

Tab 1 CS/SB 1218 by CJ, Brandes; Persons Awaiting Trial						
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Tab 2 CS/SB 1442 by CF, Book (CO-INTRODUCERS) Perry; (Compare to CS/H 01351) Early Childhood Court Programs	
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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
APPROPRIATIONS SUBCOMMITTEE ON CRIMINAL AND CIVIL JUSTICE
Senator Brandes, Chair
Senator Bracy, Vice Chair

MEETING DATE: Wednesday, February 21, 2018
TIME: 1:30—3:30 p.m.
PLACE: Mallory Horne Committee Room, 37 Senate Office Building

MEMBERS: Senator Brandes, Chair; Senator Bracy, Vice Chair; Senators Baxley, Bean, Flores, Perry, and Rodriguez

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 1218 Criminal Justice / Brandes (Compare CS/CS/S 484)	Persons Awaiting Trial; Requiring the Department of Corrections to develop a risk assessment instrument; creating the Risk Assessment Pilot Program for a specified period; requiring all counties to administer the risk assessment instrument to all persons arrested for a felony, etc. CJ 01/29/2018 Fav/CS ACJ 02/21/2018 Fav/CS AP	Fav/CS Yeas 7 Nays 0
2	CS/SB 1442 Children, Families, and Elder Affairs / Book (Compare CS/H 1351)	Early Childhood Court Programs; Requiring the program to incorporate specified components to be considered an early childhood court; authorizing the courts to create early childhood court programs; requiring the Office of the State Courts Administrator to contract with certain university based centers; requiring the office, in partnership with the center and within appropriated funds, to provide training to program court teams, etc. CF 01/29/2018 Fav/CS ACJ 02/21/2018 Favorable AP	Favorable Yeas 7 Nays 0
Other Related Meeting Documents			

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Criminal and Civil Justice

BILL: PCS/CS/SB 1218 (485662)

INTRODUCER: Appropriations Subcommittee on Criminal and Civil Justice; Criminal Justice Committee; and Senator Brandes

SUBJECT: Public Safety

DATE: February 26, 2018 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cox</u>	<u>Jones</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	<u>Forbes</u>	<u>Sadberry</u>	<u>ACJ</u>	<u>Recommend: Fav/CS</u>
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1218 makes changes to a number of provisions related to public safety and the criminal justice system, including:

- Creating the “Florida Correctional Operations Oversight Council” to oversee the criminal and juvenile justice systems;
- Clarifying that law enforcement mutual aid agreements may be used to increase law enforcement presence in the event of an emergency response or evacuation;
- Requiring sheriffs to provide security to the trial court and coordinate with the chief judge on security matters;
- Requiring each circuit to establish a “Driver License Reinstatement Days Program” (Reinstatement Days Program) involving specified entities and hold events through the Reinstatement Days Program on one or more days where a person can pay specified fees and obtain license reinstatement;
- Prohibiting issuance of an attorney’s fee in protective injunctions for repeat, sexual, or dating violence or stalking;
- Authorizing a court to depart from the imposition of a mandatory minimum sentence in drug trafficking cases if certain circumstances are met;
- Establishing a centralized system of uniform data collection for the entire criminal justice system to ensure data transparency;
- Requiring specified criminal justice entities to collect certain data on a monthly basis and report such data to the Florida Department of Law Enforcement (FDLE) quarterly;

- For data reported pursuant to data transparency provisions, the FDLE must:
 - Establish a unique identifier for every person who is the subject of a criminal case, which will be used for all local and state entities' reported data related to that person in order to track that individual's entire experience in Florida's criminal justice system;
 - Create a publicly accessible and searchable database for the data reported;
- Modifying the sentencing scoresheet to a digital format and requiring information contained in the scoresheet to be reported to the FDLE and included in the publicly available database;
- Creating a pilot program in the 6th Judicial Circuit to ensure program data collected is valid and providing an appropriation, including nine FTEs, within the FDLE to support the implementation of data collection and transparency;
- Authorizing counties to establish a supervised bond program (Bond Program), which allows eligible defendants to be released on active electronic monitoring, continuous alcohol monitoring, or both subsequent to the administration of a risk assessment instrument (RAI) by the county's chief correctional officer (sheriff) and acceptance into the Bond program;
- Creating a Risk Assessment Pilot Program in Hillsborough, Pasco, and Pinellas Counties that requires the counties to administer a RAI to all persons arrested for a felony offense in the county for use in programming and sentencing;
- Requiring transition assistance staff within the Department of Corrections (DOC) to identify industry certifications or job assignment credentialing for which an inmate is eligible;
- Requiring the DOC to provide inmates with a comprehensive community reentry resource directory that includes specified information related to services and portals available in the county to which the inmate is to be released;
- Permitting specified entities to apply with the DOC to be registered to provide inmate reentry services and requiring the DOC to create a process for screening, approving, and registering such entities;
- Authorizing the DOC to contract with specified Veteran's Advocacy Clinics to assist qualified veterans with obtaining services in the community upon release;
- Authorizing the DOC to develop a Prison Entrepreneurship Program that includes education with specified curriculum;
- Creating a "certificate of achievement and employability" application process where the DOC may issue certificates to specified eligible inmates that require licensing agencies to individually consider licensing decisions of certificate holders;
- Prohibiting a licensing agency from denying a professional license to a certificate holder solely on the basis of a criminal conviction;
- Creating two new designations for conditional medical release (CMR) ("inmate with a debilitating illness" and "medically frail inmate") and modifying the current designation of "terminally ill inmate";
- Creating a new "Mandatory Conditional Medical Release" process that requires, rather than permits, the Florida Commission on Offender Review (FCOR) to release an inmate that meets one of four designations if specified factors are met;
- Requiring each circuit to create an alternative sanctions program to handle specified types and occurrences of technical violations of probation or community control outside of a hearing with the judge's concurrence;
- Authorizing a circuit to create a community court program for certain defendants charged with misdemeanors;

- Adding specified data to the information that must be reported in the Office of Program Policy Analysis and Government Accountability's (OPPAGA) annual pretrial programs report (s. 907.043, F.S.);
- Requiring the counties to report use and success of the supervised bond program and community court programs created by the act; and
- Modifying the submission date from October 10th to December 1st for the annual contraband seizure report (s. 932.7061, F.S.).

The bill makes the following appropriations:

- \$205,000 from the General Revenue Fund to the Executive Office of the Governor and authorizes one full-time-equivalent position to administer the Florida Correctional Operations Council.
- \$1.75 million from the General Revenue Fund to the Department of Law Enforcement and authorizes nine full-time-equivalent positions to crime reporting, and collecting and submitting crime statistics.

The Department of Corrections, the Department of Law Enforcement, and local governments are expected to incur significant costs associated with additional workload and the need for information technology updates for which no funds are provided to implement the provisions of this bill. The Department of Law Enforcement expects to experience a reduction in revenues associated with the criminal history records. See Section V. Fiscal Impact Statement.

The bill takes effect October 1, 2018.

II. Present Situation:

Refer to Section III. Effect of Proposed Changes for discussion of the relevant portions of current law.

III. Effect of Proposed Changes:

Supervised Bond Program (Section 13)

Pretrial Release Subsequent to an Arrest

The Florida Constitution provides that every person charged with a crime is entitled to pretrial release with reasonable conditions.¹ There are three types of pretrial release for a defendant who is awaiting trial: posting of a bail or surety bond, pretrial release conditions, or release on his or her own recognizance.²

Bail and Surety Bond

The purpose of a bail determination in criminal proceedings is intended to ensure the defendant's appearance at subsequent proceedings and protect the community against unreasonable danger

¹ FLA. CONST. art. I, s. 14. This right does not apply to persons charged with a capital offense or an offense punishable by life imprisonment and the proof of guilt is evident or the presumption is great. *Id.*

² See FLA. CONST. art. I, s. 14; See also ss. 903.046 and 907.041, F.S.

from the defendant.³ Bail is a common monetary condition of pretrial release, governed by ch. 903, F.S.⁴ For the defendant to be released from jail, a court may require bail by a defendant to provide security, such as cash or a bond to ensure that he or she will return for trial and any other required court appearances.⁵

As an alternative to posting the entire bail amount, a defendant may provide a criminal surety bail bond⁶ executed by a bail bond agent. Generally, the defendant or another person on the defendant's behalf pays the bail bond agent a nonrefundable fee equal to 10 percent of the bond amount set by the court with the addition of some type of asset provided to the bond agent as collateral. If the defendant does not appear in court, the bail bond agent is responsible for paying the entire bond amount.⁷

Pretrial Release Conditions

A judge can release a defendant with any combination of the following pretrial release conditions:

- Release on the defendant's own recognizance;⁸
- Execute an unsecured appearance bond in an amount specified by the judge;
- Comply with any court-imposed restrictions on travel, association, or place of abode during the period of release;
- Be placed in the custody of a designated person or organization agreeing to supervise the defendant;
- Have a designate execute a bail bond with sufficient solvent sureties, or the deposit of cash in lieu thereof; or
- Comply with any other condition deemed reasonably necessary to assure required appearance, including a condition requiring the defendant to return to custody after specified hours.⁹

A judge also can release a defendant to a pretrial release program. Generally, judges allow a defendant to be released to a pretrial release program without posting a bond; however, a judge can require a defendant to post a bond and participate in the program.¹⁰ Specifically, s. 907.041, F.S., provides a presumption in favor of release on nonmonetary conditions for any person who is granted pretrial release unless such person is charged with a dangerous crime.¹¹ These

³ Section 903.046(1), F.S.

⁴ "Bail" Black's Law Dictionary (3rd Pocket Edition). The purpose of a bail bond is to guarantee the defendant's presence in court to face criminal charges.

⁵ *Universal Bail Bonds v. State*, 929 So.2d 697, 699 (Fla. 3d DCA 2006).

⁶ Sections 903.011 and 903.105, F.S.

⁷ OPPAGA, *County Pretrial Release Programs: Calendar Year 2016*, Report No. 17-12, at 2. (Dec. 2017) available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1712rpt.pdf> (last visited February 23, 2018) (hereinafter cited as "OPPAGA Pretrial Report").

⁸ A defendant released on his or her own recognizance (ROR) is released without a monetary requirement and without any conditions of release or supervision of any type. Release on recognizance is defined to mean the pretrial release of an arrested person who promises, usually in writing, but without supplying a surety of posting bond, to appear for trial at a later date. BLACK'S LAW DICTIONARY 606 (3d Pocket ed. 2006).

⁹ Rule 3.131(b)(1), Fla. R. Crim. Pro.

¹⁰ *Id.* If a monetary bail is required, the judge must determine a separate amount for each charge or offense. Rule 3.131(b)(2), Fla. R. Crim. Pro.

¹¹ See s. 907.041, F.S., for a list of enumerated felonies that are included in the definition of a dangerous crime.

programs supervise defendants with various methods, including electronic monitoring¹² or phone contact.¹³

A Court's Determination of Pretrial Release

The judge must consider all available relevant factors during the first appearance hearing to determine what form of release is necessary to assure the defendant's appearance and the community's safety, including factors such as:

- The nature and circumstances of the offense charged.
- The weight of the evidence against the defendant.
- The defendant's family ties, length of residence in the community, employment history, financial resources, and mental condition.
- The defendant's past and present conduct, including any record of convictions, previous flight to avoid prosecution, or failure to appear at court proceedings.
- The nature and probability of danger that the defendant's release poses to the community.¹⁴

Section 903.047, F.S., provides additional conditions that a defendant must comply with upon release from custody pending trial, including:

- Refrain from criminal activity of any kind;
- Refrain from contact of any type with the victim; and
- Comply with all conditions of pretrial release.

Standard Bond Schedule

Florida does not have a statewide bond schedule, but each circuit has developed a standard bond schedule. Courts create uniform bail bond schedules to ensure that alleged offenders are provided equal treatment when charged with similar crimes and generally apply to all felonies, misdemeanors and county or municipal ordinance violations as the presumptive bond to be set unless ordered differently by a judge.¹⁵ Even though a county may have an established standard bond schedule, a judge may impose a bond that is above or below such schedule if he or she deems it is necessary based upon circumstances of the case.¹⁶

¹² An electronic monitoring device (EM) is a tamper-resistant device worn on the body that monitors the location of a person at all times of the day. The monitoring agency is notified for various violations of the terms of supervision, such as if the person travels to a location he or she is not authorized to be or if the device is removed by the person. EM systems can be either "passive" or "active" and are typically operated through radio frequency or global positioning system (GPS) monitoring. Office of Juvenile Justice and Delinquency Prevention, *Home Confinement and Electronic Monitoring*, October, 2014, available at https://www.ojjdp.gov/mpg/litreviews/Home_Confinement_EM.pdf (last visited February 23, 2018).

¹³ OPPAGA Pretrial Report, at 9.

¹⁴ Section 903.046(2), F.S. See also Rule 3.131(b)(3), Fla. R. Crim. Pro.

¹⁵ Some common ways to address the bond schedules are to either have a standard based on the degree of the offense (for example a \$5,000 bond for all second degree felonies, as seen in the Tenth Judicial Circuit) or a specific amount agreed upon for a specific offense, as seen in the Sixth Judicial Circuit. See Tenth Judicial Circuit, In and For Hardee, Highlands, and Polk Counties, *Administrative Order IN RE: Uniform Bond Schedule*, available at <http://jud10.flcourts.org/sites/all/files/docs/2-49.8.pdf>; Sixth Judicial Circuit, In and For Pasco and Pinellas Counties, *Administrative Order NO. 2009-021 PA-CIR, RE: Uniform Bond Schedule – Pasco County*, available at <http://www.jud6.org/LegalCommunity/LegalPractice/AOSAndRules/aos/aos2009/2009-021.htm> (last visited all sites January 22, 2018).

¹⁶ *Mehaffie v. Rutherford*, 143 So.3d 432 at 434 (Fla. 1st DCA 2014). Under s. 903.286, F.S., the clerk of the court may withhold sufficient funds to pay any unpaid costs of prosecution, costs of representation, court fees, court costs, and criminal penalties from the return of a cash bond posted on behalf of a criminal defendant. If sufficient funds are not available to pay

Violation of Pretrial Release Conditions

A defendant who does not comply with the terms of the pretrial release can have his or her bond forfeited if certain factors are proven.¹⁷ Under s. 903.0471, F.S., the court may revoke, on its own motion, pretrial release and order pretrial detention if the court finds probable cause to believe that the defendant committed a new crime while on pretrial release.¹⁸

Supervised Bond Programs in Florida

There is a movement towards bail reform in the United States, with some circuits, including Pinellas County in Florida, implementing a new model for releasing defendants while awaiting trial. The new programs typically require the administration of a RAI, which is then used to determine the release conditions for the defendant.

The Pinellas County supervised bond program has been operating since 2014.¹⁹ Sheriff Gualtieri, the chief correctional officer for Pinellas County, testified in the Senate Criminal Justice Committee on January 8, 2018, that this program was created in an effort to reduce the jail population in Pinellas County and avoid the need to build a larger facility.²⁰ Sheriff Gualtieri reported that while the bond amounts imposed by the court were proper to ensure public safety and compliance, judges could not lower the bail while still ensuring public safety and compliance without more oversight. As a result, a number of defendants remained in custody for months unable to meet the bail amount imposed.²¹

Upon agreement from the judiciary and in partnership with the bail bond industry, the Pinellas County Sheriff's Office established a supervised bond program that requires active electronic monitoring, continuous alcohol monitoring²² or both.²³

The Pinellas County Sheriff's Office averages approximately 200 people per day on active supervision through the supervised bond program.²⁴ Sheriff Gualtieri reported that of all the defendants who have been released on the supervised bond program, 99.5 percent have appeared

all unpaid costs associated with the criminal case, the clerk of the court must immediately obtain payment from the defendant or enroll the defendant in a payment plan. This section does not apply to the portion that is paid by a licensed bail bond agent.

¹⁷ See s. 903.26, F.S.

¹⁸ This discretion is provided regardless of the conditions for granting pretrial release provided for in s. 907.041, F.S.

¹⁹ Presentation by Sheriff Bob Gualtieri, Pinellas County Sheriff's Office, in the Senate Criminal Justice Committee, January 8, 2018 (hereinafter cited as "Committee Presentation"); See also Sheriff Bob Gualtieri, PowerPoint Presentation, *ROR and Supervised Bond Presentation* (on file with the Criminal Justice Committee) (hereinafter cited as "Supervised Bond PowerPoint").

²⁰ Sheriff Gualtieri testified that the Pinellas County jail was crowded in 2014 with approximately 70 percent of the inmates being pretrial detainees. Supervised Bond PowerPoint, at 3.

²¹ Supervised Bond PowerPoint, at 2-4.

²² Continuous Alcohol Monitoring systems are tamper-resistant automated alcohol-monitoring devices that use transdermal testing to measure the amount of alcohol in person's body, known as transdermal alcohol content (TAC). When alcohol is consumed, ethanol migrates through the skin and is excreted through perspiration. See National Institute of Justice, *Secure Continuous Remote Alcohol Monitoring (SCRAM) Technology Evaluability Assessment*, available at <https://www.ncjrs.gov/pdffiles1/nij/secure-continuous-remote-alcohol.pdf> (last visited February 23, 2018).

²³ *Id.* at 4-5.

