

# Legislative Update

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# The Budget

Tough budget year for Florida with legislators facing the largest budget shortfall in the state's history.

Legislators passed a 70 billion budget that relied on spending cuts, federal stimulus, a gaming compact with the Seminole Tribe of Florida, and around \$400 million in trust fund sweeps.

Cuts to programs impacting Florida's most vulnerable include:

- ▶ **\$10 million cut** to Healthy Families, which prevents child abuse and neglect. Approximately 4,500 families are expected to be dropped from the program.
- ▶ **\$14.4 million cut** to adoption subsidies to families that adopt foster children.
- ▶ **\$2.6 million cut** to Healthy Start coalitions, serving at-risk pregnant women and infants.

# Rape Crisis Centers Maintain Level Funding

- ▶ Rape crisis centers received level funding with \$250,000 in non-recurring general revenue in the Department of Legal Affairs
- ▶ No cuts or sweeps to the rape crisis program trust fund in the Department of Health.
- ▶ FCASV pro bono lobbyist Ron Book and Senator Arthenia Joyner (D-Tampa) remained ardent champions for sexual assault funding.
- ▶ Coverage of sexual assault funding issues by Dara Kam of the Palm Beach Post ensured that rape crisis center funding was on the radar of Senate President Jeff Atwater.

# FCASV Priority Legislation

- ▶ Eliminate criminal and civil statute of limitations for victims of sexual battery under 16 (passed)
- ▶ Improve Management of Sex Offenders (passed)
- ▶ Augment the Rape Crisis Program Trust Fund (failed)
- ▶ SAAM Resolutions

# Statute of Limitations for Victims of Sexual Battery Under 16 Eliminated

- ▶ **HB 525 by Rep. Chris Dorworth (R-Heathrow)**
- ▶ **SB 870 by Sen. Dave Aronberg (D-Greenacres)**
  
- ▶ Champion: Survivor Michael Dolce
- ▶ 5<sup>th</sup> year legislation has been filed
- ▶ Eliminates the statute of limitations in both criminal and civil cases of sexual battery on a victim under 16.
- ▶ This legislation will only apply to cases in which the statute of limitations had not already run out before July 1, 2010.
- ▶ Changing the statute of limitations retrospectively would likely be found unconstitutional.
- ▶ Advocates were successful in warding off amendments by the Florida Catholic Conference
- ▶ This legislation will take effect July 1, 2010.

# Legislation to Improve Management of Sex Offenders

- ▶ **HB 119 by Rep. Rich Glorioso (R-Plant City)**
- ▶ **SB 1284 by Sen. Dave Aronberg (D-Greenacres) and Senator Victor Crist (R-Tampa)**
- ▶ **Became law on May 26th**

## **Major Provisions:**

- ▶ **Child Safety Zones**
- ▶ **Residency Restrictions**
- ▶ **Qualified Practitioners**
- ▶ **Search of Registrants**
- ▶ **Transient Residence**
- ▶ **Polygraphy**

# HB 119: Child Safety Zones

- ▶ Rep. Glorioso filed legislation for the last several years to create child safety zones noting that it's equally if not more important to address where sex offenders go during the day than to limit where they sleep.

The bill creates restrictions for a person convicted of an offense listed in the sexual offender statute where the victim was under the age of 18 by making it a first degree misdemeanor to:

- ▶ Commit loitering or prowling within 300 feet of a place where children are congregating
- ▶ Knowingly approach, contact or communicate with a child under 18 years of age in any public park or playground with intent to engage in conduct of a sexual nature, or to make a communication of any type containing any content of a sexual nature.
- ▶ Knowingly be present in any child care facility or pre-K-12 school when the child care facility or school is in operation unless the offender has provided written notification of his or her intent to be present to the school board, superintendent, principal or child care facility owner.

# HB 119 also prohibits offenders on supervision from:

- ▶ Visiting schools, child care facilities, parks and playgrounds without prior approval of the offender's supervising officer.
- ▶ Distributing candy or other items to children on Halloween, wearing a Santa Claus, Easter Bunny or clown costume, or entertaining at children's parties without prior approval.

