

Approved by the Governor June 28, 1979.

Filed in Office Secretary of State June 29, 1979.

## CHAPTER 79-218

House Bill No. 1514

An act relating to the Florida RICO (Racketeer Influenced and Corrupt Organization) Act; creating s. 943.465, Florida Statutes; prescribing a procedure for obtaining subpoenas by certain investigative agencies; providing for orders to compel compliance; amending ss. 943.46, 943.461, Florida Statutes, conforming language; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 943.465, Florida Statutes, is created to read:

943.465 Civil investigative subpoenas.--

(1) As used in this section, "investigative agency" means the Department of Legal Affairs or office of a state attorney.

(2) If, pursuant to the civil enforcement provisions of s. 943.464, the investigative agency has reason to believe that a person or other enterprise has engaged in, or is engaging in, activity in violation of this act, the investigative agency may administer oaths or affirmations, subpoena witnesses or material, and collect evidence pursuant to the Florida Rules of Civil Procedure.

(3) If matter that the investigative agency seeks to obtain by the subpoena is located outside the state, the person or enterprise subpoenaed may make such matter available to the investigative agency or its representative for examination at the place where such matter is located. The investigative agency may designate representatives, including officials of the jurisdiction in which the matter is located, to inspect the matter on its behalf, and may respond to similar requests from officials of other jurisdictions.

(4) Upon failure of a person or enterprise, without lawful excuse, to obey a subpoena, and after reasonable notice to such person or enterprise, the investigative agency may apply to the circuit court for the judicial circuit in which such person or enterprise resides, is found, or transacts business, for an order compelling compliance.

Section 2. Section 943.46, Florida Statutes, is amended to read:

943.46 Short title.--Sections 943.46-943.465 943-46-943-464 shall be known as the Florida RICO (Racketeer Influenced and Corrupt Organization) Act.

Section 3. Section 943.461, Florida Statutes, is amended to read:

943.461 Definitions.--As used in ss. 943.46-943.465 943-46-943-464:

(1) "Racketeering activity" means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit:

(a) Any crime which is chargeable by indictment or information under the following provisions of the Florida Statutes:

1. Section 210.18, relating to evasion of payment of cigarette taxes.
2. Section 409.325, relating to public assistance fraud.
3. Chapter 517, relating to sale of securities.
4. Section 550.24, s. 550.35, or s. 550.36, relating to dogracing and horseracing.
5. Section 551.09, relating to jai alai frontons.
6. Chapter 552, relating to the manufacture, distribution, and use of explosives.
7. Chapter 562, relating to beverage law enforcement.
8. Chapter 687, relating to interest and usurious practices.
9. Chapter 782, relating to homicide.
10. Chapter 784, relating to assault and battery.
11. Chapter 787, relating to kidnapping.
12. Chapter 790, relating to weapons and firearms.
13. Section 796.01, s. 796.03, s. 796.04, s. 796.05, or s. 796.07, relating to prostitution.
14. Chapter 806, relating to arson.
15. Chapter 812, relating to theft, robbery, and related crimes.
16. Chapter 817, relating to fraudulent practices, false pretenses, fraud generally, and credit card crimes.
17. Chapter 831, relating to forgery and counterfeiting.
18. Chapter 832, relating to issuance of worthless checks and drafts.
19. Chapter 837, relating to perjury.
20. Chapter 838, relating to bribery and misuse of public office.
21. Chapter 843, relating to obstruction of justice.
22. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or s. 847.07, relating to obscene literature and profanity.
23. Section 849.09, s. 849.14, s. 849.15, s. 849.23, s. 849.24, or s. 849.25, relating to gambling.

24. Chapter 893, relating to drug abuse prevention and control.

25. Section 918.12-918.14, relating to tampering with jurors, evidence, and witnesses.

(b) Any conduct defined as "racketeering activity" under Title 18, United States Code, s. 1961 (1) (A), (B), (C), and (D).

(2) "Unlawful debt" means any money or other thing of value constituting principal or interest of a debt that is legally unenforceable in the state in whole or in part because the debt was incurred or contracted:

(a) In violation of any one of the following provisions of law:

1. Section 550.24, s. 550.35, or s. 550.36, relating to dogracing and horseracing.

2. Section 551.09, relating to jai alai frontons.

3. Chapter 687, relating to interest and usury.

4. Section 849.09, s. 849.14, s. 849.15, s. 849.23, s. 849.24, or s. 849.25, relating to gambling.

(b) In gambling activity in violation of federal law or in the business of lending money at a rate usurious under state or federal law.