²⁴ Supervised Bond PowerPoint, at 7.

for required court hearings and 94.9 percent did not commit a new crime while in the program.²⁵ Of the total cases supervised on the Supervised Bond Program, 45 percent were felonies, 30 percent were misdemeanors, and 25 percent were for felony or misdemeanor driving under the influence.²⁶ Sheriff Gualtieri reported that these programs have resulted in a \$38.9 million annual savings.²⁷

Evidence-Based Risk Assessment Tools

RAIs measure a defendant’s criminal risk factors and specific needs that, if addressed, will reduce the likelihood of future criminal activity.²⁸ RAIs consist of a set of questions that guide face-to-face interviews with a defendant, intended to evaluate behaviors and attitudes that research shows are related to criminals reoffending. The questioner typically supplements the interview with an official records check. The RAI then calculates an overall score that classifies a defendant as being at high, moderate, or low risk for reoffending.²⁹

Research has identified both static and dynamic risk factors that are related to criminal behavior. Static risk factors³⁰ do not change, while dynamic risk factors³¹ either can change on their own or change through an intervention. The Risk-Needs-Responsivity (RNR) model has become the dominant paradigm in risk and needs assessment.³² The RNR principle refers to predicting which inmates have a higher probability of recidivating, and treating the criminogenic needs of those higher risk inmates with appropriate programming and services based on their level of need. In general, research suggests that the most commonly used assessment instruments can, with a moderate level of accuracy, predict who is at risk for violent recidivism. It also suggests that no single instrument is superior to any other when it comes to predictive validity.³³

Use of Risk Assessment Instruments by the Department of Corrections

The DOC has created a RAI, known as Spectrum, which is administered to an inmate at reception through motivational interviewing techniques.³⁴ Spectrum, as well as its predecessor,

²⁵ *Id.* at 9.

²⁶ *Id.* at 10.

²⁷ *Id.* at 16. This savings takes into account the cost it required to house an additional 900 inmates per day with the current per diem rate and the operational cost.

²⁸ Congressional Research Service, *Risk and Needs Assessment in the Criminal Justice System*, Nathan James, at 2 (October 13, 2015), available at <https://fas.org/sgp/crs/misc/R44087.pdf> (last visited February 23, 2018) (hereinafter cited as CRS Report).

²⁹ *Id.* 2-4.

³⁰ Some examples of static factors considered include age at first arrest, gender, past problems with substance or alcohol abuse, prior mental health problems, or a past history of violating terms of supervision. CRS Report, p. 3.

³¹ Dynamic risk factors, also called “criminogenic needs,” can be affected through interventions and include factors such as current age, education level, or marital status; being currently employed or in substance or alcohol abuse treatment; and having a stable residence. “Criminogenic” is commonly understood to mean factors that can contribute to criminal behavior. CRS Report, at 3.

³² The risk principle states that high-risk offenders need to be placed in programs that provide more intensive treatment and services while low-risk offenders should receive minimal or even no intervention. The need principle states that effective treatment should focus on addressing needs that contribute to criminal behavior. The responsivity principle states that rehabilitative programming should be delivered in a style and mode that is consistent with the ability and learning style of the offender. CRS Report, at 2 and 6.

³³ *Id.*

³⁴ DOC, Spectrum Video, available at <https://www.youtube.com/watch?v=WRI5ldWf5MY&feature=youtu.be> (last visited January 25, 2018) (hereinafter cited as “Spectrum Video”); DOC, *Program Information: Compass 100, Spectrum, Academic*

the Corrections Integrated Needs Assessment System (CINAS), is based on the RNR model and contains responsivity elements.³⁵ Inmates identified during the assessment as being in need of treatment or services become mandated program participants and are placed on the DOC's centralized statewide-automated priority list for placement in a program.³⁶

Spectrum has been independently verified through the School of Criminology at Florida State University.³⁷

Spectrum hosts an array of assessments and screenings across multiple disciplines including mental health, substance abuse, academic and workforce education.³⁸ Spectrum calculates an individual's overall risk of returning to prison upon release and identifies needs that can be addressed to reduce his or her risk within seven criminogenic domains and three core program areas.³⁹ The DOC uses the results from the Spectrum assessment to create an evidence-driven performance plan that matches the inmate's needs with services and programming offered in the DOC. Data collected during administration of Spectrum is also used to assist with transitioning an inmate back into the community upon release through relaying the information to reentry service providers in the local community and community corrections.⁴⁰

Effect of the Bill

The bill creates s. 907.042, F.S., authorizing each county to create a supervised bond program (Bond Program). The terms of each county's Bond Program must be developed with the concurrence of the chief judge of the circuit, the sheriff, the state attorney (SA), and the public defender (PD). However, a county that has already established and implemented a Bond Program may continue to operate without such concurrence if the program complies with the specified program and RAI requirements discussed below.

A Bond Program established pursuant to this bill must, at a minimum:

- Require the sheriff to administer the Bond Program.

& *Workforce Education/GED* (on file with the Senate Criminal Justice Committee) (hereinafter cited as "DOC Program Information").

³⁵ DOC, *Agency Analysis for SB 1222*, p. 2, January 18, 2018 (on file with the Senate Criminal Justice Committee) (hereinafter cited as "The DOC SB 1222 Analysis"). The DOC reports that criminogenic needs are those factors that are associated with recidivism that can be changed (e.g. lack of education, substance abuse, criminal thinking, lack of marketable job skills, etc.). Offenders are not higher risk because they have a particular risk factor, but, rather, because they have multiple risk factors. Accordingly, a range of services and interventions is provided that target the specific crime producing needs of offenders who are higher risk. *See also Id.* and Email from Jared Torres, DOC, Director of Legislative Affairs (January 25, 2018) (on file with Senate Criminal Justice Committee).

³⁶ Substance Abuse Annual Report, at 6.

³⁷ Letter from Dr. William D. Bales and Jennifer M. Brown, ABD to DOC Secretary, Julie Jones, (January 19, 2018) (on file with the Senate Criminal Justice Committee). Dr. Bales provides that Spectrum "produces a level of predictive accuracy that is above the conventional threshold of acceptability and is consistent with risk assessment systems used by other correctional systems throughout the United States."

³⁸ DOC Program Information.

³⁹ The criminogenic domains include social awareness (antisocial personality); criminal associates; substance abuse history; family and marital relationships; wellness; criminal thinking or attitude; and employment and education history. Spectrum Video. The three core program areas include GED, Career & Technical skills (vocation), and substance use treatment and is part of the needs portion of the RNR model as they address criminogenic risk factors. Email from Jared Torres, DOC, Director of Legislative Affairs (January 25, 2018) (on file with the Senate Criminal Justice Committee).

⁴⁰ *Id.*

- Require the sheriff, or his or her designee, to administer the RAI to a potential defendant.
- Utilize a RAI to determine eligible defendants and determine an appropriate level of supervision for each defendant upon release.
- Review the bond of a defendant who is being accepted into the Bond Program to determine if a reduction of the court-ordered bond, up to its entirety, is appropriate.
- Provide that the findings of the RAI will be used to create an individualized supervision plan for each eligible defendant that is tailored to the defendant's risk level and supervision needs.
- Require, as part of the individualized supervision plan, that any defendant released in the Bond Program must be placed on active electronic monitoring or active continuous alcohol monitoring, or both, dependent upon the level of risk indicated by the RAI.
- Require weekly communication between the sheriff's office and the defendant as part of the individualized supervision plan, which can be satisfied via telephone or in person contact, dependent upon the level of risk indicated by the RAI.
- Establish procedures for reassessing or terminating defendants from the Bond Program who do not comply with the terms of the individualized supervision plan imposed through the program.

Each county must utilize a RAI that conducts a criminogenic assessment for use in evaluating the proper level of supervision appropriate to ensure compliance with pretrial conditions and safety to the community. The RAI must consider, but need not be limited to, the following criteria:

- The nature and circumstances of the offense the defendant is alleged to have committed.
- The nature and extent of the defendant's prior criminal history, if any.
- Any prior history of the defendant failing to appear in court.
- The defendant's employment history, employability skills, and employment interests.
- The defendant's educational, vocational, and technical training.
- The defendant's background, including his or her family, home, and community environment.
- The defendant's physical and mental health history, including any substance use.
- An evaluation of the defendant's criminal thinking, criminal associates, and social awareness.

Further, a county may use a RAI that the county creates on its own for the purpose of operating a Bond Program and determining appropriateness of pretrial release, the defendant's risk of noncompliance on pretrial release, and risk to the community, that:

- The county has previously developed for a similar purpose;
- The DOC develops or modifies from a RAI that it has already developed;
- Another county has developed for a similar purpose; or
- An independent entity has previously developed for a similar purpose.

If a county opts to use a RAI that is developed by any entity listed above other than the DOC, such RAI must be independently validated by the DOC and contain the criteria listed above.

A county may begin to implement its Bond Program immediately upon securing a contract for the use of, or the completion of development or modification, of a RAI and, if applicable, validation of the RAI. Additionally, a county that has not established a Bond Program, but has created a RAI for a similar purpose as is intended in the act, may implement its Bond Program immediately upon the RAI being validated by the DOC. A county that has already implemented

a Bond Program may continue to operate its program while the RAI it utilizes is being validated. Implementation must include training of all county staff that will administer the RAI.

The bill requires each county that establishes a Bond Program, or that has an existing Bond Program that operates in compliance with the act, to provide an annual report to the OPPAGA that details the:

- Results of the administration of the RAI;
- Programming used for defendants who received the assessment and were accepted into the Bond Program;
- Success rate of the Bond Program; and
- Savings realized by the county as a result of defendants being released from custody pending trial through the Bond Program.

The county's annual report must be submitted to the OPPAGA by October 1 each year. The OPPAGA must compile the results of the counties' reports for inclusion in an independent section of its annual report developed and submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives in accordance with s. 907.044, F.S.⁴¹

Lastly, the bill also provides several legislative findings supporting the changes made in the act.

Risk Assessment Pilot Program (Section 14)

The bill creates a Risk Assessment Pilot Program. The bill provides the following legislative findings for the program:

- There is a need to use evidence-based methods to reduce recidivism.
- The use of actuarial instruments that classify offenders according to levels of risk to reoffend provides a more consistent and accurate assessment of an offender's risk and needs.
- Research indicates that using accurate risk and needs assessment instruments to identify appropriate interventions and programming for offenders reduces recidivism.

Risk Assessment Instrument Criteria

The bill directs the DOC to develop a RAI that conducts a criminogenic assessment by March 1, 2019, for use in evaluating the proper placement and programming needs for a person who is arrested. The RAI must consider at a minimum the following criteria:

- The nature and circumstances of the offense the person committed.
- The nature and extent of the person's prior criminal history, if any.
- Any prior history of the person failing to appear in court.
- The person's employment history, employability skills, and employment interests.
- The person's educational, vocational, and technical training.
- The person's background, including his or her family, home, and community environment.
- The person's physical and mental health history, including any substance use.
- An evaluation of the person's criminal thinking, criminal associates, and social awareness.

⁴¹ Section 907.044, F.S., requires the OPPAGA to conduct an annual study to evaluate the effectiveness and cost efficiency of pretrial release programs in Florida. The OPPAGA is required to submit its report to the President of the Senate and the Speaker of the House of Representatives by January 1 of each year.

The DOC may use or modify an existing RAI if it contains the above-listed criteria.

Implementation Requirements

The bill authorizes the DOC to begin implementation of the RAI immediately upon completion, but requires implementation, including all staff training, to be completed no later than June 30, 2019.

Administration of the Risk Assessment Instrument

The bill provides that a representative of the sheriff's office must administer the RAI as early as reasonably possible after a person's arrest, but no later than 10 business days after the arrest. The RAI may be conducted via video teleconference. In the event that a person is released from custody on pretrial release before the RAI has been administered, the sheriff or his or her representative must schedule a time for the person to come back to the jail to have the RAI administered. The person must be provided written notice of the appointment upon release.

Upon completion of a RAI report, the report must be provided to the person that had the RAI administered upon him or her, the defense counsel, and the SA.

The DOC must submit the report to the court, but the court may not review the report without the consent of the person who is the subject of the report and his or her legal counsel.

Pilot Program Creation and Requirements

The bill creates a three-year pilot program, contingent upon appropriations and a contract with each participating county and the DOC. The bill provides that the counties eligible for participation include Hillsborough, Pasco, and Pinellas Counties. The sheriff from each participating county must enter into a contract with the DOC to use the RAI developed under the act.

The bill requires the counties participating in the program to administer the RAI to all persons arrested for a felony and use the results of the RAI as a tool for determining appropriate programming and sentencing with the goal of reducing recidivism. By July 1 of each year, each participating county must provide an annual report to the DOC detailing the results of the administration of the RAI, programming used for persons who received the RAI, and the success rate of such programming.

The DOC is required to compile the county reports and submit one annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by October 1 of each year of the pilot program.

Rulemaking Authority

The bill provides rulemaking authority to the DOC to implement the act. The rules must be developed in consultation with the sheriff, chief judge, SA, and PD of each participating county.

Drug Trafficking Sentencing Departure (Section 9)

Florida's Controlled Substance Schedules

Section 893.03, F.S., classifies controlled substances into five categories, known as schedules. These schedules regulate the manufacture, distribution, preparation, and dispensing of the substances listed in the schedules. The most important factors in determining the schedule classification of a substance are the “potential for abuse”⁴² of the substance and whether there is a currently accepted medical use for the substance in the United States.⁴³

Drug Trafficking

Drug trafficking, which is punished in s. 893.135, F.S., consists of knowingly selling, purchasing, manufacturing, delivering, or bringing into this state (importation), or knowingly being in actual or constructive possession of, certain Schedule I or Schedule II controlled substances in a statutorily specified quantity. The statute only applies to a limited number of such controlled substances.⁴⁴ The controlled substance involved in the trafficking must meet a specified weight or quantity threshold.

Most drug trafficking offenses are first degree felonies⁴⁵ and are subject to a mandatory minimum term of imprisonment⁴⁶ and a mandatory fine, which is determined by the weight or quantity range applicable to the weight or quantity of the substance involved in the trafficking.⁴⁷ For example, trafficking in 28 grams or more, but less than 200 grams, of cocaine, a first degree felony, is punishable by a 3-year mandatory minimum term of imprisonment and a mandatory fine of \$50,000.⁴⁸ Trafficking in 200 grams or more, but less than 400 grams, of cocaine, a first degree felony, is punishable by a 15-year mandatory minimum term of imprisonment and a mandatory fine of \$100,000.⁴⁹

⁴² Pursuant to s. 893.035(3)(a), F.S., “potential for abuse” means a substance has properties as a central nervous system stimulant or depressant or a hallucinogen that create a substantial likelihood of the substance being: (1) used in amounts that create a hazard to the user’s health or the safety of the community; (2) diverted from legal channels and distributed through illegal channels; or (3) taken on the user’s own initiative rather than on the basis of professional medical advice.

⁴³ See s. 893.03(1)-(5), F.S.

⁴⁴ See s. 893.135, F.S., for the substances which are included in the offense if drug trafficking.

⁴⁵ A first degree felony is generally punishable by up to 30 years in state prison and a fine of up to \$10,000. However, when specifically provided by statute, a first degree felony may be punished by imprisonment for a term of years not exceeding life imprisonment. Sections 775.082 and 775.083, F.S.

⁴⁶ There are currently 56 mandatory minimum terms of imprisonment in s. 893.135, F.S., which range from three years to life imprisonment.

⁴⁷ See s. 893.135, F.S.

⁴⁸ Section 893.135(b)(1)a., F.S.

⁴⁹ Section 893.135(b)(1)b., F.S.

Criminal Punishment Code

The Criminal Punishment Code⁵⁰ (Code) is Florida’s “primary sentencing policy.”⁵¹ Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10).⁵² Points are assigned and accrue based upon the level ranking assigned to the primary offense, additional offenses, and prior offenses. Sentence points escalate as the level escalates. Points may also be added or multiplied for other factors such as victim injury or the commission of certain offenses like a Level 7 or 8 drug trafficking offense. The lowest permissible sentence is any nonstate prison sanction in which total sentence points equal or are less than 44 points, unless the court determines that a prison sentence is appropriate. If total sentence points exceed 44 points, the lowest permissible sentence in prison months is calculated by subtracting 28 points from the total sentence points and decreasing the remaining total by 25 percent.⁵³ Absent mitigation,⁵⁴ the permissible sentencing range under the Code is generally the lowest permissible sentence scored up to and including the maximum penalty provided under s. 775.082, F.S. The statutory maximum sentence for a first-degree felony is 30 years, for a second-degree felony is 15 years, and for a third degree felony is 5 years.⁵⁵

Mandatory Minimum Sentences and Departures

Mandatory minimum terms of imprisonment limit judicial discretion in Code sentencing: “If the lowest permissible sentence is less than the mandatory minimum sentence, the mandatory minimum sentence takes precedence.”⁵⁶ As previously noted, the sentencing range under the Code is generally the scored lowest permissible sentence up to and including the statutory maximum penalty. However, if there is a mandatory minimum sentence that is longer than the scored lowest permissible sentence, the sentencing range is narrowed to the mandatory minimum sentence up to and including the statutory maximum penalty.

Prosecutors have “complete discretion” in the charging decision.⁵⁷ The exercise of this discretion may determine whether a defendant is subject to a mandatory minimum term or a reduced mandatory minimum term. A prosecutor could determine in a particular case that mandatory minimum sentencing is inappropriate or too severe and avoid or ameliorate such sentencing. Further, a prosecutor could move the court to reduce or suspend a sentence if the defendant renders substantial assistance.