# HB 119:Residency Restrictions

- ▶ Statewide residency restrictions created in 2004
- ▶ Unlawful for a person convicted on or after October 1, 2004 of a specified sexual battery or lewd or lascivious offense, against a victim under the age of 16 from living within 1,000 feet of a school, day care center, park or playground.
- ▶ 148 local ordinances passed extending the distance from 1,000 feet to 2,500 feet or more. Many of the ordinances also prohibit an offender from living within a certain distance of places such as libraries, churches and bus stops that are not included in the state statute.
- ▶ Press coverage has documented that many local residency exclusions make it significantly more difficult for a sexual offender to obtain a legal residence. In Miami-Dade County, a varying number of sexual offenders had reported their address as underneath the Julia Tuttle Bridge.
- ▶ This legislation initially preempted local ordinances but the preemption issue and several possible compromises were ultimately removed.

# FCASV Concerns about Residency Restrictions

- ▶ Decrease the ability of law enforcement to manage sex offenders and make offenders more challenging to track
- ▶ May increase the likelihood that an offender would re-offend.
- ▶ Lead to “clustering” of sex offenders in neighborhood already experiencing significant stressors.

# HB 119: Changes to Residency Restrictions

- ▶ Makes it a crime for any person who has been convicted, on or after the effective date of the bill, of an offense *in another jurisdiction that is substantially similar* to reside within 1,000 feet of any school, child care facility, park or playground.
- ▶ Provides that the residency restrictions do not apply to those that have been removed from the requirement to register as a sexual offender or sexual predator.
- ▶ Provides a “grandfather clause” specifying that an offender who is subject to the residency restrictions does not violate the restriction and cannot be forced to move if the offender is living in a residence that is not within 1,000 feet of a prohibited location and a school, child care facility, park or playground is subsequently established within 1,000 feet of the offender’s residence.

# Qualified Practitioners: History

- ▶ Priority for FCASV: Ensuring that sex offenders are evaluated and treated by practitioners with expertise in this area.
- ▶ 2005 collaboration with the Florida Association for the Treatment of Sexual Abusers (FATSA) on the passage of legislation requiring boards to develop rules governing the experience and training of professionals providing evaluation and treatment of sex offenders.
- ▶ 2008 legislative session: the Florida Psychological Association and the Florida Psychiatric Society added an amendment to an unrelated bill to do away with this requirement.
- ▶ FCASV convened and facilitated a workgroup of all interested parties during the summer of 2009 to try and reach a compromise.

# FCASV Amendment to HB 119

- ▶ Define qualified practitioner;
- ▶ Require the boards of marriage and family therapy, mental health counseling and social work to establish rule for the qualifications and training of these professionals to evaluate and treat sex offenders; and
- ▶ Ensure that those providing evaluation and treatment services are qualified practitioners.

# Current Law

- ▶ Mandates that courts require a diagnosis and evaluation to determine the need of certain probationers or community controlees for treatment.
- ▶ If the court determines that such a need is established by the diagnosis and evaluation process, the court must require outpatient counseling as a term or condition of probation or community control for any person who was found or pled guilty to sexual battery, a lewd or lascivious offense, exploitation of a child or prostitution.

# Legislative Changes

- ▶ Removes reference to the court requiring a “diagnosis” and retains the reference to an “evaluation.”
- ▶ Requires that the evaluation be conducted by a qualified practitioner.
- ▶ Removes reference to “outpatient” treatment and instead refers to “sexual offender treatment.”
- ▶ Alters the offenses for which this treatment can be ordered, if needed, to include any offense for which a person is required to register as a sexual predator or sexual offender.
- ▶ Requires that treatment be obtained from a qualified practitioner
- ▶ Provides that the court must impose restrictions against contact with minors if sex offender treatment is recommended.
- ▶ Defines the term “qualified practitioner”

The bill also amends conditions of supervision by:

- ▶ Prohibiting contact with a victim unless approved by the victim, the sentencing court, and by a *qualified practitioner in the sexual offender treatment program*.
- ▶ Specifying that a *qualified practitioner* in the sex offender treatment plan must approve and implement a safety plan allowing an offender to access or use the Internet.