(3) "Enterprise" means any individual, sole proprietorship, partnership, corporation, business trust, union chartered under the laws of this state, or other legal entity, or any unchartered union, association, or group of individuals associated in fact although not a legal entity, and it includes illicit as well as licit enterprises and governmental, as well as other entities.

(4) "Pattern of racketeering activity" means engaging in at least two incidents of racketeering conduct that have the same or similar intents, results, accomplices, victims, or methods of commission or otherwise are interrelated by distinguishing characteristics and are not isolated incidents, provided at least one of such incidents occurred after the effective date of this act and that the last of such incidents occurred within 5 years after a prior incident of racketeering conduct.

(5) "Documentary material" means any book, paper, document, writing, drawing, graph, chart, photograph, phonorecord, magnetic tape, computer printout, other data compilation from which information can be obtained or from which information can be translated into useable form, or other tangible item.

Section 4. This act shall take effect upon becoming a law.

Approved by the Governor June 28, 1979.

Filed in Office Secretary of State June 29, 1979.

## CHAPTER 79-219

House Bill No. 1543

An act relating to transportation; creating s. 334.215, Florida Statutes, providing for the creation of a metropolitan planning organization within each urbanized area in the state where a planning organization is necessary to meet federal requirements for obtaining and expending federal transportation funds; providing for membership and appointment; providing for the designation of certain existing organizations as metropolitan planning organizations; providing for the appointment of technical and citizens advisory committees; providing for the powers and duties of metropolitan planning organizations, advisory committees and the Department of Transportation; providing for cooperative agreements with certain agencies, receipt of federal funding, and charter county option; providing for the invalidity of provisions of the act which are in conflict with federal requirements; requiring the full operation of all metropolitan planning organizations by January 1, 1980; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 334.215, Florida Statutes, is created to read:

334.215 Transportation planning organization.--

(1) There shall be a metropolitan planning organization, hereinafter referred to as the "M.P.O." established within each urbanized area where a planning organization is necessary to meet federal requirements for obtaining and expending federal transportation funds. The M.P.O., a composite local government entity, or any successor thereto, shall be so designated by the Governor in any area where an M.P.O. is required by federal law or regulation.

(2) The voting membership of the M.P.O. shall consist of not less than five nor more than 15 apportioned members, the exact number to be determined on an equitable geographic/population ratio basis by the Governor, except that in no case shall the county commission members be less than 33 1/3 percent of the M.P.O. membership. All voting members shall be elected officials of general purpose government, except local governing bodies having two or more members on the M.P.O. may appoint, as one of their apportioned voting members, a member of statutorily authorized planning boards, transportation or expressway authorities, aviation authorities or port authorities. In urbanized areas where authorities or other agencies have been, or may be, created by law to perform transportation functions that are not under the jurisdiction of local elected officials, they may be considered by the Governor for one voting membership on the M.P.O. The M.P.O. shall be created under this section and operated under the provisions of s. 163.01, the Florida Interlocal Cooperation Act of 1969. The signatories to the Interlocal Agreement shall be the governmental entities designated by the Governor for membership in the M.P.O. and the Department of Transportation, hereinafter referred to as the department. In the

DATE: April 20, 1979

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

**COPY**

reproduced by  
FLORIDA STATE ARCHIVES  
DEPARTMENT OF STATE  
R.A. GRAY BUILDING  
Tallahassee, Florida 32399-0250  
Series 18 Carton 182  
File Folder \_\_\_\_\_

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Jenkins <i>dy</i>	Dunn <i>pd</i>	1. J. Crim.	
_____	_____	2. _____	
3. _____	_____	3. _____	

SUBJECT: Civil investigative subpoenas and immunity under the RICO Act

BILL NO. AND SPONSOR:  
HB 1514 By Representative Crawford and Committee on Criminal Justice

**I. SUMMARY:**

**A. Present Situation:**

The Florida Racketeer Influenced and Corrupt Organization Act, known as RICO, was created by the 1977 Legislature to give the state some of the tools available to the federal government in fighting organized crime.

The law applies the remedies of civil recovery and treble fines against those convicted of violating specified laws by engaging in a pattern of racketeering activity. There are also criminal penalties and fines applicable to those violations designated as requiring criminal intent. The RICO Act is comprised of ss. 943.46 - 943.464, Florida Statutes.

**B. Effect of Proposed Changes:**

House Bill 1514 creates a new section designated as s. 943.465, Florida Statutes, relating to civil investigative subpoenas. That section provides for the obtaining of oaths or affirmations, subpoenaing of witnesses or materials and collection of evidence by an investigative agency under circumstances set out in that section. There are also provisions for compelling compliance with such subpoenas.