⁵⁰ Sections 921.002-921.0027, F.S. See chs. 97-194 and 98-204, L.O.F. The Code is effective for offenses committed on or after October 1, 1998.

⁵¹ DOC, *Florida’s Criminal Punishment Code: A Comparative Assessment (FY 2012-2013) Executive Summary (Offenses Committed On or After October 1, 1998)*, available at http://www.dc.state.fl.us/pub/sg_annual/1213/executives.html (last visited on February 21, 2018).

⁵² Offenses are either ranked in the offense severity level ranking chart in s. 921.0022, F.S., or are ranked by default based on a ranking assigned to the felony degree of the offense as provided in s. 921.0023, F.S.

⁵³ Section 921.0024, F.S. Unless otherwise noted, information on the Code is from this source.

⁵⁴ The court may “mitigate” or “depart downward” from the scored lowest permissible sentence if the court finds a mitigating circumstance. Section 921.0026, F.S., provides a list of mitigating circumstances.

⁵⁵ See s. 775.082, F.S.

⁵⁶ Fla. R. Crim. P. 3.704(d)(26).

⁵⁷ “Under Florida’s constitution, the decision to charge and prosecute is an executive responsibility, and the state attorney has complete discretion in deciding whether and how to prosecute.” *State v. Bloom*, 497 So.2d 2, 3 (Fla. 1986).

There are few circumstances in which a court of its own accord can depart from a mandatory minimum term. A court may depart from a mandatory minimum term if the defendant is a youthful offender.⁵⁸ A court may also depart from a mandatory minimum term for a violation of s. 316.027(2)(c), F.S. (driver involved in a fatal crash fails to stop and remain at the scene of a crash), if the court “finds that a factor, consideration or circumstance clearly demonstrates that imposing a mandatory minimum term of imprisonment would constitute or result in an injustice.”⁵⁹

Effect of the Bill

The bill amends s. 893.135, F.S., to authorize a court to depart from a mandatory minimum term of imprisonment and mandatory fine applicable to that offense. The departure is authorized if the court finds on the record that the person did not:

- Engage in a continuing criminal enterprise;⁶⁰
- Use or threaten violence or use a weapon during the commission of the crime; and
- Cause a death or serious bodily injury.

The bill applies to all drug trafficking acts (possession, sale, manufacture, delivery, and importation) and to most, if not all, drug trafficking mandatory minimum terms of imprisonment (ranging from 3 years to life imprisonment).⁶¹

Probation and Community Control (Sections 29-32)

Forms of Supervision through the Department of Corrections

At sentencing, a judge may place an offender on probation or community control in lieu of or in addition to incarceration.⁶² The DOC supervises more than 167,000 offenders on active community supervision. This includes offenders released from prison on parole, conditional release, or conditional medical release and offenders placed on court ordered supervision including probation, drug offender probation, sex offender probation, and community control.⁶³

⁵⁸ Section 958.04, F.S.

⁵⁹ Section 316.027(2)(g), F.S.

⁶⁰ Section 893.20(1), F.S., provides that any person who commits three or more felonies under ch. 893, F.S., in concert with five or more other persons with respect to whom such person occupies a position of organizer, a supervisory position, or any other position of management and who obtains substantial assets or resources from these acts is guilty of engaging in a continuing criminal enterprise.

⁶¹ The drug-trafficking statute imposes a mandatory life sentence for trafficking in especially large amounts of certain substances. However, these mandatory life sentences are never described as a “mandatory minimum” sentences like the rest of the mandatory minimum sentences imposed by the statute. Nonetheless, the mandatory life sentence that is required for certain offenses seems to be a mandatory minimum sentence, and thus a sentence to which the bill would apply.

⁶² Section 948.01, F.S.

⁶³ DOC, *Introduction to Community Corrections*, available at <http://www.dc.state.fl.us/facilities/comcor/> (last visited February 21, 2018).

Probation

Probation is a form of community supervision requiring specified contacts with probation officers and other conditions a court may impose.⁶⁴ There are also specialized forms of supervision such as drug offender probation⁶⁵ and mental health probation.⁶⁶ Section 948.03, F.S., provides that a court must determine the terms and conditions of probation. Standard conditions of probation that are enumerated in s. 948.03, F.S., are not required to be announced on the record, but the court must orally pronounce, as well as provide in writing, any special conditions of probation imposed.

Administrative Probation

Section 948.013, F.S., provides that the DOC may establish procedures for transferring an offender to administrative probation. Administrative probation is defined in s. 948.001(1), F.S. There are specified underlying offenses that are prohibited from being transferred to administrative probation.⁶⁷

Community Control

Section 948.001(3), F.S., defines “community control” as a form of intensive, supervised custody in the community, including surveillance on weekends and holidays, administered by officers with restricted caseloads.⁶⁸ The community control program is rigidly structured and designed to accommodate offenders who, in the absence of such a program, will be committed to the custody of the DOC or a county jail.⁶⁹ A person on community control (controlee) has an individualized program and is restricted to his or her home or noninstitutional residential placement, unless working, attending school, performing public service hours, participating in treatment or another special activity that has been approved in advance by his or her parole and probation officer.⁷⁰

Conditions of community control are determined by the court when the offender is placed on such supervision. There are standard conditions of community control with which all controlees must comply.⁷¹ A person may be placed on additional terms of supervision as part of his or her community control sentence.⁷²

Violations of Probation or Community Control

If an offender violates the terms of his or her probation or community control, the supervision can be revoked in accordance with s. 948.06, F.S.⁷³ A violation of probation (VOP) or violation

⁶⁴ Section 948.001(8), F.S. Terms and conditions of probation are provided in s. 948.03, F.S.

⁶⁵ Section 948.001(4), F.S., defines “drug offender probation” as a form of intensive supervision that emphasizes treatment of drug offenders in accordance with individualized treatment plans administered by probation officers with reduced caseloads.

⁶⁶ Section 948.001(5), F.S., “mental health probation” means a form of specialized supervision that emphasizes mental health treatment and working with treatment providers to focus on underlying mental health disorders and compliance with a prescribed psychotropic medication regimen in accordance with individualized treatment plans.

⁶⁷ See Section 948.013(2) and (3), F.S.

⁶⁸ Section 948.10(2), F.S., provides that caseloads must be no more than 30 cases per officer.

⁶⁹ Section 948.10(1), F.S.

⁷⁰ *Id.*

⁷¹ See s. 948.101(1), F.S., for the standard conditions of community control.

⁷² Section 948.101(2), F.S.

⁷³ Section 948.10(3), F.S.

of community control (VOCC) can be the result of a new violation of law or a technical violation of the conditions imposed. If reasonable grounds exist to believe that an offender on probation or community control has violated his or her terms of supervision in a material respect, an offender may be arrested without a warrant by a:

- Law enforcement officer who is aware of the inmate's supervised community release status;
- Probation officer; or
- County or municipal law enforcement officer upon request by a probation officer.⁷⁴

The offender must be returned to the court granting such probation or community control.⁷⁵ Additionally, the committing court judge may issue a warrant, upon the facts being made known to him or her by affidavit of one having knowledge of such facts, for the arrest of the offender.⁷⁶

Upon a finding through a VOP or VOCC hearing, a court may revoke, modify, or continue the supervision. If the court chooses to revoke the supervision, it may impose any sentence originally permissible before placing the offender on supervision.⁷⁷ In addition, if an offender qualifies as a violent felony offender of special concern (VFOSC), the court must revoke supervision, unless it makes written findings that the VFOSC does not pose a danger to the community.⁷⁸ The VFOSC status also accrues sentence points under the Code, which affects the scoring of the lowest permissible sentence.⁷⁹

Alternative Sanctioning Programs

In FY 2016-17, 18,999 of all resolved violations were technical in nature as were 20,834 of the violations resolved in FY 2015-16. Many of these violations resulted in the offender returning to some form of supervision or serving a county jail sentence.⁸⁰ Prior to 2016, the DOC developed and implemented an alternative sanctioning program (ASP) in twelve counties within six judicial circuits.⁸¹ An ASP allows for an alternative resolution of technical violations of probation that ensures a swift and certain response without initiating the court process or arresting and booking the offender. Section 948.06, F.S., was amended during the 2016 Legislative Session to codify ASPs.⁸² The use of such programs has substantially increased since enactment of the ASP option. As of February 2018, 13 circuits (including 45 of 67 counties) have established ASPs by administrative order. These participating jurisdictions have resolved 2,371 violations through the ASP.⁸³

⁷⁴ Section 948.06(1)(a), F.S.

⁷⁵ *Id.*

⁷⁶ Section 948.06(1)(b), F.S. The committing trial court judge may also issue a notice to appear if the controllee has never been convicted of committing, and is not currently alleged to have committed, a qualifying offense as enumerated in s. 948.06(8)(c), F.S.

⁷⁷ Section 948.06(2)(b), F.S.

⁷⁸ *See* s. 948.06(8)(a), F.S., for all VFOSC qualifications and enumerated list of felonies that are considered qualifying offenses. *See also* ch. 2007-2, L.O.F.

⁷⁹ Section 921.0024, F.S.

⁸⁰ Email from the DOC Staff (February 22, 2018) (on file with Senate Criminal Justice Committee).

⁸¹ DOC, *Agency Analysis HB 1149 (2016)*, at p. 2 (January 20, 2016) (on file with the Senate Criminal Justice Committee).

⁸² Ch. 2016-100, L.O.F.

⁸³ Email from the DOC Staff (February 21, 2018). The circuits that have enacted administrative orders include: Third (Columbia, Dixie, Hamilton, Lafayette, Madison, Suwannee and Taylor Counties); Fourth (Duval County); Fifth (Citrus, Hernando, Lake, Marion and Sumter Counties); Sixth (Pasco and Pinellas Counties); Seventh (Flagler, Putnam, St. Johns and Volusia Counties); Eighth (Alachua, Baker, Bradford, Gilchrist, Levy, and Union Counties); Tenth (Hardee, Highlands, and

Section 948.06(1)(h), F.S., authorizes the chief judge of each judicial circuit to establish an ASP, in consultation with the SA, PD, and the DOC to address technical VOPs and VOCCs. A technical violation is defined to include any alleged violation of supervision that is not a new felony offense, misdemeanor offense, or criminal traffic offense.⁸⁴ Once an ASP administrative order is signed establishing the terms⁸⁵ of the program, the DOC may enforce specified sanctions for certain technical violations with court approval.

Common sanctions issued through the ASP include increased reporting requirements, which can be in person or via phone, community service hours, imposition or modification of a curfew, electronic monitoring, drug evaluation and treatment, employment searches and workforce training.⁸⁶ As of January 2018, two circuits and Brevard had included short jail sentences as a possible ASP sanction through administrative order.⁸⁷

After receiving written notice of an alleged technical violation and disclosure of the evidence supporting the violation, an offender who is eligible for the ASP may elect to either participate in the program or waive participation.⁸⁸ If the offender waives participation, the violation proceeds through the court resolution process.⁸⁹ If the offender elects to participate, he or she must admit to the technical violation, agree to comply with the probation officer's recommended sanction, and agree to waive the right to:

- Be represented by counsel.
- Require the state to prove his or her guilt.
- Subpoena witnesses and present evidence to a judge in his or her defense.
- Confront and cross-examine witnesses.
- Receive a written statement from a factfinder as to the evidence relied on and the reasons for the sanction imposed.⁹⁰

Upon the offender admitting to the technical violation and agreeing with the probation officer's recommended sanction, the probation officer must submit the recommended sanction to the court for approval. The submission to the court must include documentation related to the offender's admission to the technical violation and agreement with the recommended sanction. The court

Polk Counties); Twelfth (DeSoto, Manatee, and Sarasota Counties); Thirteenth (Hillsborough County); Fourteenth (Bay, Calhoun, Gulf, Holmes, Jackson and Washington Counties); Fifteenth (Palm Beach County); Eighteenth (Brevard and Seminole Counties); and Nineteenth (Indian River, Martin, Okeechobee and St. Lucie Counties).

⁸⁴ Section 946.08(2)(h)1., F.S.

⁸⁵ Section 948.06(1)(h)2., F.S., provides that the administrative order must address which technical violations are eligible for alternative sanctioning, offender eligibility criteria, permissible sanctions, and the process for reporting technical violations.

⁸⁶ Third Judicial Circuit, *Administrative Order 2016-003, Criminal Alternative Sanctioning Program*, available at http://www.jud3.flcourts.org/Admin_Orders/All/2016-003-Criminal%20Alternative%20Sanctioning%20Program.pdf
Thirteenth Judicial Circuit, *Administrative Order S-2016-019, Alternative Sanctioning Program*, available at <http://www.fljud13.org/Portals/0/AO/DOCS/S-2016-019.pdf?ver=2016-06-07-104033-303> (all sites last visited February 22, 2018).

⁸⁷ Two Circuits offer short county jail time as a sanction and Brevard County offers weekends with the Brevard County Sheriff's Work Farm. Email from the DOC Staff (February 22, 2018) (on file with Senate Criminal Justice Staff).

⁸⁸ Section 948.06(1)(h)3., F.S.

⁸⁹ Section 948.06(1)(h)3.a., F.S.

⁹⁰ Section 948.06(1)(h)3.b., F.S.

may impose the recommended sanction or may direct the DOC to submit a violation report, affidavit, and warrant.⁹¹

Participation in an ASP is voluntary. Additionally, the offender may elect to waive or discontinue participation in an ASP at any time before the issuance of a court order imposing the recommended sanction. The offender's prior admission to the technical violation may not be used as evidence in subsequent proceedings.⁹²

Conditions of Probation in the Florida Crime Information Center

The Florida Crime Information Center (FCIC) is the state's central database for tracking crime related information. Information contained in the FCIC database includes, but is not limited to, statewide information on persons and property, driver's license and registration information, wanted and missing persons, stolen guns, vehicles, and other property, and persons' status files, and computerized criminal history.⁹³ It is commonly used by law enforcement officers to gather relevant information when responding to a call for service or engaging in a citizen encounter.

Every criminal justice agency⁹⁴ within Florida is eligible for access to the FCIC.⁹⁵ Access is divided into limited access and full access. With limited access, the user is able to run a query in the system. With full access, the user is able to make modifications in the system.⁹⁶ Currently, an officer may run a driver license, warrant, or person query in the FCIC and the results will include information on whether the individual is currently on probation.⁹⁷ However, in general, a law enforcement officer will only see that the person is on probation. The FCIC will not include the specific terms of probation.⁹⁸

When probation conditions are ordered, modified, or deleted by the court, that information is forwarded to the DOC via the clerk of the court (clerk).⁹⁹ Once the conditions are received by the DOC, they are manually entered into the database.¹⁰⁰ Delays in this process may vary due to the volume of information, the manner in which information is received, and the variations in the process among the circuits.¹⁰¹

The DOC sends a probationer's data electronically to FDLE through a real time direct data pipeline. To include a probationer's conditions, the DOC will enter the information into a

⁹¹ Section 948.06(1)(h)4. and 5., F.S.

⁹² Section 948.06(1)(h)6. and 7., F.S.

⁹³ Department of Juvenile Justice, *Florida Department of Juvenile Justice Procedure*, p. 2, available at <http://www.djj.state.fl.us/docs/policies/fcic-ncic-cjnet-jis-and-david-access-use-procedures-fdjj-1805p.pdf?sfvrsn=4> (last visited February 22, 2018) (hereinafter cited as "DJJ Procedure").

⁹⁴ FDLE defines "criminal justice agency" to include courts and governmental agencies that perform the administration of criminal justice pursuant to a statute or executive order.

⁹⁵ DJJ Procedure.

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ Email from Florida Sheriffs Association Staff (February 22, 2018) (on file with Senate Criminal Justice Committee).

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

“Miscellaneous Field of the Status Record” field available in the FCIC.¹⁰² However, the DOC reports that it includes a number of special conditions of probation as prioritized by the FDLE, but that the current FDLE system only allows a smaller, specified amount of data and typically does not allot enough space to include all special conditions of probation.¹⁰³

A court has authority to modify or alter conditions of probation based on a probationer’s particular circumstances.¹⁰⁴ As a result, a probation officer may have permission to allow certain exceptions to conditions of probation on a case-by-case basis. For example, a court may allow a probation officer to give permission to a probationer to stay out past a designated curfew if the reason is for work, school, or health care emergencies. When this occurs, probation officers may not have access to the DOC databases in order to update in real time any exceptions to the individual’s probation in the FCIC.¹⁰⁵

Effect of the Bill

Alternative Sanctioning Programs

The bill amends s. 948.06, F.S., *requiring* each judicial circuit to establish an ASP and providing specific guidelines for the types of technical violations and sanctions that can be provided for in an ASP. The bill authorizes a court to define additional sanctions or eligibility criteria and specify the process for reporting technical violations. For each instance that a technical VOP or VOCC is alleged to have been committed, the DOC is required to determine whether such person is eligible for the ASP. If eligible, the probation officer may offer the ASP in lieu of filing an affidavit with the court. The bill maintains the same definition for technical violations as is in current law and limits ASPs to resolving technical violations.

