

By Senator Bracy

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1                   A bill to be entitled  
2       An act relating to presentence information; amending  
3       ss. 921.231 and 948.015, F.S.; requiring the  
4       Department of Corrections to report specified  
5       sentencing information regarding first-time offenders  
6       in a presentence report; amending s. 948.08, F.S.;  
7       making a clarifying technical change; reenacting s.  
8       944.17(5), F.S., relating to commitments,  
9       classifications, and transfers to the state  
10      correctional system, to incorporate the amendment made  
11      to s. 921.231, F.S., in a reference thereto; providing  
12      an effective date.

13  
14 Be It Enacted by the Legislature of the State of Florida:

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16       Section 1. Subsection (1) of section 921.231, Florida  
17       Statutes, is amended to read:

18       921.231 Presentence investigation reports.—

19       (1) Any circuit court of the state, when the defendant in a  
20       criminal case has been found guilty or has entered a plea of  
21       nolo contendere or guilty, may refer the case to the Department  
22       of Corrections for investigation and recommendation. Upon  
23       request of the court, it shall be the duty of the department to  
24       make either or both of the following reports in writing to the  
25       circuit court at a specified time prior to sentencing, depending  
26       upon the circumstances of the offender and the offense. The full  
27       report shall include:

28       (a) A complete description of the situation surrounding the  
29       criminal activity with which the offender has been charged,

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30 including a synopsis of the trial transcript, if one has been  
31 made; nature of the plea agreement including the number of  
32 counts waived, the pleas agreed upon, the sentence agreed upon,  
33 and additional terms of agreement; and, at the offender's  
34 discretion, his or her version and explanation of the act.

35 (b) The offender's sentencing status, including whether the  
36 offender is a first-time ~~first~~ offender, habitual offender, or  
37 youthful offender or is currently on probation.

38 (c) The offender's prior record of arrests and convictions.

39 (d) The offender's educational background.

40 (e) The offender's employment background, including any  
41 military record, his or her present employment status, and his  
42 or her occupational capabilities.

43 (f) The offender's financial status, including total  
44 monthly income and estimated total debts.

45 (g) The social history of the offender, including his or  
46 her family relationships, marital status, interests, and related  
47 activities.

48 (h) The residence history of the offender.

49 (i) The offender's medical history and, as appropriate, a  
50 psychological or psychiatric evaluation.

51 (j) Information about the environments to which the  
52 offender might return or to which the offender could be sent  
53 should a sentence of nonincarceration or community supervision  
54 be imposed by the court and consideration of the offender's plan  
55 concerning employment supervision and treatment.

56 (k) Information about any resources available to assist the  
57 offender, such as:

58 1. Treatment centers.

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59 2. Residential facilities.

60 3. Vocational training programs.

61 4. Special education programs.

62 5. Services that may preclude or supplement commitment to  
63 the department.

64 (l) The views of the person preparing the report as to the  
65 offender's motivations and ambitions and an assessment of the  
66 offender's explanations for his or her criminal activity.

67 (m) An explanation of the offender's criminal record, if  
68 any, including his or her version and explanation of any  
69 previous offenses.

70 (n) A statement regarding the extent of the victim's loss  
71 or injury.

72 (o) A recommendation as to disposition by the court. It  
73 shall be the duty of the department to make a written  
74 determination as to the reasons for its recommendation. The  
75 department shall include an evaluation of the following factors:

76 1. The appropriateness or inappropriateness of community  
77 facilities, programs, or services for treatment or supervision.

78 2. The ability or inability of the department to provide an  
79 adequate level of supervision for the offender in the community  
80 and a statement of what constitutes an adequate level of  
81 supervision.

82 3. The existence of other treatment modalities which the  
83 offender could use but which do not exist at present in the  
84 community.