Sections 943.46, 943.461 and 943.464(2), F.S., are amended to reflect the inclusion of the new section in the RICO Act.

**II. ECONOMIC IMPACT AND FISCAL NOTE:**

**A. Public: None.**

**B. Government:** The Attorney General, in his 1979 legislative package, stated that he would request funds from the Legislature to broaden and intensify enforcement of the RICO statute, which is his responsibility under the law.

Two additional lawyers, an investigator, and the services of an accountant on a part-time basis are considered minimal steps toward effective enforcement.

**III. COMMENTS:**

Attorney General Jim Smith pointed out in his proposed package that the RICO Act needs amending to extend to the Attorney General and State Attorneys, who are designated to conduct investigations, the power to issue subpoenas to compel testimony and collect evidence.

The Attorney General feels that this is a major shortcoming of the existing law. It must be corrected if RICO is to be properly enforced as intended by the Legislature.

House Bill 1514 by the House Criminal Justice Committee is substantially similar to Senate Bill 371, but uses different terminology in some sections.

Staff Analysis  
HB 1514  
Page Two

IV. AMENDMENTS:

None.

DATE: June 13, 1979 (UPDATED)

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Jenkins</u>	<u>Dunn</u>	1. <u>J. Crim.</u>	<u>Fav. w/2</u>
2. _____	_____	2. _____	_____
3. _____	_____	3. _____	_____

SUBJECT: Civil investigative subpoenas under the Rico Act

BILL NO. AND SPONSOR:  
HB 1514 by Representative Crawford and Committee on Criminal Justice

I. SUMMARY:

A. Present Situation:

The Florida Racketeer Influenced and Corrupt Organization Act, known as RICO, was created by the 1977 Legislature to give the state some of the tools available to the federal government in fighting organized crime.

The law applies the remedies of civil recovery and treble fines against those convicted of violating specified laws by engaging in a pattern of racketeering activity. There are also criminal penalties and fines applicable to those violations designated as requiring criminal intent. The RICO Act is comprised of ss. 943.46 - 943.464, Florida Statutes.

B. Effect of Proposed Changes:

House Bill 1514 creates a new section designated as s. 943.465, Florida Statutes, relating to civil investigative subpoenas. That section provides for the obtaining of oaths or affirmations, subpoenaing of witnesses or materials and collection of evidence by an investigative agency under circumstances set out in that section. There are also provisions for compelling compliance with such subpoenas.

Section 943.46 is amended to reflect the inclusion of the new section in the RICO Act.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public: None.

B. Government: The Attorney General, in his 1979 legislative package, stated that he would request funds from the Legislature to broaden and intensify enforcement of the RICO statute, which is his responsibility under the law.

Two additional lawyers, an investigator, and the services of an accountant on a part-time basis are considered minimal steps toward effective enforcement.

III. COMMENTS:

Attorney General Jim Smith pointed out in his proposed package that the RICO Act needs amending to extend to the Attorney General and State Attorneys, who are designated to conduct investigations; the power to issue subpoenas to compel testimony and collect evidence.

The Attorney General feels that this is a major shortcoming of the existing law. It must be corrected if RICO is to be properly enforced as intended by the Legislature.

Page Two  
Staff Analysis  
HB 1514

House Bill 1514 passed the Senate 32-0 and the House 107-0.

IV. AMENDMENTS:

None.

DATE: April 24, 1979 (Revised)

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Jenkins</u>	<u>Dunn</u>	1. <u>J.Crim.</u>	<u>Fav.w/2</u>
2. _____	_____	2. _____	_____
3. _____	_____	3. _____	_____

SUBJECT: Civil investigative subpoenas under the Rico Act

BILL NO. AND SPONSOR:  
HB 1514 by Representative Crawford and Committee on Criminal Justice

I. SUMMARY:

A. Present Situation:

The Florida Racketeer Influenced and Corrupt Organization Act, known as RICO, was created by the 1977 Legislature to give the state some of the tools available to the federal government in fighting organized crime.

The law applies the remedies of civil recovery and treble fines against those convicted of violating specified laws by engaging in a pattern of racketeering activity. There are also criminal penalties and fines applicable to those violations designated as requiring criminal intent. The RICO Act is comprised of ss. 943.46 - 943.464, Florida Statutes.

B. Effect of Proposed Changes:

House Bill 1514 creates a new section designated as s. 943.465, Florida Statutes, relating to civil investigative subpoenas. That section provides for the obtaining of oaths or affirmations, subpoenaing of witnesses or materials and collection of evidence by an investigative agency under circumstances set out in that section. There are also provisions for compelling compliance with such subpoenas.