The bill classifies technical violations eligible for an ASP as low-risk and moderate risk, specifically:

- A low-risk violation includes:
 - Positive drug or alcohol test result;
 - Failure to report to the probation office;
 - Failure to report a change in address or other required information;
 - Failure to attend a required class, treatment or counseling session, or meeting;
 - Failure to submit to a drug or alcohol test;
 - Violation of curfew;

¹⁰² Email from the DOC Staff (February 23, 2018) (on file with the Senate Criminal Justice Committee). The DOC currently includes the specified conditions of probation for each probationer in the data it sends to FDLE, including, but not limited to: Sex offender curfew; Curfew for non-sex offenders; Remain confined to approved residence; No unsupervised contact with minors; No work or volunteer work with children; Do not live or work within 1,000 feet of school or bus stop; Submit to search; No driving or driver license revoked or suspended; Driving for employment only; No alcohol or illegal drugs; No contact with victim; No pornographic material; Restrictions to enter or leave a city; No employment that involves handling money; No post office box; and No checking account.

¹⁰³ *Id.* This amount of space typically allows for the inclusion of the condition number, a dash and then the description up to 34 bytes per condition reoccurring for a total of 398 bytes. The Special Condition description can be shorter than 34 bytes or up to 34 bytes but the total bytes of all of them combined for each offender can only add up to 398 bytes per offender file sent real time.

¹⁰⁴ Section 948.039, F.S.

¹⁰⁵ Email from the Florida Sheriff’s Association Staff (February 23, 2018) (on file with Senate Criminal Justice Staff).

- Failure to meet a monthly quota on any required probation condition, including, but not limited to, making restitution payments, payment of court costs, and completing community service hours;
- Leaving the county without permission;
- Failure to report a change in employment;
- Associating with a person engaged in criminal activity; or
- Any other violation as determined by administrative order of the chief judge of the circuit.
- A moderate-risk violation includes:
 - A low-risk violation listed above, which is committed by an offender on community control;
 - Failure to remain at an approved residence by an offender on community control;
 - A third violation of a low-risk violation listed above by a probationer within the current term of supervision; or
 - Any other violation as determined by administrative order by the chief judge of the circuit.

The bill excludes certain probationers or offenders on community control from participating in an ASP if any of the following criteria apply:

- The offender is a VFOSC.
- The violation is absconding.
- The violation is of a stay-away order or no-contact order.
- The violation is not identified as low-risk or moderate-risk under the bill or by administrative order.
- He or she has a prior moderate-risk level violation during the current term of supervision.
- He or she has three prior low-risk level violations during the same term of supervision.
- The term of supervision is scheduled to terminate in less than 90 days.
- The terms of the sentence prohibit the use of ASP.

An eligible person who has committed a first or second low-risk technical violation within his or her current term of supervision may be offered one or more of the following as a sanction:

- Up to five days in a county detention facility;
- Up to 50 additional community service hours;
- Counseling or treatment;
- Support group attendance;
- Drug testing;
- Loss of travel or other privileges;
- Curfew for up to 30 days;
- House arrest for up to 30 days; or
- Any other sanction as determined by administrative order by the chief judge of the circuit.

An eligible person who has committed a first time moderate-risk violation within the current term of supervision may be offered, provided the probation officer receives approval from his or her supervisor, one or more of the following as a sanction:

- Up to 21 days in the county detention facility;
- Curfew for up to 90 days;

- House arrest for up to 90 days;
- Electronic monitoring for up to 90 days;
- Residential treatment for up to 90 days;
- Any other sanction available for a low-risk violation; or
- Any other sanction as determined by administrative order of the chief judge of the circuit.

The bill retains current law regarding the ability of an offender to enter or waive his or her participation in the program; process for an offender to acknowledge his or her desire to participate in the program, including the specified rights that must be waived; ability of a court to approve the sanction and the effect of a court not approving the probation officer's recommendation; effect of an offender's discontinued participation in the program; and prohibition on the court using a prior admission to a technical violation as evidence in subsequent proceedings.¹⁰⁶ However, the bill imposes a 90-day deadline for an offender to complete successfully all ordered sanctions from the ASP if the court or probation officer did not specify a timeframe in the imposition of the sanction.

Administrative Probation

The bill amends ss. 948.001(1) and 948.013, F.S., relating to administrative probation to restructure the placement of relevant language. These changes do not appear to have a substantive impact on the laws applicable to administrative probation.

Conditions of Probation in the FCIC

The bill requires the DOC to input into the FCIC all of a probationer's specific conditions of probation as determined by the court. If the court modifies the conditions of probation during the period of probation, the DOC must update the changes in the FCIC.

Reentry and Transitional Services Provisions (Sections 19-25)

Services Offered to Inmates in the Custody of the DOC

The DOC is required to provide a wide range of transitional services, including in the areas of employment, life skills training, job placement, for the purpose of increasing the likelihood of the inmate's successful reentry into society thereby reducing recidivism.¹⁰⁷

Section 944.704, F.S., requires the DOC to provide a transition assistance specialist at each of its major prison institutions to assist an inmate with specified assistance, including, in part, obtaining job placement information.¹⁰⁸

¹⁰⁶ See s. 948.06(1)(h)4.-7., F.S. (2017), for the relevant provisions retained in the bill.

¹⁰⁷ See ss. 944.701-708, F.S.

¹⁰⁸ Section 944.704, F.S., further provides that correctional officers and correctional probation officers are prohibited from serving in the role of the transition assistance specialist.

Section 944.705, F.S., requires the DOC to establish a standard release orientation program available to every eligible inmate.¹⁰⁹ Release orientation must include instruction addressing:

- Employment skills;
- Money management skills;
- Personal development and planning;
- Special needs;
- Community reentry concerns;
- Community reentry support; and
- Any other appropriate instruction to ensure the inmate's successful reentry into the community.¹¹⁰

To provide these services, the DOC may contract with outside public or private entities, including faith-based service groups.¹¹¹

Determining the Appropriate Services for Inmates

All inmates are screened at reception and assessed and placed into programs using the CINAS.¹¹² As described above, the CINAS is administered to inmates at reception and again at 42 months from release. Additionally, the DOC conducts updates every six months thereafter to evaluate the inmate's progress and ensure enrollment in needed programs. The DOC's use of the CINAS allows for development and implementation of programs that increase the likelihood of successful transition through the selection of services that are matched to the offender's learning characteristics and then to the offender's stage of change readiness.¹¹³ Additionally, the CINAS allows for a flow of information between the DOC's Office of Community Corrections and Office of Institutions, which assist the DOC in better serving the offender and preparing him or her for successful transition back into the community.¹¹⁴

Education for State Prisoners

Section 944.801, F.S., establishes a Correctional Education Program (CEP), which must be composed of the educational facilities and services of all institutions, and facilities housing inmates operated by the DOC.¹¹⁵ The duties of the CEP, in part, include:

- Developing guidelines for collecting education-related information during the inmate reception process and for disseminating such information to the classification staff of the DOC.¹¹⁶

¹⁰⁹ Sections 944.703 and 944.7031, F.S., provide that all inmates released from the custody of the DOC are eligible to receive transition services. However, the law instructs the DOC to give priority for these services to substance abuse addicted inmates. The law provides that inmates released from private correctional facilities should be informed of and provided with the same level of transition assistance services as provided by the DOC for an inmate in a state correctional facility.

¹¹⁰ Section 944.705, F.S.

¹¹¹ Section 944.705(5), F.S.

¹¹² The DOC SB 1222 Analysis, p. 2.

¹¹³ The DOC SB 1222 Analysis, p. 2. The DOC reports that it matches factors that influence an inmate's responsiveness to different types of services with programs that are proven to be effective within an inmate population.

¹¹⁴ *Id.*

¹¹⁵ Section 944.801(1), F.S.

¹¹⁶ Section 944.801(3)(a), F.S., also provides that the information collected must include the inmate's areas of educational or vocational interest, vocational skills, and level of education.

- Approving educational programs of the appropriate levels and types in the correctional institutions and developing procedures for the admission of inmate students into such programs.¹¹⁷
- Entering into agreements with public or private school districts, entities, community colleges, junior colleges, colleges, or universities as may be deemed appropriate for the purpose of carrying out the CEP duties.¹¹⁸
- Ensuring that such local agreements require minimum performance standards and standards for measurable objectives, in accordance with established Department of Education (DOE) standards.¹¹⁹
- Developing and maintaining complete and reliable statistics on the number of high school equivalency diplomas and vocational certificates issued by each institution in each skill area, the change in inmate literacy levels, and the number of inmate admissions to and withdrawals from education courses.¹²⁰

Workforce Training Offered by the DOC

The DOC offers a wide range of career and technical education programs for inmates.¹²¹ In FY 2015-16, the DOC awarded 1,829 vocational certificates and 2,027 industry certificates, and in FY 2016-17, the DOC awarded 1,799 vocational certificates and 1,349 industry certifications. The DOC has since launched new credentialing programs for Canine Obedience and Beekeeping programs, and plans to expand credentialing to construction, horticulture, farm, and culinary programs in 30 institutions.¹²²

Obtaining Professional Licenses Subsequent to a Criminal Conviction

Licensure - Overview

A person may only be denied employment by the state, any of its agencies or political subdivisions, or any municipality, based on a prior conviction for a crime if the crime was a felony or first-degree misdemeanor and directly related to the position of employment sought.¹²³ However, a person may be denied a license, permit, or certification to pursue, practice, or engage in an occupation, trade, vocation, profession, or business based on a prior conviction for a crime. The crime must be a felony or first-degree misdemeanor and directly relate to the standard determined by the regulatory authority to be necessary and reasonably related to the protection of the public or the welfare of the profession, or business for which the license, permit or certificate

¹¹⁷ Section 944.801(3)(d), F.S.

¹¹⁸ Section 944.801(3)(e), F.S.

¹¹⁹ *Id.*

¹²⁰ Section 944.801(3)(g), F.S.

¹²¹ The programs include: Air Conditioning, Refrigeration and Heating Technology; Applied Welding Technologies; Automotive Collision Repair and Refinishing; Automotive Technology Career Services; Cabinetmaking; Carpentry; Commercial Class "B" Driving; Computer Systems and Information Technology; Cosmetology; Culinary Arts; Digital Design; Drafting; Electricity; Environmental Design; Environmental Services; Equine Care Technology; Industrial Machine Repair; Janitorial Services; Landscape Management; Masonry, Brick and Block; Plumbing Technology; Printing and Graphic Communications; Technology Support Services; Wastewater/Water Treatment Technologies; and Web Development. *See* DOC, *Annual Report Fiscal Year 2015-2016*, p. 18-19, available at http://www.dc.state.fl.us/pub/annual/1516/FDC_AR2015-16.pdf (last visited February 22, 2018).

¹²² DOC, *Agency Analysis of SB 226-Revised*, p. 2 (October 25, 2017) (on file with the Senate Criminal Justice Committee).

¹²³ Section 112.011(1)(a), F.S.

is sought.¹²⁴ There are a number of professions that require licensure, which may be impacted by a criminal conviction.¹²⁵

Department of Business and Professional Regulation

Chapter 455, F.S., provides the general powers of the Department of Business and Professional Regulation (DBPR) and authorizes the DBPR to regulate the issuance of licensing for specified purposes.¹²⁶ However, the DBPR is prohibited from creating a regulation that has an unreasonable effect on job creation or job retention, or a regulation that unreasonably restricts the ability of those who desire to engage in a profession or occupation to find employment.¹²⁷ When a person is authorized to engage in a profession or occupation in Florida, the DBPR issues a “permit, registration, certificate, or license” to the licensee.¹²⁸ The Division of Professions within the DBPR is responsible for licensing more than 435,500 professionals with a variety of professional licenses.¹²⁹

The DBPR may disqualify an individual from employment if he or she has been arrested for and is awaiting final disposition of, has been found guilty of, or entered a plea of nolo contendere or guilty to, or has been adjudicated delinquent and the record has not been sealed or expunged for a number of specified offenses. Applicants for all professions are required to answer questions pertaining to their criminal history when submitting an application for licensure.¹³⁰

The DBPR reports that there are no statutory provisions or departmental rules that prohibit individuals from applying for licensure while they are still incarcerated or under some form of supervised release, nor are individuals charged any additional fees for applying for a license while still incarcerated or on supervised release.¹³¹

Agency for Health Care Administration

The Agency for Health Care Administration (AHCA), disqualifies an individual from employment in certain facilities regulated by AHCA, such as nursing homes and hospices, based on an applicant’s criminal history. Any individual considered for employment in a facility licensed by chs. 400 and 408, F.S., must complete a level 2 background screening pursuant to ss. 435.04(2) and (3), F.S. In addition to the disqualifying offenses listed above for DBPR, the applicant may be disqualified by AHCA for a number of offenses.¹³²

¹²⁴ Section 112.011(1)(b), F.S.

¹²⁵ These include, but are not limited to, professions regulated by the Department of Health, such as septic tank contractors, health care professionals and pharmacy professionals, and massage therapists. *See* ss. 489.553(4)(a), 456.0635(2)(a), 465.0022, and 480.041(7), F.S.

¹²⁶ Section 455.201(2), F.S., provides that the DBPR may engage in the regulation of professions only for the “preservation of the health, safety, and welfare of the public under the police powers of the state.”

¹²⁷ Section 455.201(4)(b), F.S.

¹²⁸ Section 455.01(4) and (5), F.S.

¹²⁹ *See* DBPR, *Annual Report, Fiscal Year 2016-2017*, p. 21-22, available at <http://www.myfloridalicense.com/dbpr/os/documents/DivisionAnnualReport.pdf?x40199> (last visited February 22, 2018). Of the total 434,574 licensees in the Division of Professions, 21,702 are inactive.

¹³⁰ DBPR, *Agency Analysis CS/SB 1114*, February 19, 2018, (on file with the Senate Criminal Justice Committee).

¹³¹ *Id.*

¹³² *See* s. 408.809(4), F.S.

Exemption from Disqualification

Florida law provides for exemptions from disqualification for prior criminal offenses. The head of the appropriate agency may grant an employee otherwise disqualified from employment an exemption from disqualification.¹³³

A person applying for exemption must pay any outstanding court fee, fine, fund, lien, civil judgment, application, cost of prosecution, trust, or restitution as part of the criminal case prior to being eligible for exemption.¹³⁴ To grant an exemption to an applicant, the applicant has the burden to demonstrate by clear and convincing evidence that he or she should not be disqualified from employment.¹³⁵

Prison Entrepreneurship Programs

In 2011, the University of Virginia's Darden School of Business implemented a prison entrepreneurship program at Virginia's Dillwyn Correctional Center, a medium-security prison housing more than 1,000 inmates. The program focuses on entrepreneurship skills, ethics, and business strategy. Students must complete math testing, develop a personal business plan, and complete a final exam.¹³⁶

Similar programs have had success in other states. Texas has a prison entrepreneurship program at the Cleveland Correctional Facility in Houston and approximately 800 inmates graduate from the program annually. Of its graduates, 106 have founded businesses and the recidivism rate of those inmates is less than 7 percent.¹³⁷ Though not statutorily mandated, the DOC partners with several educational institutions to offer inmates job training and readiness skills, including, but not limited to, Stetson University, Florida State University, University of Central Florida, and University of West Florida.¹³⁸ Additionally, the DOC operates an entrepreneurship education program at Hardee Correctional Institution.¹³⁹

¹³³ See s. 435.07, F.S., for specific statutory exemptions.

¹³⁴ Section 435.07(1)(b), F.S.

¹³⁵ See s. 435.07(3)(a), F.S. Evidence provided may include, but is not limited to: the circumstances surrounding the criminal incident; the time period that has elapsed since the incident; the nature of the harm caused to the victim; applicant's history since the incident; and any other evidence or circumstances indicating that the applicant will not present a danger if employment or continued employment is allowed. The decision of the head of an agency regarding an exemption may be challenged pursuant to ch. 120, F.S.

¹³⁶ The Darden Report, *Second Chances: Darden's Fairchild Launches Prison Entrepreneurship Program*, January 4, 2013, available at: <https://news.virginia.edu/content/second-chances-darden-s-fairchild-launches-prison-entrepreneurship-program> (last visited February 22, 2018).

¹³⁷ *Id.* See also The Prison Entrepreneurship Program, available at <http://www.pep.org/releasing-potential/> (last visited February 22, 2018).

¹³⁸ Email from the DOC Staff (February 22, 2018) (on file with Senate Criminal Justice Committee).

¹³⁹ *Id.* The DOC reports that the course provides an introductory overview of the knowledge and skills needed for the identification, evaluation, and exploitation of opportunities in a variety of circumstances and environments.

Effect of the BillTransition Assistance Staff

The bill amends s. 944.704, F.S., requiring that transition assistance specialists also provide inmates with information about any job assignment credentialing or industry certifications for which the inmate is eligible.

Release Orientation Program

The bill amends s. 944.705, F.S., requiring that each inmate receive a comprehensive community reentry resource directory organized by the county to which the inmate is being released with specified information related to providers and portals of entry.¹⁴⁰

The DOC must allow a nonprofit faith-based, business and professional, civic, or community organization to apply to be registered under this section to provide inmate reentry services. The DOC must also adopt policies and procedures for screening, approving, and registering an organization that applies to be registered to provide inmate reentry services. The DOC may deny approval and registration of an organization or a representative from an organization if it determines that the organization or representative does not meet such policies or procedures. The bill defines reentry services as services that include, but are limited to counseling; providing information on housing and job placement; money management assistance; and programs addressing substance abuse, mental health, or co-occurring conditions.

The bill also authorizes the DOC to contract with a public or private educational institution's Veteran's Advocacy Clinic or Veteran's Legal Clinic to assist qualified veteran inmates in applying for veteran's assistance benefits upon release.

Certificates of Achievement and Employability

The bill creates ss. 944.805-8065, F.S., establishing a certificate of achievement and employability (CAE) that may remove most mandatory barriers to licensure and employment for ex-offenders.