85 (p) The statewide mean sentence for first-time offenders  
86 convicted of the offender's primary offense. If applicable, the  
87 department shall report that the statewide mean sentence for the

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88 primary offense is a nonstate prison sanction or that sentencing  
89 data is unavailable. If sentencing data indicates that the  
90 statewide mean sentence for the primary offense is a state  
91 prison sentence, the department shall report the statewide mean  
92 prison sentence in months. Sentencing information required to be  
93 provided pursuant to this paragraph shall be based on sentencing  
94 data regarding first-time offenders for the year preceding the  
95 year in which the offender is to be sentenced for his or her  
96 primary offense.

97  
98 If requested by the court, the department shall also provide to  
99 the court a summary report designed to expeditiously give the  
100 court information critical to its approval of any plea. The  
101 summary report shall include the information required by  
102 paragraphs (a), (b), (c), (j), (m), (n), ~~and (o)~~, and (p).

103 Section 2. Section 948.015, Florida Statutes, is amended to  
104 read:

105 948.015 Presentence investigation reports.—The circuit  
106 court, when the defendant in a criminal case has been found  
107 guilty or has entered a plea of nolo contendere or guilty and  
108 has a lowest permissible sentence under the Criminal Punishment  
109 Code of any nonstate prison sanction, may refer the case to the  
110 department for investigation or recommendation. Upon such  
111 referral, the department shall make the following report in  
112 writing at a time specified by the court prior to sentencing.  
113 The full report shall include:

114 (1) A complete description of the situation surrounding the  
115 criminal activity with which the offender has been charged,  
116 including a synopsis of the trial transcript, if one has been

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117 made; nature of the plea agreement, including the number of  
118 counts waived, the pleas agreed upon, the sentence agreed upon,  
119 and any additional terms of agreement; and, at the offender's  
120 discretion, his or her version and explanation of the criminal  
121 activity.

122 (2) The offender's sentencing status, including whether the  
123 offender is a first-time ~~first~~ offender, a habitual or violent  
124 offender, a youthful offender, or is currently on probation.

125 (3) The offender's prior record of arrests and convictions.

126 (4) The offender's educational background.

127 (5) The offender's employment background, including any  
128 military record, present employment status, and occupational  
129 capabilities.

130 (6) The offender's financial status, including total  
131 monthly income and estimated total debts.

132 (7) The social history of the offender, including his or  
133 her family relationships, marital status, interests, and  
134 activities.

135 (8) The residence history of the offender.

136 (9) The offender's medical history and, as appropriate, a  
137 psychological or psychiatric evaluation.

138 (10) Information about the environments to which the  
139 offender might return or to which the offender could be sent  
140 should a sentence of nonincarceration or community supervision  
141 be imposed by the court, and consideration of the offender's  
142 plan concerning employment supervision and treatment.

143 (11) Information about any resources available to assist  
144 the offender, such as:

145 (a) Treatment centers.

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- 146 (b) Residential facilities.
- 147 (c) Career training programs.
- 148 (d) Special education programs.
- 149 (e) Services that may preclude or supplement commitment to  
150 the department.
- 151 (12) The views of the person preparing the report as to the  
152 offender's motivations and ambitions and an assessment of the  
153 offender's explanations for his or her criminal activity.
- 154 (13) An explanation of the offender's criminal record, if  
155 any, including his or her version and explanation of any  
156 previous offenses.
- 157 (14) A statement regarding the extent of any victim's loss  
158 or injury.
- 159 (15) A recommendation as to disposition by the court. The  
160 department shall make a written determination as to the reasons  
161 for its recommendation, and shall include an evaluation of the  
162 following factors:
- 163 (a) The appropriateness or inappropriateness of community  
164 facilities, programs, or services for treatment or supervision  
165 for the offender.
- 166 (b) The ability or inability of the department to provide  
167 an adequate level of supervision for the offender in the  
168 community and a statement of what constitutes an adequate level  
169 of supervision.
- 170 (c) The existence of other treatment modalities which the  
171 offender could use but which do not exist at present in the  
172 community.
- 173 (16) The statewide mean sentence for first-time offenders  
174 convicted of the offender's primary offense. If applicable, the

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175 department shall report that the statewide mean sentence for the  
176 primary offense is a nonstate prison sanction or that sentencing  
177 data is unavailable. If sentencing data indicates that the  
178 statewide mean sentence for the primary offense is a state  
179 prison sentence, the department shall report the statewide mean  
180 prison sentence in months. Sentencing information required to be  
181 provided pursuant to this subsection shall be based on  
182 sentencing data regarding first-time offenders for the year  
183 preceding the year in which the offender is to be sentenced for  
184 his or her primary offense.