# HB 119: New Definition of Qualified Practitioner

Social worker, mental health counselor, or a marriage and family therapist licensed under ch. 491 who, as designated by rule of the respective boards, has the coursework, training, qualifications, and experience to evaluate and treat sexual offenders; or a psychiatrist licensed under chapter 458 or 459; or a psychologist licensed under chapter 490.

# HB 119: "Transient Residence"

- ▶ The bill adds a definition of the term "transient residence" to the sexual predator and sexual offender registration statutes and requires an offender to provide information regarding his or her transient residence during the registration process.

# HB 119: Search of Registration Information

- ▶ When the court places a defendant on misdemeanor probation, the public or private entity providing probation services must conduct a search of the probationer's name or other identifying information against the registration information regarding sexual predators and sexual offenders maintained by FDLE. The bill requires that the probation service also search the probationer's name through the Dru Sjodin National Sex Offender Registry maintained by the United States Department of Justice.

# HB 119: Polygraph Examination

- ▶ Requires that the polygraph examiner be a member of a national or state polygraph association and be certified as a post conviction sex offender polygrapher, where available.
- ▶ Provides that the results of the polygraph examination must be provided to the probationer's or community controlee's probation officer and qualified practitioner.

# Augmenting the Rape Crisis Program Trust Fund

- ▶ **HB 229 by Rep. Evan Jenne (D-Ft. Lauderdale)**
- ▶ **SB 400 by Sen. Mike Fasano (R-Port Richey)**
- ▶ Add the mandatory RCPTF fine to several additional sexual violence related crimes including sex offender registry offenses, trafficking, voyeurism, exposure and certain prostitution offenses in hopes of offsetting decreasing collections to the trust fund.
- ▶ SB 400 passed the Senate on April 23rd.
- ▶ HB 229 unanimously passed the House Criminal and Civil Justice Appropriations Committee on March 26, 2010
- ▶ HB 229 failed to make additional progress and ultimately died in the House Committee on Public Safety.
- ▶ Legislation amended to include a fine increase for the domestic violence trust fund, a priority of the Florida Coalition Against Domestic Violence (FCADV).
- ▶ FCASV and FCADV worked closely together for passage of this legislation.

# Sexual Assault Awareness Month Resolutions

- ▶ **HB 9063 by Rep. Bill Proctor (R-St. Augustine)**
- ▶ **SB 2782 by Sen. Mike Fasano (R-Port Richey)**
- ▶ The Senate SAAM resolution passed on April 8<sup>th</sup>
- ▶ The House SAAM resolution passed on April 20<sup>th</sup> with 116 co-sponsors.
- ▶ Moving testimony honoring the work of FCASV and Lauren Book-Lim through Lauren's Kids

# Other Legislation Related to SV that Passed

- ▶ Background Screening
- ▶ Dating Violence Prevention Education
- ▶ Reorganization of DOH
- ▶ Abortion/Requiring Ultrasounds
- ▶ Athletic Coaches Screening
- ▶ Corrections
- ▶ Lauren's Kids Driver License Contribution
- ▶ Threats
- ▶ Adult Protective Services

# Background Screening

- ▶ **HB 7069 by the Criminal and Civil Justice Policy Council, Rep. Will Snyder (R-Stuart) and Rep. Ari Porth (D-Coral Springs)**
- ▶ **SB 1520 by Sen. Ronda Storms (R-Brandon)**

This legislation substantially rewrites requirements and procedures for background screening of the persons and businesses that deal primarily with vulnerable populations including children, the elderly, and people with disabilities.