Definitions

The bill defines a number of terms applicable to these provisions, including:

- Discretionary civil impact: any Florida statute or rule that creates a penalty, disability, or disadvantage to which all of the following apply:
 - The impact is triggered in whole or in part by a person's conviction of an offense, whether or not the penalty, disability, or disadvantage is included in the judgment or sentence.
 - The impact is imposed on a person, licensing agency, or employer.
 - The impact permits, but does not require, that a convicted person have a license denied or revoked, permits an agency to deny or revoke a license or certification to a convicted person, or permits a business to refuse to employ a convicted person.

¹⁴⁰ The directory must include the name, address, telephone number and a description of services offered of each provider and also include the name, address, and telephone number of existing portals of entry.

- Eligible inmate: a person who is serving a prison term in a state correctional institution or facility; under the supervision of the DOC on probation or community control; or under a post release control sanction; and who is eligible to apply to the DOC for a certificate of achievement and employability.
- Licensing agency: any regulatory or licensing entity with authority to issue, suspend, or revoke any professional license or certification.
- Mandatory civil impact: any Florida statute or rule that creates a penalty, disability, or disadvantage to which all of the following apply:
 - The impact is triggered automatically solely by a person's conviction of an offense, whether or not the penalty, disability, or disadvantage is included in the judgment or sentence.
 - The impact is imposed on a person, licensing agency, or employer.
 - The impact precludes a convicted person from maintaining or obtaining licensure or employment, precludes a licensing agency from issuing a license or certification to a convicted person, or precludes a business from being certified or from employing a convicted person.¹⁴¹

Application for Certificate of Achievement and Employability

An eligible inmate may apply to the DOC for a CAE if the inmate:

- Has satisfactorily completed one or more in-prison vocational programs approved by the DOC.
- Has demonstrated exemplary performance as determined by completion of one or more cognitive or behavioral improvement programs approved by the DOC while incarcerated in a state correctional institution or facility or under supervision, or during both periods of time.
- Shows other evidence of achievement and rehabilitation.
- Has never been convicted of a dangerous crime as defined in s. 907.041, F.S., or a violation specified as a predicate offense for registration as a sexual predator under s. 775.21, F.S., or as a sexual offender under s. 943.0435, F.S.

An incarcerated eligible inmate may apply for a CAE from one year prior to the date of his or her release up to the date of release. An eligible inmate in the community may apply anytime while serving the term of probation or community control.

The application must specify the mandatory civil impacts for which the eligible inmate is seeking relief. The DOC is required to notify the licensing agency whose mandatory civil impact may be impacted by the issuance of a CAE and provide the licensing agency with a copy of the CAE application and any documentation that the DOC has concerning the eligible inmate. The licensing agency must be given the opportunity to object in writing to the issuance of a CAE.

The DOC must consider the eligible inmate's application and all objections to issuing the CAE and the DOC must issue the CAE if it finds that the inmate is eligible, the application was filed timely, and all objections to issuing the certificate are insufficient. However, a CAE does not

¹⁴¹ The bill provides that the definitions of mandatory and discretionary civil impact do not include imprisonment, probation, parole, supervised release, forfeiture, restitution, fine, assessment, or costs of prosecution.

affect the mandatory civil impacts under article VI, section 4 of the Florida Constitution, or ss. 775.13, 775.21, 943.0435, and 944.292, F.S.

Effect of the Certificate of Achievement and Employability

A CAE holder that applies to an agency for licensure or certification must be given individualized consideration by the licensing agency. The CAE provides a rebuttable presumption to the CAE holder for purposes of licensure review. The bill provides that the conviction of a CAE holder alone is insufficient evidence that he or she is unfit for the license or certification. However, the licensing agency is still authorized to deny the license or certification if it determines that the CAE holder is unfit for licensure or certification after considering all relevant facts and circumstances.

The bill distinguishes between the effect of an unemployed CAE holder applying to an agency and an employer of an employed CAE applying to an agency. An employer of an employed CAE holder may apply to an agency for the licensure of his or her employee and the bill provides that the CAE reclassifies the mandatory civil impacts into discretionary civil impacts and that the CAE is a rebuttable presumption. However, for an unemployed CAE holder, the CAE only provides a rebuttable presumption and does not reclassify the mandatory civil impacts.

Revocation of the Certificate of Achievement and Employability

The bill requires the DOC to, at a minimum, adopt rules that result in the revocation of a CAE if a certificate holder is convicted of or pleads guilty to a felony offense subsequent to the issuance of the certificate. The DOC must determine which additional offenses require revocation, considering the nature of the offense and the employment of a certificate holder.

Liability and Rulemaking Authority

The bill provides that the DOC is not liable for a claim for damages arising from issuing, denying, or revoking a CAE or for failing to revoke a certificate. The bill also provides the DOC with rulemaking authority to develop any rules necessary to implement the CAE provisions and requires the CAE program be funded within existing resources.

Prison Entrepreneurship Program

The bill amends s. 944.801, F.S., authorizing the CEP to develop a Prison Entrepreneurship Program. The program must include at least 180 days of in-prison education with curriculum that includes a component on developing a business plan, procedures for graduation and certification of successful student inmates, and at least 90 days of transitional and post release continuing education services. The bill provides transitional and post release continuing education services may be offered to graduate student inmates on a voluntary basis and are not required for completion of the program.

The program must be funded within existing resources and the DOC is required to enter into agreements with public or private community colleges, junior colleges, colleges, universities, or other non-profit entities to implement the program.

Lastly, the bill provides rulemaking authority and authority to adopt procedures for admitting student inmates.

The bill reenacts ss. 447.203 and 944.026, F.S., incorporating changes made by the act.

Conditional Medical Release (Sections 27, 28 and 36-47)

The pronouncement of a sentence that includes a term of imprisonment imposed by a sentencing court reflects the length of actual time to be served. With limited exceptions, such a term of imprisonment may only be lessened by the application of gain-time,¹⁴² and may not be reduced in an amount that results in the defendant serving less than 85 percent of his or her term of imprisonment.¹⁴³ One of the exceptions provided for in law is conditional medical release.

Conditional Medical Release

CMR is a discretionary release of inmates who are “terminally ill” or “permanently incapacitated” and who are not a danger to others.¹⁴⁴ The FCOR reviews eligible inmates for release under the CMR program.

Eligible inmates include inmates that are designated by the DOC as a:

- “Permanently incapacitated inmate,” which is an inmate who has a condition caused by injury, disease, or illness which, to a reasonable degree of medical certainty, renders the inmate permanently and irreversibly physically incapacitated to the extent that the inmate does not constitute a danger to herself or himself or others; or
- “Terminally ill inmate,” which is an inmate who has a condition caused by injury, disease, or illness which, to a reasonable degree of medical certainty, renders the inmate terminally ill to the extent that there can be no recovery and death is imminent, so that the inmate does not constitute a danger to herself or himself or others.¹⁴⁵

The release of an inmate on CMR is for the remainder of the inmate’s sentence and requires periodic medical evaluations at intervals determined by the FCOR at the time of release.¹⁴⁶ Supervision can be revoked and the offender returned to prison if the FCOR determines that a violation of any condition of the release has occurred or his or her medical or physical condition improves to the point that the offender no longer meets the CMR criteria.¹⁴⁷ Section 947.141, F.S., provides a hearing process for determining whether a CMR releasee must be recommitted to the DOC for a violation of release conditions or a change in medical status.

¹⁴² Section 944.275, F.S., provides for various types of incentive and meritorious gain-time.

¹⁴³ Section 921.002(1), F.S.

¹⁴⁴ Chapter 92-310, L.O.F.; FCOR, *Release Types, Post Release*, available at <https://www.fc.state.fl.us/postrelease.shtml#conditionalMedicalRelease> (last visited January 8, 2018).

¹⁴⁵ Section 947.149(1), F.S. Inmates sentenced to death are ineligible for CMR.

¹⁴⁶ Section 947.149(4), F.S.

¹⁴⁷ Section 947.149(5), F.S.

The FCOR has approved and released 55 inmates for CMR in the last three fiscal years.¹⁴⁸ The DOC has recommended 120 inmates for release in the past three fiscal years.¹⁴⁹

Effect of the Bill

The bill amends s. 947.149, F.S., by creating two new CMR designations and two processes for an inmate to be granted CMR, including “Permissive Conditional Medical Release” and “Mandatory Conditional Medical Release.”

Designations

The bill creates two new CMR designations, including a designation entitled:

- Inmate with a debilitating illness: an inmate who is determined to be suffering from a significant and permanent terminal or nonterminal condition, disease, or syndrome that has rendered the inmate so physically or cognitively debilitated or incapacitated as to create a reasonable probability that the inmate does not constitute a danger to herself or himself or others.
- Medically frail inmate: an inmate whose physical or mental health has deteriorated to a point that creates a reasonable probability that the inmate does not constitute a danger to herself or himself or others, as determined by a risk assessment completed by a qualified practitioner, and whose deterioration is the direct result of the inmate’s:
 - Impairment of the mental or emotional processes that exercise conscious control of one’s actions or of the ability to perceive or understand reality, where such impairment substantially interferes with the person’s ability to meet the ordinary demands of living;
 - History of substance abuse, as defined in s. 397.311(45), F.S.; or
 - Requirement of acute long-term medical or mental health treatment or services.

The current designation of terminally ill inmate is amended to apply to inmates whose death is expected within 12 months, rather than imminent. The current designation of permanently incapacitated inmate is not altered.

Permissive Conditional Medical Release

The current CMR process remains substantially the same but is amended to be entitled “Permissive Conditional Medical Release.” The bill expands Permissive CMR from current law by permitting any inmate determined to be eligible under any of the four CMR designations described above and referred by the DOC to the FCOR to be considered for release by the FCOR. The FCOR continues to retain sole discretion on the determination of whether to release an inmate under Permissive CMR.

Mandatory Conditional Medical Release

The bill creates a new CMR process, entitled “Mandatory Conditional Medical Release,” that imposes eligibility requirements in addition to those required in Permissive CMR. If an inmate meets all of the eligibility requirements of Mandatory CMR, the FCOR is *required* to release the inmate on CMR upon verifying the inmate’s eligibility.

¹⁴⁸ This includes 14 people in FY 2016-17; 27 in FY 2015-16; and 14 in FY 2014-15. Email from FCOR Staff (December 15, 2017) (attachment on file with the Senate Committee on Criminal Justice).

¹⁴⁹ *Id.* This includes 34 people FY 2016-17; 51 in FY 2015-16; and 35 in FY 2014-15.

For Mandatory CMR, the bill requires the DOC to refer an inmate to the FCOR for release if the inmate meets one of the four CMR designations mentioned above and the inmate has:

- Served at least 50 percent of his or her sentence.
- No current or prior conviction for a capital, life, or first-degree felony; sexual offense; or an offense involving a child.
- Not received a disciplinary report within the previous six months.
- Never received a disciplinary report for a violent act.
- Renounced any gang affiliation.

The FCOR must verify that an inmate meets the above-mentioned eligibility criteria within 60 days of the referral.

Referral of an Inmate

The DOC's referral of an inmate for either Permissive or Mandatory CMR must include:

- The proposed conditional medical release plan.
- Any relevant medical history, including current medical prognosis.
- Criminal history, including:
 - The inmate's claim of innocence, if any;
 - The degree to which the inmate accepts responsibility for his or her actions leading to the conviction of the crime; and
 - How any claim of responsibility has affected the inmate's feelings of remorse.
- Any history of substance abuse and mental health issues, provided the inmate authorizes release when such information is collected in accordance with 42 C.F.R. s. 2.
- Any disciplinary action taken against the inmate while in prison.
- Any participation in prison work and other prison programs.
- Any other information the DOC deems necessary.

Placement Considerations and Release Plan

The bill provides that a determination to approve an inmate's release on CMR must consider conditions such as whether:

- A placement option has been secured for the inmate in the community. A placement option may include, but is not limited to, home confinement or a medical or mental health facility that is not a public institution.¹⁵⁰
- The placement option secured under this section poses a minimal risk to society.
- The DOC has made a reasonable effort to determine whether expenses related to the placement option secured under this subsection are covered by Medicaid, a health care policy, a certificate of insurance, or another source for the payment of medical expenses or whether the inmate has sufficient income or assets to pay for the expenses related to the placement.

¹⁵⁰ A placement option need not involve any type of supervision of the inmate by an employee or a private contractor of the DOC or otherwise be considered a secure facility. A placement option may involve the use of an electronic monitoring device as defined in 947.005(6), F.S.

- The DOC has provided notice to the prosecutor's office in the county in which the prisoner was sentenced and to each victim entitled to notice under article I, section 16(b) of the Florida Constitution.

The bill requires the DOC to develop a release plan for an inmate released on Permissive or Mandatory CMR and the FCOR is authorized to approve the release plan. The release plan must include periodic medical evaluations and may include supervision with electronic monitoring. An inmate's release on Permissive or Mandatory CMR is for the remainder of the inmate's sentence. However, the bill also applies the above-described process for revocation and recommitment to inmates released on Permissive or Mandatory CMR.

The bill also amends s. 947.005, F.S., adding two new definitions, including:

- Electronic monitoring device: an electronic or telecommunications device that is used to track and supervise the location of a person. Such devices include, but are not limited to, voice tracking systems, position-tracking systems, position location systems, or biometric tracking systems.
- Conditional medical release: the release from a state correctional institution or facility under this chapter for medical or mental health treatment pursuant to s. 947.149, F.S.

Lastly, the bill reenacts ss. 316.1935, 775.084, 775.087, 784.07, 790.235, 794.0115, 893.135, 921.0024, 944.605, 944.70, 947.13, and 947.141, F.S., incorporating changes made by the act.

Criminal Justice Data Collection and Transparency (Sections 10-12, 16, 18, and 26)

Data Collection by Florida's Criminal Justice Agencies

Currently, Florida does not have a publicly accessible website containing comprehensive criminal justice data. Several state departments, local agencies and local offices, including the clerks, SAs, PDs, county jails, and the DOC collect data within the criminal justice system. Each entity collects and maintains data in different ways and for different purposes.

Clerks of the Circuit Courts

The clerks use a secured single point-of-search database portal for statewide court case information, the Comprehensive Case Information System (CCIS).¹⁵¹ Section 28.2405, F.S., requires all clerks to participate in the CCIS and submit data for criminal, civil, juvenile, probate, and traffic cases.¹⁵² The CCIS provides controlled access to court records for governmental agencies.¹⁵³ Currently, 19 governmental organizations use the CCIS and may use it to search information related to call court cases maintained by the clerks.¹⁵⁴

¹⁵¹ See s. 28.2405, F.S. CCIS access site, available at <https://www.flccis.com/ocrs/login.xhtml> (last visited February 23, 2018).

¹⁵² See also Florida Court Clerks & Comptrollers, *Criminal Court Case Data Collection*, p. 7 (November 14, 2017) (PowerPoint presentation on file with the Senate Criminal Justice Committee).

¹⁵³ *Id.* at 2.

¹⁵⁴ *Id.* at 3 and 6.

The CCIS has more than 45,000 active users. The clerks assign each user or organization a security level that allows them to view certain data on the CCIS. Not all data elements are available to all users and CCIS is not available to the public.¹⁵⁵

County Detention Facilities

Data collection and storage by county detention facilities varies greatly from county to county.¹⁵⁶ Larger county detention facilities have data systems allowing for direct data input and report generation, while smaller jails have databases using Microsoft Access or other commercially available templates.¹⁵⁷

Section 951.23(2), F.S., requires administrators of county detention facilities to collect and report certain information to the DOC. The DOC then uses such data to analyze and evaluate county detention facilities.¹⁵⁸ Many jails also collect data relating to jail capacity, per diems, demographic data, criminal charges, custody levels, and medical information.¹⁵⁹ Jail administrators use this data to manage daily operations, verify total jail costs and budgets, and ensure proper staffing and training.¹⁶⁰

State Attorneys and Public Defenders

There is no statutory requirement for a SA or PD to collect, publish, or report specific data. Many circuits, on their own initiative, collect data elements for internal purposes, but this data is not publicly available or shared among agencies.

Department of Corrections

The DOC uses the Offender Based Information System (OBIS) to collect and organize data related to sentencing information and scoresheets from the clerks, criminal history information from the FDLE, and background information self-reported by inmates.¹⁶¹ The DOC uses this information for a variety of operational functions including determining an inmate's custody level and an inmate's release date.¹⁶² The DOC shares the OBIS information with law enforcement and other state and federal agencies pursuant to relevant statutory authority, federal law, or other directives.¹⁶³

¹⁵⁵ *Id.* at 11.

¹⁵⁶ Section 951.23(1)(a), F.S., defines a county detention facility to mean a county jail, county stockade, county work camp, county residential probation center, or any other place, except a municipal detention facility, used by a county or county officer for the detention of persons charged with or convicted of a crime.

¹⁵⁷ Florida Sheriffs Association, *Criminal Justice Data Collection*, p. 5 (November 14, 2017) (PowerPoint presentation on file with the Senate Criminal Justice Committee) (hereinafter cited as "FSA PowerPoint").

¹⁵⁸ Section 951.23(3), F.S.

¹⁵⁹ FSA PowerPoint, at 3.

¹⁶⁰ *Id.* at 6.

¹⁶¹ Section 20.315(10), F.S., and the DOC, *Overview of FDC Criminal Justice Data*, p. 3-4 (November 14, 2017) (on file with the Senate Criminal Justice Committee).