185 Section 3. Subsection (2) of section 948.08, Florida  
186 Statutes, is amended to read:

187 948.08 Pretrial intervention program.—

188 (2) A first-time ~~Any first~~ offender, or a ~~any~~ person  
189 previously convicted of not more than one nonviolent  
190 misdemeanor, who is charged with any misdemeanor or felony of  
191 the third degree is eligible for release to the pretrial  
192 intervention program on the approval of the administrator of the  
193 program and the consent of the victim, the state attorney, and  
194 the judge who presided at the initial appearance hearing of the  
195 offender. However, the defendant may not be released to the  
196 pretrial intervention program unless, after consultation with  
197 his or her attorney, he or she has voluntarily agreed to such  
198 program and has knowingly and intelligently waived his or her  
199 right to a speedy trial for the period of his or her diversion.  
200 The defendant or the defendant's immediate family may not  
201 personally contact the victim or the victim's immediate family  
202 to acquire the victim's consent under this section.

203 Section 4. For the purpose of incorporating the amendments

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204 made by this act to section 921.231, Florida Statutes, in a  
205 reference thereto, subsection (5) of section 944.17, Florida  
206 Statutes, is reenacted to read:

207 944.17 Commitments and classification; transfers.—

208 (5) The department shall also refuse to accept a person  
209 into the state correctional system unless the following  
210 documents are presented in a completed form by the sheriff or  
211 chief correctional officer, or a designated representative, to  
212 the officer in charge of the reception process. The department  
213 may, at its discretion, receive such documents electronically:

214 (a) The uniform commitment and judgment and sentence forms  
215 as described in subsection (4).

216 (b) The sheriff's certificate as described in s. 921.161.

217 (c) A certified copy of the indictment or information  
218 relating to the offense for which the person was convicted.

219 (d) A copy of the probable cause affidavit for each offense  
220 identified in the current indictment or information.

221 (e) A copy of the Criminal Punishment Code scoresheet and  
222 any attachments thereto prepared pursuant to Rule 3.701, Rule  
223 3.702, or Rule 3.703, Florida Rules of Criminal Procedure, or  
224 any other rule pertaining to the preparation of felony  
225 sentencing scoresheets.

226 (f) A copy of the restitution order or the reasons by the  
227 court for not requiring restitution pursuant to s. 775.089(1).

228 (g) The name and address of any victim, if available.

229 (h) A printout of a current criminal history record as  
230 provided through an FCIC/NCIC printer.

231 (i) Any available health assessments including medical,  
232 mental health, and dental, including laboratory or test

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233 findings; custody classification; disciplinary and adjustment;  
234 and substance abuse assessment and treatment information which  
235 may have been developed during the period of incarceration  
236 before the transfer of the person to the department's custody.  
237 Available information shall be transmitted on standard forms  
238 developed by the department.

239

240 In addition, the sheriff or other officer having such person in  
241 charge shall also deliver with the foregoing documents any  
242 available presentence investigation reports as described in s.  
243 921.231 and any attached documents. After a prisoner is admitted  
244 into the state correctional system, the department may request  
245 such additional records relating to the prisoner as it considers  
246 necessary from the clerk of the court, the Department of  
247 Children and Families, or any other state or county agency for  
248 the purpose of determining the prisoner's proper custody  
249 classification, gain-time eligibility, or eligibility for early  
250 release programs. An agency that receives such a request from  
251 the department must provide the information requested. The  
252 department may, at its discretion, receive such information  
253 electronically.

254 Section 5. This act shall take effect July 1, 2018.