A series by the *Sun-Sentinel* in September 2009 revealed thousands of exemptions to the state's background screening requirements for work with children and vulnerable adults.

FCASV testified in support of this legislation which was signed by the Governor on May 26th and takes effect August 1, 2010.

# Increase Level 1 to Level 2 Screening

- ▶ Increasing all Level 1 screening (name-based check of state records) to Level 2 screening (fingerprint-based screening of state and federal records).
- ▶ Types of employers and volunteers who will move from Level 1 to Level 2 screening as a result of this legislation include guardians ad litem, home health aides, summer day camp personnel, assisted living personnel, adult day care personnel and others.

# Other Background Screening Provisions

- ▶ A requirement that no person required to be screened may begin work until the screening has been completed.
- ▶ Tightening screening requirements on volunteers working with vulnerable populations.
- ▶ Requiring all fingerprints to be submitted electronically by July 1, 2012.
- ▶ Adding additional serious crimes to the list of disqualifying offenses.
- ▶ Authorizing agencies to request the retention of fingerprints by the Florida Department of Law Enforcement.
- ▶ Providing that an exemption for a disqualifying felony may not be granted until at least three years after the completion of all sentencing sanctions for that felony and that all exemptions from disqualification be granted only by the agency head.

# Dating Violence Prevention Education

- ▶ **HB 467 by Rep. Mia Jones (D-Jacksonville)**
- ▶ **SB 0642 by Sen. Christopher Smith (D-West Palm Beach)**
- ▶ Requires teen dating violence and abuse prevention education to be included in comprehensive health education for public schools in grades 7-12.
- ▶ The curriculum would provide information on warning signs, definitions of healthy relationships, measures to stop and prevent abuse, helpful resources, and legal remedies.
- ▶ Each school district would also create its own teen dating violence and abuse policy which would prohibit dating violence and abuse, give a list of procedures for handling abuse, provide a definition of teen dating violence and abuse, and create an education plan focused on prevention.
- ▶ FCASV asked for an amendment to this bill to specifically include sexual violence but this language was not included.
- ▶ This legislation takes effect July 1, 2010—waiting on Gov to sign.

# Reorganization of DOH

- ▶ **HB 5311 by the Healthcare Appropriations Committee and Rep. Denise Grimsley (R-Sebring)**  
This major legislation, a priority of the Speaker of the House, was significantly pared down from its original version. Initially, the legislation eliminated many of the chronic disease, prevention and public awareness aspects of the Department's work and FCASV testified against this version. The final version of the legislation contains a broad array of provisions but the most pertinent include:
  - ▶ Limiting the DOH to initiating new programs only when expressly authorized by the Legislature or Legislative Budget Commission.
  - ▶ Requiring notification of the Governor and Legislature before applying for any continuation grants over \$50,000.
  - ▶ Requiring the DOH to conduct a thorough evaluation and justification review of all divisions including whether or not the functions of each division could be performed more efficiently or effectively by another agency or private entity by March 1, 2011.

# Abortion/Requiring Ultrasounds

- ▶ **HB 1143 by Rep. Matt Hudson (R-Naples)**
- ▶ **SB 2434 by Sen. Andy Gardiner (R-Orlando)**
- ▶ During the waning days of legislative session, this legislation dealing with several general aspects of health care regulation was amended to require that an ultrasound be performed on any woman obtaining an abortion.
- ▶ The legislation further requires that the ultrasound be reviewed with the patient prior to the woman giving informed consent and requiring that the woman certify in writing that she declined to review the ultrasound.
- ▶ While an exemption for victims of rape is included, it requires a high burden of proof on the victim.
- ▶ HB 1143 was never heard in committee during the 2010 session, but FCASV testified against similar legislation during the 2009 session.
- ▶ The bill has yet to be sent to the Governor who is likely to veto it.