¹⁶² *Id.* at 5.

¹⁶³ *Id.* at 6.

The Bureau of Research and Data Analysis (Bureau) within the DOC analyzes the OBIS data to generate information for the DOC, the Governor, the Legislature, and other state agencies.¹⁶⁴ The Bureau publishes an annual report that includes information regarding inmate population, statistics, and other information relating to the DOC.¹⁶⁵ While annual reports are accessible to the public, users are not permitted to search the data that is collected in OBIS.

Criminal Punishment Code Scoresheet

Section 921.0024, F.S., requires the preparation of a Criminal Punishment Code scoresheet for each defendant who is sentenced for a felony offense. The scoresheet must be developed by the DOC, in consultation with the Office of the State Courts Administrator (OSCA), SAs, and PDs, and submitted to the Supreme Court for approval by June 15 of each year, as necessary. Further, the DOC is required to distribute sufficient copies of the scoresheets to those persons charged with the responsibility for preparing scoresheets.¹⁶⁶

Effect of the Bill

Data Collection

The bill creates s. 900.05, F.S., specifying Legislative intent of the Legislature to create a model of uniform criminal justice data collection by requiring local and state criminal justice agencies to report complete, accurate, and timely data, and make such data available to the public.

Definitions:

The bill defines the following terms:

- Annual felony caseload: the yearly caseload of each full-time SA and assistant SA (ASA) or PD and assistant PD (APD) for cases assigned to the circuit criminal division, based on the number of felony cases reported to the Supreme Court under s. 25.075, F.S.
- Annual misdemeanor caseload: the yearly caseload of each full-time SA and ASA or PD and APD for cases assigned to the county criminal division, based on the number of misdemeanor cases reported to the Supreme Court under s. 25.075, F.S.¹⁶⁷
- Attorney assignment date: the date a court-appointed attorney is assigned to the case or, if privately retained, the date an attorney files a notice of appearance with the clerk.
- Attorney withdrawal date: the date the court removes court-appointed counsel from a case or, for a privately retained attorney, the date a motion to withdraw is granted by the court.
- Case number: the identification number assigned by the clerk to a criminal case.
- Case status: whether a case is open, inactive, closed, or reopened due to a VOP or VOCC.
- Charge description: the statement of the conduct that is alleged to have been violated, the associated statutory section establishing such conduct as criminal, and the misdemeanor or felony classification that is provided for in the statutory section alleged to have been violated.

¹⁶⁴ DOC, *Bureau of Research and Data Analysis*, available at <http://www.dc.state.fl.us/orginfo/research.html> (last visited February 23, 2018).

¹⁶⁵ DOC, *Annual Report Fiscal Year 2015-2016*, available at http://www.dc.state.fl.us/pub/annual/1516/FDC_AR2015-16.pdf (last visited February 23, 2018).

¹⁶⁶ Section 921.0024(3)-(5), F.S.

¹⁶⁷ The terms “annual felony caseload” and “annual misdemeanor caseload” do not include the appellate caseload of a PD or APD. Cases reported pursuant to these terms must be associated with a case number and each case number must only be reported once regardless of the number of attorney assignments that occur during the course of litigation

- Charge modifier: an aggravating circumstance of an alleged crime that enhances or reclassifies a charge to a more serious misdemeanor or felony offense level.
- Concurrent or consecutive sentence flag: an indication that a defendant is serving another sentence concurrently or consecutively in addition to the sentence for which data is being reported.
- Daily number of correctional officers: the number of full-time, part-time, and auxiliary correctional officers who are actively providing supervision, protection, care, custody, and control of inmates in a county detention facility or state correctional institution or facility each day.
- Deferred prosecution or pretrial diversion agreement date: the date a contract is signed by the parties regarding a defendant's admission into a deferred prosecution or pretrial diversion program.
- Deferred prosecution or pretrial diversion hearing date: each date that a hearing, including a status hearing, is held on a case that is in a deferred prosecution or pretrial diversion program, if applicable.
- Disciplinary violation and action: any conduct performed by an inmate in violation of the rules of a county detention facility or state correctional institution or facility that results in the initiation of disciplinary proceedings by the custodial entity and the consequences of such disciplinary proceedings.
- Disposition date: the date of final judgment, adjudication, adjudication withheld, dismissal, or nolle prosequi for the case and if different dates apply, the disposition dates of each charge.
- Domestic violence flag: an indication that a charge involves domestic violence as defined in s. 741.28, F.S.
- Gang affiliation flag: an indication that a defendant is involved in or associated with a criminal gang as defined in s. 874.03, F.S.
- Gain-time credit earned: a credit of time awarded to an inmate in a county detention facility in accordance with s. 951.22, F.S., or a state correctional institution or facility in accordance with s. 944.275, F.S.
- Habitual offender flag: an indication that a defendant is a habitual felony offender as defined in s. 775.084, F.S., or a habitual misdemeanor offender as defined in s. 775.0837, F.S.
- Judicial transfer date: a date on which a defendant's case is transferred to another court or presiding judge.
- Number of contract attorneys representing indigent defendants for the office of the public defender: the number of attorneys hired on a temporary basis, by contract, to represent indigent clients who were appointed a PD.
- Pretrial release violation flag: an indication that the defendant has violated the terms of his or her pretrial release.
- Prior incarceration within the state: any prior history of a defendant being incarcerated in a county detention facility or state correctional institution or facility.
- Tentative release date: the anticipated date that an inmate will be released from incarceration after the application of adjustments for any gain-time earned or credit for time served.
- Sexual offender flag: an indication that a defendant is required to register as a sexual predator as defined in s. 775.21, F.S., or as a sexual offender as defined in s. 943.0435, F.S.

Collection

Beginning January 1, 2019, specified entities are required to collect certain data on a monthly basis. Each entity must report the data collected to the FDLE on a quarterly basis.

Each clerk must collect the following data for each criminal case:

- Case number.
- Date that the alleged offense occurred.
- County in which the offense is alleged to have occurred.
- Date of arrest, if such date is different from the date the offense is alleged to have occurred.
- Date that the criminal prosecution of a defendant is formally initiated through the filing, with the clerk of the court, of an information by the SA or an indictment issued by a grand jury.
- Arraignment date.
- Attorney assignment date.
- Attorney withdrawal date.
- Case status.
- Disposition date.
- Information related to each defendant, including:
 - Identifying information, including name, date of birth, age, race or ethnicity, and gender.
 - Zip code of primary residence.
 - Primary language.
 - Citizenship.
 - Immigration status, if applicable.
 - Whether the defendant has been found by a court to be indigent pursuant to s. 27.52, F.S.
- Information related to the formal charges filed against the defendant, including:
 - Charge description.
 - Charge modifier, if applicable.
 - Drug type for each drug charge, if known.
 - Qualification for a flag designation, including a domestic violence flag, gang affiliation flag, sexual offender flag, habitual offender flag, or pretrial release violation flag.
- Information related to bail or bond and pretrial release determinations, including the dates of any such determinations:
 - Pretrial release determination made at a first appearance hearing that occurs within 24 hours of arrest, including all monetary and nonmonetary conditions of release.
 - Modification of bail or bond conditions made by a court, including modifications to any monetary and nonmonetary conditions of release.
 - Cash bail or bond payment, including whether the defendant utilized a bond agent to post a surety bond.
 - Date defendant is released on bail, bond, or pretrial release.
 - Bail or bond revocation due to a new offense, a failure to appear, or a violation of the terms of bail or bond, if applicable.
- Information related to court dates and dates of motions and appearances, including:
 - Date of any court appearance and the type of proceeding scheduled for each date reported.
 - Date of any failure to appear in court, if applicable.
 - Judicial transfer date, if applicable.
 - Trial date.

- Date that a defendant files a notice to participate in discovery.
- Speedy trial motion and hearing dates, if applicable.
- Dismissal motion and hearing dates, if applicable.
- Whether the attorney representing the defendant is court-appointed to, or privately retained by, a defendant or whether the defendant is represented pro se.
- Information related to sentencing, including:
 - Date that a court enters a sentence against a defendant.
 - Sentence type and length imposed by the court.¹⁶⁸
 - Amount of time served in custody credited to the defendant at the time of disposition.
 - Total amount of court fees imposed by the court at the disposition of the case.
 - Outstanding balance of the defendant's court fees imposed by the court at disposition of the case.
 - Total amount of fines imposed by the court at the disposition of the case.
 - Outstanding balance of the defendant's fines imposed by the court at disposition of the case.
 - Restitution amount ordered, including the amount collected by the court and the amount paid to the victim, if applicable.
 - Digitized sentencing scoresheet prepared in accordance with s. 921.0024, F.S.
- The number of judges or magistrates, or their equivalents, hearing cases in circuit or county criminal divisions of the circuit court.¹⁶⁹

Each SA must collect the following data:

- Information related to a victims of a criminal offense, including identifying information of the victim, including race or ethnicity, gender, age, and relationship to the offender, if any.
- Number of full-time and part-time prosecutors.
- Annual felony and misdemeanor caseloads.
- Any charge referred to the SA by a law enforcement agency related to an episode of criminal activity.
- Number of cases in which a no-information was filed.
- Information related to each defendant, including:
 - Each charge referred to the SA by a law enforcement agency related to an episode of criminal activity.
 - Drug type for each drug charge, if applicable.
 - Deferred prosecution or pretrial diversion agreement date and hearing dates, if applicable.

Each PD must collect the following data for each criminal case:

- Number of full-time and part-time PDs and APDs.
- Number of contract attorneys representing indigent defendants for the office of the PD.
- Annual felony and misdemeanor caseloads.

The administrator of each county detention facility must collect the following data:

- Maximum capacity for the county detention facility.

¹⁶⁸ This terms includes, but is not limited to, the total duration of imprisonment in a county detention facility or state correctional institution or facility, and conditions probation or community control supervision.

¹⁶⁹ Judges or magistrates, or their equivalents, who solely hear appellate cases from the county criminal division are not to be reported.

- Weekly admissions to the county detention facility for a revocation of probation or community control.
- Daily population of the county detention facility, including the specific number of inmates in the custody of the county that:
 - Are awaiting case disposition.
 - Have been sentenced by a court to a term of imprisonment in the county detention facility.
 - Have been sentenced by a court to a term of imprisonment with the DOC and who are awaiting transportation to the DOC.
 - Have a federal detainer or are awaiting disposition of a case in federal court.
- Information related to each inmate, including:
 - Date a defendant is processed into the county detention facility for an arrest for a new violation of law or for a VOP or VOCC.
 - Qualification for a flag designation, including domestic violence flag, gang affiliation flag, habitual offender flag, pretrial release violation flag, or sexual offender flag.
- Total population of the county detention facility at year-end.¹⁷⁰
- Per diem rate for a county detention facility bed.
- Daily number of correctional officers for the county detention facility.
- Annual county detention facility budget.¹⁷¹
- Revenue generated for the county from the temporary incarceration of federal defendants or inmates.

The DOC is required to collect the following data:

- Information related to each inmate, including:
 - Identifying information, including name, date of birth, race or ethnicity, and identification number assigned by the DOC.
 - Number of children.
 - Education level, including any vocational training.
 - Date the inmate was admitted to the custody of the DOC.
 - Current institution placement and the security level assigned to the institution.
 - Custody level assignment.
 - Qualification for a flag designation, including sexual offender flag, habitual offender flag, gang affiliation flag, or concurrent or consecutive sentence flag.
 - County that committed the prisoner to the custody of the DOC.
 - Whether the reason for admission to the DOC is for a new conviction or a violation of probation, community control, or parole. For an admission for a VOP, VOCC, or parole violation, the DOC must report whether the violation was technical or based on a new violation of law.
 - Specific statutory citation for which the inmate was committed to the DOC, including, for an inmate convicted of drug trafficking under s. 893.135, F.S., and the statutory citation for each specific drug trafficked.
 - Length of sentence or concurrent or consecutive sentences served.
 - Tentative release date.
 - Gain time earned in accordance with s. 944.275, F.S.

¹⁷⁰ This data must include the same specified classifications required for daily population.

¹⁷¹ This information only has to be reported once annually at the beginning of the county's fiscal year.

- Prior incarceration within the state.
- Disciplinary violation and action.
- Participation in rehabilitative or educational programs while in the custody of the DOC.
- Information about each state correctional institution or facility, including:
 - Budget for each state correctional institution or facility.
 - Daily prison population of all inmates incarcerated in a state correctional institution or facility.
 - Daily number of correctional officers for each state correctional institution or facility.
- Information related to persons supervised by the DOC on probation or community control, including:
 - Identifying information for each person supervised by the DOC on probation or community control, including his or her name, date of birth, race or ethnicity, sex, and DOC-assigned case number.
 - Length of probation or community control sentence imposed and amount of time that has been served on such sentence.
 - Projected termination date for probation or community control.
 - Revocation of probation or community control due to a VOP or VOCC that is technical in nature or the result of a new law violation.
- Per diem rates for prison beds, probation, and community control.¹⁷²

Publishing of Data

The bill requires the FDLE, beginning January 1, 2019, to publish datasets in its possession in a modern, open, electronic format that is machine-readable and readily accessible by the public on the FDLE's website. The bill requires the FDLE, beginning March 1, 2019, to publish the data received pursuant to the bill in the same modern, open, electronic format that is machine-readable and readily accessible to the public on the FDLE's website. The data must be published by the FDLE no later than July 1, 2019.

Data Transparency

The bill creates s. 943.687, F.S., requiring the FDLE to:

- Collect, compile, maintain, and manage the data submitted by local and state entities pursuant to the bill, and coordinate related activities to collect and submit data;
- Create a unique identifier for each criminal case received from the clerks, which identifies the person who is the subject of the criminal case. The unique identifier must be:
 - The same for that person in any court case and used across local and state entities for all information related to that person at any time; and
 - Randomly created without portions of the person's social security number or birth date.
- Promote criminal justice data sharing by making data received under the bill comparable, transferable, and readily usable;
- Create and maintain an online database of criminal justice data received under the bill in a modern, open, electronic format that is machine-readable and readily accessible through an application program interface;¹⁷³

¹⁷² This information only needs to be reported once annually at the time the most recent per diem rate is published.

¹⁷³ The database must permit the public to search, at a minimum, by each data element, county, judicial circuit, or unique identifier and the FDLE may not require a license or charge a fee to access or receive information from the database.

- Develop written agreements with local, state, and federal agencies to facilitate criminal justice data sharing;
- Establish by rule:
 - Requirements for the entities subject to the data submission requirements under the bill to submit data through an application program interface;
 - A data catalog defining data objects, describing data fields, and detailing the meaning of and options for each data element reported pursuant to the bill;
 - How data collected pursuant to the bill is compiled, processed, structured, used, or shared;¹⁷⁴
 - Requirements for implementing and monitoring the online database established by the bill; and
 - How information contained in the online database established by the bill is accessed by the public.
- Consult with local, state, and federal criminal justice agencies and other public and private users of the online database on the data elements collected under the bill, the use of such data, and adding data elements to be collected;
- Monitor data collection procedures and test data quality to facilitate the dissemination of accurate, valid, reliable, and complete criminal justice data; and
- Develop methods for archiving data, retrieving archived data, and data editing and verification.

The bill also creates s. 945.041, F.S., requiring the DOC to publish on its website and make available to the public specified information, updated on a quarterly basis:

- Inmate admissions by offense type, specifically reporting separately burglary of a dwelling¹⁷⁵ offenses from all other property crimes; and
- The recidivism rate.¹⁷⁶

Criminal Punishment Code Scoresheet

The bill amends s. 921.0024, F.S., requiring the Criminal Punishment Code scoresheet to be digitized. The bill also requires such digitized scoresheets to have individual, structured data cells for each data field on the scoresheet.

Pilot Program

The bill creates a pilot program in the Sixth Judicial Circuit for the purpose of ensuring that data submitted under s. 900.05, F.S., is accurate, valid, reliable, and structured. The bill authorizes the entities specified in the data collection and transparency provisions to enter into a memorandum of understanding (MOU) with a national, nonpartisan, not-for-profit entity, which provides data and measurement for county-level criminal justice systems.

The MOU must establish the duties and responsibilities of a data fellow, which must be completely funded by the entity. The data fellow must assist with data extraction, validation, and

¹⁷⁴ The rule must provide for the tagging of all information associated with each case number and unique identifier.

¹⁷⁵ The bill defines “burglary of a dwelling” as offenses enumerated in s. 810.02(2), (3)(a), and (3)(b), F.S.

¹⁷⁶ The bill defines “recidivism” as rearrest, reconviction, reincarceration, and probation revocation in the state within a 3-year time period following release from incarceration

quality, and publish such data consistent with the terms of the MOU. The data fellow must assist the office or agency in compiling and reporting data pursuant to the data collection and transparency provisions and in compliance with rules promulgated by the FDLE. The pilot project expires in accordance with the terms of the MOU.

Appropriation

For purposes of implementing ss. 900.05(3) and 943.687, F.S., transitioning to incident-based crime reporting, and collecting and submitting crime statistics that meet the requirements of the Federal Bureau of Investigation under the National Incident-Based Reporting System, the bill provides a specific appropriation to the FDLE for FY 2018-19, including nine FTEs with associated salary rate of 476,163, and the recurring sum of \$665,884 and the nonrecurring sum of \$1,084,116 from the General Revenue Fund.

