation as a form of human trafficking and to support victims.¹ The Council is within the Department of Legal Affairs.

The membership of the Council is provided for by statute, with each member serving 4-year terms. The duties of the Council include:

- Develop recommendations for comprehensive programs and services for victims of human trafficking to include recommendations for certification criteria for safe houses and safe foster homes.
- Make recommendations for apprehending and prosecuting traffickers and enhancing coordination of responses.
- Annually hold a statewide policy summit in conjunction with an institution of higher learning in this state.
- Work with the Department of Children and Families to create and maintain an inventory of human trafficking programs and services in each county, including, but not limited to, awareness programs and victim assistance services, which can be used to determine how to maximize existing resources and address unmet needs and emerging trends.
- Develop policy recommendations that advance the duties of the council and further the efforts to combat human trafficking in our state.

Additionally, the Council is required to submit a report to the President of the Senate and the Speaker of the House of Representatives summarizing the accomplishments of the council during the preceding fiscal year and making recommendations regarding the development and coordination of state and local law enforcement and social services responses to fight human trafficking and support victims.

Effect of Bill

The bill creates the Florida Compensation Trust Fund for Survivors of Human Trafficking. The Statewide Council on Human Trafficking will administer the fund. The Council is tasked with fairly evaluating and paying compensation claims based upon a victim's circumstances and the availability of

¹ See s. 16.617, F.S.
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current funds or funds to be received. The council must also establish rules, guidelines, and an implementation plan. Additionally, they must issue an annual report, no later than October 1 of each year to the President of the Senate and the Speaker of the House detailing the fund's compliance with its duties during the prior fiscal year.

The purpose of the fund is to receive and administer funds from civil actions brought on behalf of the fund under s. 787.061, including money from seizures of personal and real property, penalties imposed by the courts, or received from any other public or private sources or from the Legislature; to administer claims for compensation by survivors of human trafficking; and to create a public-private partnership by establishing a 501(c)(3) foundation for receipt of charitable contributions to carry out the foundation's purposes, including but not limited to:

- Educating the public about the recruitment, trafficking, and exploitation of persons through human trafficking.
- Assisting in the prevention of recruitment in Florida schools of minors for exploitation.
- Establishing a survivor's resource center for legal services, social services, safe harbors, safe houses, and language services that are available to survivors of trafficking.
- Advertising the National Human Trafficking Resource Center (NHTRC) hotline number and the Be Free text line in diverse venues.
- Assisting in the coordination between law enforcement and service providers.
- Assisting in vacating convictions of minors who were victims of trafficking.

Revenue for the fund will come in the form of damages awarded in civil actions brought on behalf of victims by the Statewide Council on Human Trafficking pursuant to s. 787.061(5), F.S., in the event the victim cannot be identified or located, and from the civil penalty imposed against human traffickers pursuant to the same section.

Revenue for the fund will also come from forfeited property, transferred to the fund, in proceedings under s. 787.061(6), F.S.

B. SECTION DIRECTORY:

Section 1 creates s. 787.0611, F.S., relating to The Florida Compensation Trust Fund for Survivors of Human Trafficking.

Section 2 provides that the bill will take effect on the same day as HB 1165 or similar legislation, if such legislation is adopted in the same legislative session, and only if the bill is enacted by three-fifths vote of the membership of each house of the Legislature.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have an impact on state government revenues.

2. Expenditures:

The bill does not appear to have an impact on state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

The bill does not appear to have any impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill does not appear to have any direct economic impact on the private sector.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 20, 2017, the Civil Justice & Claims Subcommittee adopted a proposed committee substitute and reported the bill favorably as a committee substitute. The committee substitute differs from the bill as filed by removing the Governor's office as administer of the trust fund and placing this responsibility with the Statewide Council on Human Trafficking. This analysis is drafted to the committee substitute as passed by the Civil Justice & Claims Subcommittee.