# Corrections

- ▶ **HB 1005 by Rep. Doug Holder (R-Sarasota)**
- ▶ **SB 0960 by Sen. Paula Dockery (R-Lakeland)**
- ▶ Three provisions address issues of sexual violence:
  - ▶ Ensuring that sexual misconduct by private prison personnel is a third degree felony.
  - ▶ Requiring information about an inmate who has committed sexual battery and is being released to be electronically provided to law enforcement where the inmate plans on residing.
  - ▶ Making intentional lewd and lascivious behavior by an inmate in front of a correctional facility employee a third degree felony. Several correctional authority nurses testified to abusive behavior by inmates.

# Department of Highway Safety and Motor Vehicles

- ▶ **HB 263 by Rep. Marcelo Llorente (R-Miami)**
- ▶ **SB 0842 by Sen. Joe Negron (R-Palm City)**
- ▶ This legislation requires the application form for a motor vehicle license or renewal to allow for a voluntary contribution to Lauren's Kids for the prevention of childhood sexual abuse and will take effect October 1, 2010.

# Threats

- ▶ **HB 317 by Rep. Janet Adkins (R-Fernandina Beach)**
- ▶ **SB 0860 by Sen. Steve Oelrich (R-Gainesville)**
- ▶ This legislation ensures that threats by electronic communication to injure or kill someone are considered a second degree felony and will take effect October 1, 2010.

# Adult Protective Services

- ▶ **HB 91 by Rep. John Wood (R-Haines City)**
- ▶ **SB 336 by Sen. Ronda Storms (D-Brandon)**
- ▶ The Florida Abuse Hotline will now report suspected abuse of “vulnerable adults” to the county sheriff’s office when an alleged abuser is not a family member, caretaker, or household member to ensure a response to these cases of abuse.
- ▶ The Department of Children and Families will also file guardianship petitions to protect vulnerable adults by determining incapacity when they cannot consent to adult protective services.
- ▶ The legislation also gives the department access to the records of Department of Highway Safety and Motor Vehicles to aid in protective investigations and takes effect July 1, 2010.

# Other Major Legislation Related to SV that Failed

- ▶ Housing Protections
- ▶ Sexual Activities Involving Animals
- ▶ Human Sexuality Education
- ▶ Sexual Exploitation of Youth
- ▶ Human Trafficking
- ▶ Reproductive Health Services
- ▶ Victim Advocate Services
- ▶ Sexting

# Housing Protections for Victims of Sexual and Domestic Violence

- ▶ **SB786 by Nan Rich (D-Sunrise)**
- ▶ Would prevent housing discrimination against victims of domestic and sexual violence
- ▶ Would allow a victim of domestic or sexual violence with an injunction to terminate a lease.
- ▶ The bill was not heard during the 2010 session.

# Sexual Activities Involving Animals

- ▶ **SB 104 by Sen. Nan Rich (D-Sunrise)**
- ▶ **HB 1611 by Rep. Jim Waldman (D-Coconut Creek)**
- ▶ Would have created a first degree misdemeanor offense for sexual conduct or contact with animals for the purpose of sexual gratification.
- ▶ Law enforcement officials have not been able to make arrests in some cases for animal cruelty because evidence must be shown of excessive and repeated infliction of pain upon the animal.
- ▶ FCASV supported this legislation during the past two sessions because of research linking abusive behavior toward animals with abusive behavior toward people.

# Human Sexuality Education

- ▶ **SB 1502 by Chris Smith (D-West Palm Beach)**
- ▶ **HB 169 by Rep. Keith Fitzgerald (D-Sarasota)**
- ▶ Should have required factually and medically accurate sexuality education in grades 7-12 including information about sexual coercion.
- ▶ FCASV signed onto the Healthy Teens Coalition pushing for this legislation.
- ▶ The bill was not heard during the 2010 session.