Section 943.46 is amended to reflect the inclusion of the new section in the RICO Act.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public: None.

B. Government: The Attorney General, in his 1979 legislative package, stated that he would request funds from the Legislature to broaden and intensify enforcement of the RICO statute, which is his responsibility under the law.

Two additional lawyers, an investigator, and the services of an accountant on a part-time basis are considered minimal steps toward effective enforcement.

III. COMMENTS:

Attorney General Jim Smith pointed out in his proposed package that the RICO Act needs amending to extend to the Attorney General and State Attorneys, who are designated to conduct investigations, the power to issue subpoenas to compel testimony and collect evidence.

The Attorney General feels that this is a major short-coming of the existing law. It must be corrected if RICO is to be properly enforced as intended by the Legislature.

Staff Analysis  
HB 1514  
Page Two

IV. AMENDMENTS:

#1 by Judiciary-Criminal - strike everything after the  
enacting clause and insert SB 371 as amended

#2 by Judiciary-Criminal - title amendment



DATE: June 13, 1979 (UPDATED)

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

**COPY**

reproduced by  
FLORIDA STATE ARCHIVES  
DEPARTMENT OF STATE  
N.A. GRAY BUILDING  
Tallahassee, Florida 32399-0250  
Series 18 Date 785  
File Folder \_\_\_\_\_

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Jenkins <i>my</i>	Dunn <i>pd</i>	1. J.Crim.	Fav.w/2
2. _____	_____	2. _____	_____
3. _____	_____	3. _____	_____

SUBJECT: Civil investigative subpoenas under the RICO Act

BILL NO. AND SPONSOR:  
HB 1514 by Representative Crawford and Committee on Criminal Justice

I. SUMMARY:

A. Present Situation:

The Florida Racketeer Influenced and Corrupt Organization Act, known as RICO, was created by the 1977 Legislature to give the state some of the tools available to the federal government in fighting organized crime.

The law applies the remedies of civil recovery and treble fines against those convicted of violating specified laws by engaging in a pattern of racketeering activity. There are also criminal penalties and fines applicable to those violations designated as requiring criminal intent. The RICO Act is comprised of ss. 943.46 - 943.464, Florida Statutes.

B. Effect of Proposed Changes:

House Bill 1514 creates a new section designated as s. 943.465, Florida Statutes, relating to civil investigative subpoenas. That section provides for the obtaining of oaths or affirmations, subpoenaing of witnesses or materials and collection of evidence by an investigative agency under circumstances set out in that section. There are also provisions for compelling compliance with such subpoenas.

Section 943.46 is amended to reflect the inclusion of the new section in the RICO Act.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public: None.

B. Government: The Attorney General, in his 1979 legislative package, stated that he would request funds from the Legislature to broaden and intensify enforcement of the RICO statute, which is his responsibility under the law.

Two additional lawyers, an investigator, and the services of an accountant on a part-time basis are considered minimal steps toward effective enforcement.

III. COMMENTS:

Attorney General Jim Smith pointed out in his proposed package that the RICO Act needs amending to extend to the Attorney General and State Attorneys, who are designated to conduct investigations, the power to issue subpoenas to compel testimony and collect evidence.

The Attorney General feels that this is a major shortcoming of the existing law. It must be corrected if RICO is to be properly enforced as intended by the Legislature.

Page Two  
Staff Analysis  
HB 1514

House Bill 1514 passed the Senate 32-0 and the House 107-0.

IV. AMENDMENTS:

None.



March 14, 1979

HB by Committee on Criminal Justice

Provides State Attorneys and the Attorney General with subpoena power for civil investigations pertaining to Florida's RICO statute.

Other Committees of Reference

I. Statement of the Problem

The present RICO statute provides for civil recovery and treble fines against violators of the RICO act. The Attorney General's office needs subpoena power pursuant to the Florida Rules of Civil Procedures if that office is to adequately pursue civil actions.

II. Fiscal Impact

The Attorney General's office indicates that some additional staff, 4-5 persons, would be necessary in their office.

III. Comments

A. Discussion

This bill would amend chapter 943, Florida Statutes, by granting civil investigative subpoena power to the Attorney General and State Attorneys. Property that is directly attributed to proceeds from criminal activity could be forfeited to the State through civil proceedings.

B. Constitutionality

The bill appears to be constitutional.

C. Legislative Intent

Adequately expressed.

IV. Amendments