Driver License Reinstatement Days Program (Section 6)

Florida requires any person operating a motor vehicle on the state's roadways to hold a driver license¹⁷⁷ or be exempt from licensure.¹⁷⁸ Exemptions to the licensure requirement include nonresidents who possess a valid driver license issued by their home states, federal government employees operating a government vehicle for official business, and people operating a road machine, tractor, or golf cart.¹⁷⁹ Both licensed drivers and exempted individuals have a driving privilege in Florida.¹⁸⁰

The Department of Highway Safety and Motor Vehicles (DHSMV) can revoke or suspend a driver license or driving privilege for several driving-related and non-driving-related reasons. Revocation means the driving privilege is terminated, while suspension means the driving privilege is temporary withdrawn.¹⁸¹ Both revocations and suspensions can be indefinite or for a defined period of time, but only revocations in certain circumstances can be permanent. The base fee for driver license reinstatement after revocation is \$75, and the fee for reinstatement after suspension is \$45.¹⁸²

Failure to Meet Court-Imposed Obligations

The clerks can notify the DHSMV to suspend a license for several reasons, including failure to comply with civil penalties, failure to appear, and failure to pay criminal financial obligations.¹⁸³ These suspensions last until the individual is compliant with the court's requirements for reinstatement or, in the case of criminal financial obligations, the court grants relief from the suspension.¹⁸⁴

¹⁷⁷ Section 322.03(17), F.S., defines a "driver license" to mean a certificate that, subject to all other requirements of law, authorizes an individual to drive a motor vehicle.

¹⁷⁸ Section 322.03(1), F.S.

¹⁷⁹ Section 322.04, F.S.

¹⁸⁰ *State v. Miller*, 227 So.3d 562, 564 (Fla. 2017) ("the Legislature's use of 'driving privilege' refers to all individuals who may lawfully operate vehicles on Florida's roads, even if they do not possess a Florida driver license").

¹⁸¹ Section 322.01(36) and (40), F.S., respectively.

¹⁸² DHSMV, *Fees*, available at <https://www.flhsmv.gov/fees/> (last visited February 22, 2018).

¹⁸³ Sections 318.15 and 322.245, F.S.

¹⁸⁴ *Id.*

Payment Plans, Community Service Options, and Collections

The clerk is required to accept partial payment of court-related fees, service charges, costs, or fines in accordance with the terms of an established payment plan. The court may review the reasonableness of the payment plan. A monthly payment amount is presumed to correspond to the person's ability to pay if the amount does not exceed two percent of the person's annual net income, divided by twelve.¹⁸⁵

The court may convert a statutory financial obligation in a criminal case or a noncriminal traffic infraction into a requirement to perform community service. The clerk must pursue the collection of any unpaid financial obligations that remain unpaid after 90 days by referring the account to a private attorney or collection agent. The clerk must have attempted to collect the unpaid obligation through a collection court, collections docket, or any other collections process prior to referring the account to a private attorney or collections agent, find the referral to be cost-effective, and follow any applicable procurement processes. A collection fee of up to forty percent of the amount owed at the time the account is referred to the attorney or agent for collection may be added to the outstanding balance.¹⁸⁶

Reinstatement Clinics

Several counties have held events to assist individuals whose licenses are suspended for financial reasons related to civil penalties or criminal financial obligations. In April 2015, 60 out of 67 counties participated in Operation Green Light: a short-term event in which the clerk waived the forty percent collections surcharge in exchange for full payment of the financial obligation behind a person's driver license suspension.¹⁸⁷ Upon satisfaction of the obligation, the participants' licenses were reinstated. The total statewide cost for the event was less than \$133,000, and the clerks collected almost \$5.5 million in fees and reinstated almost 1,900 licenses.¹⁸⁸ Several counties have since conducted similar events.¹⁸⁹

Effect of the Bill

The bill creates s. 322.75, F.S., requiring each judicial circuit to establish a Driver License Reinstatement Days program that must include participation from the DHSMV, the SAs office, the PDs office, the circuit and county courts, the clerks, and any interested community organization. The clerk, in consultation with above-listed participants, must select one or more days for an event where an event attendee may have his or her driver license reinstated. A person

¹⁸⁵ Section 28.246(4), F.S.

¹⁸⁶ Section 28.264(6), F.S.

¹⁸⁷ Harrison Barrus, "Operation Green Light" gives ticket payers a break, NEWS 4 JAX, available at <https://www.news4jax.com/news/local/operation-green-light-gives-ticket-payers-a-break> (last visited February 22, 2018).

¹⁸⁸ Florida Clerks of Court Operations Corporation, *Statewide Collection Initiative Update*, p. 11-17, available at http://c.ymcdn.com/sites/www.flclerks.com/resource/resmgr/Statewide_Collection_Initiat.pdf (last visited February 22, 2018).

¹⁸⁹ Wayne K. Roustan, *Operation Green Light to offer amnesty on unpaid fines, fees in Broward*, SUN SENTINEL (April 21, 2017), available at <http://www.sun-sentinel.com/news/transportation/fl-sb-broward-ticket-amnesty-20170421-story.html>; Karl Etters, *Clinic hopes to restore driver's licenses*, Tallahassee Democrat (May 30, 2017), available at <http://www.tallahassee.com/story/news/2017/05/30/clinic-hopes-restore-drivers-licenses/102055664/>; 11th Judicial Circuit, Driver License Reinstatement Event Flyer, available at <https://www.jud11.flcourts.org/DesktopModules/EasyDNNNews/DocumentDownload.ashx?portalid=0&moduleid=599&articleid=2744&documentid=11> (all articles last visited February 22, 2018).

must pay the full license reinstatement fee, but the clerk is authorized to reduce or waive other fees and costs to facilitate reinstatement.

The bill provides that a person is eligible for reinstatement under the program if his or her license was suspended due to:

- Driving without a valid driver license;
- Driving with a suspended driver license;
- Failing to make a payment on penalties in collection;
- Failing to appear in court for a traffic violation; or
- Failing to comply with provisions of chs. 318 or 322, F.S.

A person is eligible for reinstatement under the program if the period of suspension or revocation has elapsed, the person has completed any course or program required of him or her,¹⁹⁰ and the person is otherwise eligible for reinstatement.

However, a person is ineligible for reinstatement under the program if his or her driver license is suspended or revoked:

- Because the person failed to fulfill a court-ordered child support obligation;
- For a violation of s. 316.193, F.S., or a traffic related felony;
- Because the person has not completed a required course or program; or
- Because the person is a habitual traffic offender under s. 322.264, F.S.

Lastly, the bill requires the clerk and the DHSMV to verify any information necessary for reinstatement of a driver license under the program at the event.

Community Court Programs (Section 33)

Problem-solving courts are specialized, non-traditional courts addressing the underlying causes of crime to reduce recidivism and promote rehabilitation. Problem-solving courts build relationships in the community, address each defendant individually, and typically include:

- A problem-solving team including judges, case managers, prosecutors, defense attorneys, treatment professionals, law enforcement officers, corrections personnel, and other community stakeholders.
- A non-adversarial approach.
- Individualized treatment services.
- Judicial leadership and interaction.
- Responses to defendant compliance.¹⁹¹

Today, Florida has over 170 problem-solving courts, including, but not limited to adult and juvenile drug courts, veterans' courts, mental health courts, DUI courts, and permanency courts.

¹⁹⁰ The bill provides that these courses may include a driver training program, driver improvement course, or alcohol or substance abuse education or evaluation program as required under ss. 316.192, 316.193, 322.2616, 322.271, or 322.264, F.S.

¹⁹¹ The Florida Courts, *Problem-Solving Courts*, available at <http://www.flcourts.org/resources-and-services/court-improvement/problem-solving-courts/index.shtml> (last visited February 22, 2018). Florida created the first drug court in the United States in Miami-Dade County in 1989.

Effect of the Bill

The bill creates s. 948.081, F.S., authorizing each judicial circuit to establish a community court program for defendants charged with certain misdemeanor offenses, which at a minimum:

- Adopts a nonadversarial approach.
- Establishes an advisory committee to recommend solutions and sanctions in each case.
- Considers the needs of the victim.
- Considers individualized treatment services for the defendant.
- Provides for judicial leadership and interaction.
- Monitors the defendant's compliance.

The chief judge in each county that elects to establish a community court program must issue an administrative order specifying the misdemeanors that are eligible for the program. In making such determination, the chief judge must consider the particular needs and concerns of the communities within the judicial circuit. The DOC, Department of Juvenile Justice (DJJ), Department of Health, FDLE, DOE, law enforcement agencies, and other government entities involved in the criminal justice system are required to support any community court programs established.

Participation in the community court program must be voluntary and each program shall have a resource coordinator who:

- Coordinates the responsibilities of the participating agencies and service providers;
- Provides case management services;
- Monitors compliance by defendants with court requirements; and
- Manages the collection of data for program evaluation and accountability.

Additionally, the chief judge of the judicial circuit must appoint an advisory committee for each community court. Membership must include, at a minimum the chief judge or a community court judge designated by the chief judge, who shall serve as chair, the SA, the PD, and the community court resource coordinator.¹⁹²

The advisory committee's duties, in part, are to review each defendant's case and each committee member is permitted to make a recommendation to the judge, including appropriate sanctions and treatment solutions for the defendant. The judge must consider recommendations made by the advisory committee in determining sanctions and treatment with respect to each defendant.

The bill requires each judicial circuit that establishes a community court program to report client-level and programmatic data to the OSCA annually for program evaluation.¹⁹³

¹⁹² The committee may also include community stakeholders, treatment representatives, and other persons the chair deems appropriate.

¹⁹³ The bill provides that client-level data includes primary offenses resulting in the community court referral or sentence, treatment compliance, completion status, reasons for failing to complete the program, offenses committed during treatment and sanctions imposed, frequency of court appearances, and units of service; and programmatic data includes referral and screening procedures, eligibility criteria, type and duration of treatment offered, and residential treatment resources.

Community court program funding must be secured from sources other than the state for costs not assumed by the state under s. 29.004, F.S. However, a program is not precluded from using funds provided for treatment and other services through state executive branch agencies.

Oversight Council (Sections 1 and 2)

The Florida Corrections Commission

The Florida Corrections Commission (Commission) was established by the Legislature in 1994¹⁹⁴ and abolished in 2006.¹⁹⁵ The Commission was housed within the DOC, but acted as an independent body¹⁹⁶ that reviewed the DOC and looked at policies of the entire criminal justice system affecting corrections.¹⁹⁷ The Commission consisted of nine members appointed by the Governor and subject to confirmation by the Senate.¹⁹⁸ The membership of the Commission was required to represent equally all geographic areas of the state, and each member had to be a citizen and registered to vote. The term for each Commission member was four-years.¹⁹⁹

The primary functions of the Commission included, but were not limited to:

- Recommending major correctional policies and assuring proper execution of approved policies and revisions;
- Periodically reviewing the status of the state correctional system and recommending improvements to the Legislature and the Governor;
- Monitoring the overall financial status of the DOC, including management of revenue and bond proceeds;
- Reviewing annual budget requests, the comprehensive correctional master plan, and the tentative construction program for compliance with laws and policies of the DOC; and
- Regularly evaluating the efficiency, productivity, and management of the DOC.²⁰⁰

The Commission was specifically prohibited from interfering with the day-to-day operations of the DOC.²⁰¹

The Commission held regular meetings, which were required to be noticed in accordance with Florida's public meetings laws.²⁰² The Commission was also required to appoint an executive staff that served under the direction of the Commission.²⁰³

¹⁹⁴ Chapter 94-117, L.O.F.

¹⁹⁵ Chapter 06-32, L.O.F.

¹⁹⁶ Section 20.315(6)(a)3., F.S. (2005).

¹⁹⁷ Section 20.315(6)(a)1., F.S. (2005).

¹⁹⁸ Section 20.315(6)(a)2., F.S. (2005).

¹⁹⁹ *Id.*

²⁰⁰ Section 20.315(6)(b), F.S. (2005).

²⁰¹ Section 20.315(6)(c), F.S. (2005).

²⁰² Article I, s. 24(b) of the Florida Constitution and s. 286.011, F.S., require all state, county, or municipal meetings to be open and noticed to the public.

²⁰³ Section 20.315(6)(e), F.S. (2005).

Office of the Inspector General

In 1994, the Florida Legislature created the Office of the Chief Inspector General and an Office of Inspector General in each state agency.²⁰⁴ Every state agency has an inspector general who achieves their mission through conducting professional and independent investigations, audits, and reviews with the goal of enhancing the public trust in government.²⁰⁵

The Office of the Chief Inspector General is responsible for promoting accountability, integrity, and efficiency in the Executive Office of the Governor (EOG) and in agencies under the jurisdiction of the Governor.²⁰⁶ The Chief Inspector General serves as the Inspector General for the EOG and reports directly to the Governor.²⁰⁷ The duties of the Office of the Chief Inspector General include, in part, conducting audits, investigations, and other activities.²⁰⁸

Councils

Section 20.03(7), F.S., defines a “council” as an advisory body created by specific statutory enactment and appointed to function on a continuing basis for the study of the problems arising in a specified functional or program area of state government and to provide recommendations and policy alternatives.

Florida has established a number of councils that address a wide variety of public policy topics, such as the Suicide Prevention Coordinating Council, Statewide Council on Human Trafficking, Regional Planning Councils, and Council on Arts and Culture.²⁰⁹ Statutes that create councils at a minimum typically include provisions designating the specified number of members, procedures for appointing such members, and the purpose for and duties of the council.²¹⁰

Effect of the Bill

The bill establishes the Florida Correctional Operations Oversight Council (Oversight Council) within the Office of the Chief Inspector General. The Office of the Chief Inspector General must provide administrative support to the Oversight Council; however, the Oversight Council is not under the control, supervision, or direction of the Office of the Chief Inspector General in the performance of its duties. Further, the Oversight Council is prohibited from interfering with the day-to-day operations of the DOC or the DJJ.

The Oversight Council will operate as a council as such term is defined in s. 20.03, F.S., with the specific purpose of overseeing matters relating to the corrections and juvenile justice continuum with an emphasis on the safe and effective operations of major institutions and facilities under the purview of the DOC and the DJJ. The bill also requires the council to make recommendations and findings on the policies of other components of the criminal justice system if such policies affect corrections or the juvenile justice continuum.

²⁰⁴ Chapter 94-235, L.O.F.

²⁰⁵ Florida Inspectors General, available at <http://www.floridaoig.com/default.htm> (last visited February 24, 2018).

²⁰⁶ Executive Office of the Governor (Chief Inspector General), *2016-2017 Annual Report*, available at http://www.floridaoig.com/library/Annual_rpts/2016-17-CIG-Annual-Report.pdf (last visited February 24, 2018).

²⁰⁷ Sections 14.32(4), F.S.

²⁰⁸ Section 14.32(2), F.S.

²⁰⁹ See ss. 14.20195, 16.617, 265.285, F.S.

²¹⁰ See *Id.* for examples of common purposes, duties, and membership structure of councils.

The Oversight Council is comprised of nine members of whom the Governor, President of the Senate, and the Speaker of the House of Representatives are each authorized to appoint three members. All members must be initially appointed by October 1, 2018. The term length will be four-years; however, one appointee of each appointing entity must be appointed to an initial two-year term to achieve staggered terms. Members will serve without compensation, but may receive reimbursement for per diem and travel expenses as provided in s. 112.061, F.S.²¹¹

The bill requires that members are Florida residents and emphasizes, but does not require, that members have a background in prison operations, jail management, or the juvenile justice continuum of services. Appointments must be made in a manner that provides equitable representation to all geographic regions of the state. Members must provide representation to the state in its entirety and not conduct themselves in a manner that benefits a particular region.

A person is prohibited from being appointed as a member of the Oversight Council if he or she has an immediate family member that is employed by the DOC, the DJJ, a private institution, facility, or provider under contract with the DOC or the DJJ; or a direct or indirect interest in a contract, subcontract, franchise, privilege, or other benefit that can be awarded by either the DOC or the DJJ during the term of service.

The Oversight Council's primary duties include:

- Evaluating, investigating, and overseeing the daily operations of correctional and juvenile facilities and conducting announced and unannounced inspections of correctional and juvenile facilities,²¹² including entering any facility housing prisoners, residents, or juveniles. Members must be provided immediate access to places requested and given the ability to communicate with any prisoner, resident, or juvenile privately with adequate security in place.
- Identifying and monitoring high-risk and problematic correctional or juvenile facilities and reporting findings and recommendations relating to these facilities.
- Providing technical assistance when appropriate.
- Submitting an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by November 1, that includes statutory, budgetary, and operational recommendations to the Legislature that address problems identified by the council.²¹³
- Conducting confidential interviews with staff, officers, inmates, juveniles, volunteers, and public officials relating to the operations and conditions of correctional and juvenile facilities.
- Developing and implementing a monitoring tool that will be used to assess the performance of each correctional and juvenile facility.
- Conducting regular on-site visits to correctional and juvenile facilities.

²¹¹ Section 112.061, F.S., establishes standardized travel reimbursement rates, procedures, and limitations, with specified exceptions, that apply to all public officers, employees, and authorized persons whose travel is authorized and paid for by a public agency. Per diem and travel expenses cover costs such as lodging, meals, vehicle rental, gas, plane fare, tolls, or parking fees. Rates are dependent upon factors such as whether the business travel requires an overnight stay or day trip and the length of time away from official headquarters.

²¹² This provision applies to facilities operated by the state or a private contractor.

²¹³ If the bill becomes law, the first report is due by November 1, 2019.