# Sexual Exploitation of Youth

- ▶ **HB 535 by Rep. Erik Fresen (R-Miami)**
- ▶ **SB 1700 by Sen. Jeremy Ring (D-Margate)**
- ▶ Would have mandated safety provisions for child victims of sexual exploitation.
- ▶ FCASV worked with committee staff on this issue and testified in support.
- ▶ The legislation stated that when encountering child prostitutes officers would assume sexual exploitation and find short-term safe houses, certain prostitution would be illegal only after age sixteen, and civil penalties would be increased for soliciting others to engage in prostitution.
- ▶ Among other changes, it would have treated child prostitution as a case for treatment and not as a criminal proceeding.

# Should Child Prostitution be Decriminalized?

- ▶ Whether or not to de-criminalize child prostitution is a source of policy debate nationally—
- ▶ some jurisdictions with cutting-edge intervention programs believe arresting the child provides a gateway to intervention and away from the “pimp.”
- ▶ In both approaches, a recognition of the need to treat the child as a victim and the need for a broad array supportive service and interventions is recognized.

# Sex Trafficking

- ▶ **HB 633 by Rep. Rachel Burgin (R-Tampa)**
- ▶ **SB 0966 by Sen. Arthenia Joyner (D-Tampa)**
- ▶ This legislation looked at the problem of sex trafficking within “massage parlors” and would have increased regulation of these businesses in an effort to apprehend traffickers.
- ▶ FCASV testified in support of this legislation during committee hearings.

# Reproductive Health Services for Rape Survivors

- ▶ SB 652 by Sen. Nan Rich (D-Sunrise)
- ▶ HB 0517 by Rep. Audrey Gibson (D-Jacksonville)
- ▶ “The Prevention First Act” called for health care practitioners to give female victims of sexual battery medically accurate information about emergency contraceptives and to provide the drug upon request without undue hurdles for the patient.
- ▶ The Department of Health would have to prepare and distribute educational materials to all medical facilities on emergency contraception.
- ▶ Pharmacists would have to provide emergency contraception upon request, have it in stock, and would be prohibited from creating any other barriers to delivery.
- ▶ This legislation was not heard during the 2010 session.

# Victim Advocate Services

- ▶ **HB 799 by Rep. Mackenson Bernard (D-West Palm Beach)**
- ▶ **SB 1302 by Sen. Ronda Storms (R-Brandon)**
- ▶ Would have required any college or university campus with student housing or with over 10,000 full time students to have an advocate to assist students who are victims of violent crime.
- ▶ Advocates would have 30 hour training to work with law enforcement, rehabilitation services, education, and other agencies in assisting victims.
- ▶ This legislation was not heard during the 2010 session.

# Sexting

- ▶ **HB 1335 by Rep. Joseph Abruzzo (D-Wellington)**
- ▶ **SB 2560 by Sen. Dave Aronberg (D-Greenacres)**
- ▶ In an effort to address the problem of young people being charged for felonies for “sexting”, this legislation would have created a specific misdemeanor offense with a first violation punishable by community service.
- ▶ “Sexting” was defined in the legislation for minors as the act of knowingly submitting electronically sexually explicit photos or messages.
- ▶ Although this legislation passed the Senate and was heard in committee in the House, this legislation did not ultimately pass.

# Priorities of NAESV

- ▶ Appropriations for SASP and RPE
- ▶ VAWA IV Reauthorization
  - Housing Protections
  - Sexual assault purpose areas
  - U Visa Improvements
- ▶ Rape Kit Backlog
  - Victim Services and Notification
- ▶ Sexual Assault in the Military
  - Advocacy training and privilege
  - Access to attorneys for victims who haven't reported

# Future FCASV Priorities

- ▶ What policy issues come up for survivors?
- ▶ Continuing to work on augmenting the RCPTF and housing protections.
- ▶ Continue to prioritize funding

# Advocating In-District

- ▶ Invite local legislators and/or their spouses for tours of your center.
- ▶ Invite them to SAAM events
- ▶ Set up meetings
- ▶ Have local snapshot of need, successes, survivor testimonials, etc.
- ▶ Thank them for support
- ▶ Contact Terri for assistance [tpoore@fcasv.org](mailto:tpoore@fcasv.org)