Additionally, the Oversight Council must appoint an executive director to serve under the direction of the members. The bill provides that the executive director position will be governed by the classification plan and salary and benefits plan approved by the EOG.

The bill provides a specific appropriation of \$168,074 recurring General Revenue funds and \$37,855 nonrecurring General Revenue funds, and creates one FTE for the purpose of administering the Oversight Council at an authorized salary rate of \$70,000.

Mutual Aid Agreements (Section 3)

The Florida Mutual Aid Act was established to ensure adequate coordination and preparations amongst law enforcement and other specified entities in the event of natural or manmade disasters or emergencies and other major law enforcement problems.²¹⁴ Section 23.1225, F.S., provides that mutual aid agreements are agreements between two or more law enforcement agencies to permit voluntary cooperation in routine matters or to render assistance in the event of a law enforcement emergency. A mutual aid agreement must generally be in writing and specify:

- The nature of the assistance to be rendered;
- The agency or entity that will bear liability in certain situations;
- Procedures for requesting and authorizing assistance;
- The agency or entity in charge of supervision;
- The time limit for the agreement;
- The terms of compensation; and
- Any other terms necessary to give effect to the agreement.²¹⁵

Effect of the Bill

The bill amends s. 23.1225, F.S., specifying that in the event the Governor declares a state of emergency pursuant to ch. 252, F.S., a mutual aid agreement may be used to increase the presence of law enforcement to aid in traffic and crowd control, emergency response, and evacuation support.

Courthouse Security Provided by Sheriffs (Section 4)

Sheriffs

The Florida Constitution establishes five specific county officers, including the county sheriff. Each sheriff is elected by county voters for a four-year term. Abolishing the office of sheriff or revising the manner in which the sheriff is chosen may be provided by county charter or special law approved by a vote of the electors of the county under certain circumstances.²¹⁶

²¹⁴ Section 23.121, F.S.

²¹⁵ Section 23.1225(1), F.S. If the Governor declares a state of emergency pursuant to ch. 252, F.S., the requirement that an agreement to render emergency assistance be in writing may be waived by the participating agencies for up to 90 days after the Governor's declaration.

²¹⁶ FLA. CONST. art. III, s. 1.

Section 30.15, F.S., provides for the powers and duties of sheriffs. Some of the duties a sheriff, or his or her deputies, must perform within their respective counties include:

- Execute all process of the courts and board of county commissioners;
- Execute other writs, processes, warrants, and papers;
- Act as conservators of the peace and apprehend any person disturbing the peace; and
- Attend sessions of the circuit court and county court.

If a sheriff fails to attend a session of the court, either in person or by deputy, the judge may appoint an interim sheriff to assume the sheriff's responsibilities and duties.²¹⁷ The sheriff is the executive officer of the county court and circuit court of the county.²¹⁸

Judicial Administration

The Florida Constitution provides that the chief judge of each judicial circuit is responsible for the administrative supervision of the circuit courts and county courts in the circuit.²¹⁹ Some duties over which the chief judge has authority include:

- Regulate the use of courtrooms;
- Supervise dockets and calendars;
- Delegate to the trial court administrator the authority to bind the circuit in contract;
- Promote the prompt and efficient administration of justice; and
- Manage, operate, and oversee the jury system.²²⁰

Failure of any judge, clerk, SA, PD, or other officer of the court to comply with an order or directive of the chief judge under s. 43.26, F.S., constitutes neglect of duty.²²¹ Additionally, the Rules of Judicial Administration provides that the chief judge regulates the use of court facilities and directs the formation and implementation of policies and priorities for the operation of all courts and officers within the circuit.²²²

Effect of the Bill

The bill amends s. 30.15, F.S., requiring the sheriff and the governing board of the county to provide security for trial court facilities located within each county of a judicial circuit. The sheriff and the county must coordinate with the chief judge of the applicable judicial circuit on security matters for such facilities, but the sheriff and county retain operational control over the manner in which security is provided, as applicable, in such facilities. The bill provides that these provisions do not affect or erode the authority of counties under Article V, s. 14 of the Florida Constitution or s. 29.008, F.S., to provide and fund the security of facilities as defined s. 29.008(1)(e), F.S.²²³ Additionally, the bill provides that sheriffs and their deputies, employees, and contractors are officers of the court when providing security for trial court facilities.

²¹⁷ Section 30.12, F.S.

²¹⁸ Sections 26.49 and 34.07, F.S.

²¹⁹ FLA. CONST. art. V, s. 2(d).

²²⁰ Section 43.26, F.S.; *See also* s. 40.001, F.S.

²²¹ Section 43.26(4), F.S.

²²² Fla. R. Jud. Admin. 2.215(b).

²²³ These provisions address judicial funding.

The chief judge of the judicial circuit retains decision-making authority to ensure the protection of due process rights, including, but not limited to, the scheduling and conduct of trials and other judicial proceedings, as part of his or her responsibility for the administrative supervision of the trial courts pursuant to s. 43.26, F.S.

Attorney's Fees in Specific Injunction Cases (Sections 5, 7 and 8)

Protective Injunctions

Protective injunctions are available under Florida law for victims of domestic violence, repeat violence, sexual violence, dating violence, and stalking.²²⁴

A protective injunction may prohibit a person from:

- Going to or being within 500 feet of the petitioner's residence, school, place of employment, or other specified place;
- Committing an act of violence against the petitioner;
- Telephoning, contacting, or otherwise communicating with the petitioner; and
- Knowingly and intentionally coming within 100 feet of the petitioner's motor vehicle.²²⁵

Violation of a protective injunction is a first-degree misdemeanor, punishable by up to one year in jail and a \$1,000 fine.²²⁶

Procedure for Obtaining an Injunction

The process for obtaining an injunction in any of the above-mentioned circumstances is very similar and requires that the victim file a sworn petition for injunction that alleges:

- He or she is a victim of domestic violence; repeat, sexual, or dating violence; or stalking; or
- In the case of a petition for a domestic violence injunction, he or she has reasonable cause to believe he or she is in imminent danger of such violence.²²⁷

As soon as possible following the filing of the petition, a court must set a hearing to determine whether an immediate and present danger of the violence alleged exists. Upon finding an immediate and present danger, the court may grant an ex parte temporary injunction for 15 days. A court must then set a hearing with notice to the respondent, and upon such hearing with notice, may grant protective injunctive relief as it deems proper.²²⁸

Attorney's Fees

A court must award a reasonable attorney's fee to be paid by the losing party and the losing party's attorney on any claim or defense during a civil proceeding or action if the court finds that the losing party or losing party's attorney knew or should have known that a claim:

- Was not supported by the material facts necessary to establish the claim or defense; or

²²⁴ Sections 741.30, 784.046, and 784.0485, F.S.

²²⁵ Sections 741.31, 784.047, and 784.0487, F.S.

²²⁶ *Id.*

²²⁷ Sections 741.30, 784.046, and 784.0485, F.S.

²²⁸ *Id.*

- Would not be supported by the application of then-existing law to those material facts.²²⁹

Florida law prohibits attorney fee awards stemming from domestic violence injunction proceedings; however, there is no such explicit prohibition for repeat violence, sexual violence, dating violence, or stalking injunction proceedings. In *Lopez v. Hall*, the Florida Supreme Court held that an award of attorney's fees was permissible in dating, repeat, and sexual violence injunction proceedings, as they were not explicitly prohibited by statute.²³⁰

Effect of the Bill

The bill amends ss. 57.105, 784.046, and 784.0485, F.S., prohibiting the award of attorney's fees in injunction proceedings for repeat violence, sexual violence, sexual violence, and stalking.

Reporting Provisions (Sections 15 and 17)

Reports Concerning Seized or Forfeited Property

The Florida Contraband Forfeiture Act (act)²³¹ provides for the seizure and civil forfeiture of property related to criminal and non-criminal violations of law.²³² Contraband and other property may be seized when utilized during a violation of, or for the purpose of violating, the act. Property constituting a "contraband article" includes, but is not limited to, a controlled substance as defined in ch. 893, F.S., any gambling paraphernalia being used or attempted to be used in violation of the state's gambling laws, and any motor fuel upon which the motor fuel tax has not been paid as required by law.²³³

Currently, any contraband article, vessel, motor vehicle, aircraft, other personal property, or real property used in violation of any provision of the act, or in, upon, or by means of which any violation of the act has taken or is taking place, may be seized and forfeited subject to the act.²³⁴ If the court finds that the seizure occurred lawfully²³⁵ and that probable cause exists for the seizure, the forfeiture may proceed as set forth in the act.²³⁶

When a seizing agency obtains a final judgment granting forfeiture of real or personal property, it may elect to:

- Retain the property for the agency's use;
- Sell the property at public auction or by sealed bid to the highest bidder;²³⁷ or
- Salvage, trade, or transfer the property to any public or nonprofit organization.²³⁸

²²⁹ Section 57.105, F.S.

²³⁰ No. SC16-1921 (Slip. Op.) (January 11, 2018).

²³¹ See ss. 932.701-932.7062, F.S.,

²³² Section 932.701(1), F.S.

²³³ See s. 932.701(2)(a)1.-12., F.S.

²³⁴ Section 932.703(1)(a), F.S.

²³⁵ Section 932.703(1)(a), F.S., sets forth the circumstances that permit for a lawful seizure of property.

²³⁶ Section 932.703(2)(c), F.S.

²³⁷ Real property should be listed on the market and sold in a commercially reasonable manner after appraisal. Section 932.7055(1)(b), F.S.

²³⁸ Section 932.7055(1)(a)-(c), F.S.

Section 932.7061, F.S., requires every law enforcement agency to submit an annual report by October 10 indicating whether the agency has seized or forfeited property under the act.²³⁹ In the event that a law enforcement agency received or expended forfeited property or proceeds from the sale of forfeited property in accordance with the act, the annual report must document such receipts and expenditures.

An agency that is in noncompliance with the reporting requirements in s. 932.7061, F.S., must be notified by the FDLE. Such agency has 60 days within receipt of the notification of noncompliance to comply with the reporting requirements. An agency that fails to comply within 60 days is subject to a civil fine of \$5,000. The fine is determined by the Chief Financial Officer (CFO) and payable to the General Revenue Fund.²⁴⁰ The FDLE must submit any substantial noncompliance to the CFO, which will then be responsible for the enforcement of the fine.²⁴¹

The fiscal year for sheriff departments runs from October 1-September 30, making it difficult to gather all required information and submit it by October 10 to comply with the statutory mandate.

Effect of the Bill

The bill changes the deadline for the submission of such report to December 1.

Pretrial Release Annual Report

Current law requires each pretrial release program²⁴² to submit an annual report no later than March 31 for the previous calendar year that contains information about each program, including, but not limited to, the amount of fees paid by defendants to the pretrial release program and the number of persons employed by the program.²⁴³

Effect of the Bill

The bill requires the following additional information to be contained in the annual report:

- The number of defendants accepted into a pretrial release program who paid a surety or cash bail or bond;
- The number of defendants for whom a risk assessment tool was used in determining whether the defendant should be released pending the disposition of the case and the number of defendants for whom a risk assessment tool was not used;
- The type of each criminal charge of a defendant accepted into a pretrial release program including, at a minimum, the number of defendants charged with dangerous crimes as defined in s. 907.041, F.S., nonviolent felonies, and misdemeanors only.
- The number of defendants accepted into a pretrial release program with no prior criminal conviction.

²³⁹ Section 932.7061(1), F.S.

²⁴⁰ Section 932.7062, F.S.

²⁴¹ *Id.*

²⁴² “Pretrial release program” means an entity, public or private, that conducts investigations of pretrial detainees, makes pretrial release recommendations to a court, and electronically monitors and supervises pretrial defendants. Section 907.043(2)(b), F.S.

²⁴³ Section 907.043(4), F.S.

The bill defines “nonviolent felony” to exclude the commission of, an attempt to commit, or a conspiracy to commit any of the following:

- An offense enumerated in s. 775.084(1)(c), F.S.;
- An offense that requires a person to register as a sexual predator in accordance with s. 775.21, F.S., or as a sexual offender in accordance with s. 943.0435, F.S.;
- Failure to register as a sexual predator in violation of s. 775.21, F.S., or as a sexual offender in violation of s. 943.0435, F.S.;
- Facilitating or furthering terrorism in violation of s. 775.31, F.S.;
- A forcible felony as described in s. 776.08, F.S.;
- False imprisonment in violation of s. 787.02, F.S.;
- Burglary of a dwelling or residence in violation of s. 810.02(3), F.S.;
- Abuse, aggravated abuse, and neglect of an elderly person or disabled adult in violation of s. 825.102, F.S.;
- Abuse, aggravated abuse, and neglect of a child in violation of s. 827.03, F.S.;
- Poisoning of food or water in violation of s. 859.01, F.S.;
- Abuse of a dead human body in violation of s. 872.06, F.S.;
- A capital offense in violation of ch. 893, F.S.;
- An offense that results in serious bodily injury or death to another human; or
- A felony offense in which the defendant used a weapon or firearm in the commission of the offense.

The bill is effective October 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The county or municipality mandates provision of article VII, section 18 of the Florida Constitution may apply because of several provisions in the bill, including the requirement that all county-operated detention facilities collect and transmit data elements to the FDLE, each county develop an ASP, and each county establish a Driver License Reinstatement Days, require counties to expend funds.

Article VII, s. 18(a) of the Florida Constitution provides, in pertinent part, that “no county or municipality shall be bound by any general law requiring such county or municipality to spend funds or take an action requiring the expenditure of funds unless the legislature has determined that such law fulfills an important state interest and unless the law requiring such expenditure is approved by two-thirds of the membership in each house of the legislature.”

The bill does not contain a legislative finding that the act fulfills an important state interest.

These requirements do not apply²⁴⁴ to laws that have an insignificant fiscal impact,²⁴⁵ which for fiscal year 2017-2018 is \$2.05 million or less.²⁴⁶

B. Public Records/Open Meetings Issues.

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Certificate of Achievement and Employability

The bill may result in a greater number of state inmates being able to find employment upon release from incarceration which could have an indeterminate positive impact on the private sector.

Attorney's Fees

The bill prohibits the court from awarding attorney fees in proceedings for protective injunctions for repeat, sexual, or dating violence or stalking. This change may have an indeterminate, but likely insignificant, impact on attorneys.

Pretrial Release Programs

To the extent that pretrial release programs use vendors to monitor released defendants, there may be a fiscal impact to collect additional data that is not currently collected by these vendors.

C. Government Sector Impact:

Supervised Bond Program

Local governments may experience reduced costs as a result of the implementation of the Bond Program. A county may implement a supervised bond program, which allows an

²⁴⁴ FLA. CONST. art. VII, s. 18(d).

²⁴⁵ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (September 2011), available at: <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf>.

²⁴⁶ Based on the Demographic Estimating Conference's population adopted on Dec. 5, 2017. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf>.

eligible defendant to be released on active supervision and some form of bond or ROR while awaiting trial. As a result, the county's costs to supervise the participants may be decreased from the full daily county jail per diem to the much lower per diem rates for active electronic monitoring or continuous alcohol monitoring technologies, or both.

Drug Trafficking Sentencing Departure

The Criminal Justice Impact Conference (CJIC) estimates that the provisions of the bill relating to departure from drug trafficking mandatory minimum sentences will have a "negative significant" prison bed impact (i.e., a decrease of more than 25 prison beds).²⁴⁷

Risk Assessment Pilot Program

The bill creates a Risk Assessment Pilot Program that utilizes a RAI to ensure better programming for defendants after arrest. To the extent that this program reduces recidivism, the bill may reduce the need for jail beds and prison beds.

The DOC estimates it will cost \$321,584 and 4 FTE to implement the requirements of this bill. Staff will be needed at each of the county pilot sites for implementation, training, monitoring the data and assessment environments to identify and resolve issues onsite. Staff will also be required to be project managers and will be used to ensure communication, monitor overall logistics, conduct analysis and prepare and submit necessary reports.²⁴⁸ In addition, the DOC also estimates it will cost \$763,575 for technology-related costs associated with a modified version of the spectrum assessment system.²⁴⁹

Data Collection

Local Detention Facilities

The bill will have an indeterminate impact on local administrators of county detention facilities by requiring the reporting and transmission of data from the facilities to the FDLE on a weekly basis. According to the Florida Sheriffs Association, the fiscal impact will be significant as each jail operates an independent jail management system. Additionally, not all systems currently collect the data elements required by the bill and interfacing the jail management systems with the FDLE may be problematic and may require additional technology upgrades to resolve.²⁵⁰ Depending on the size of the facility and current data capabilities, some counties may need to hire additional positions to input and maintain the data and the requirements may involve technology upgrades or installing new systems.

²⁴⁷ 2018 Conference Results (through February 12, 2018), CJIC, available at <http://edr.state.fl.us/Content/conferences/criminaljusticeimpact/CJIC18.xls> (last visited on Feb. 14, 2018).

²⁴⁸ DOC, *Agency Analysis for SB 1218*, p. 5, January 26, 2018 (on file with Senate Criminal Justice Committee).

²⁴⁹ *Id.* at 7.

²⁵⁰ Email from Florida Sheriffs Association Staff (February 23, 2018) (on file with Senate Criminal Justice Committee).

Counties that operate a pretrial release program may also have an indeterminate fiscal impact due to the additional data elements that must be collected and reported to the FDLE.

Clerks of the Court

The clerks report that the bill will have a significant fiscal impact on the clerks. The clerks in the Sixth Judicial Circuit (Pinellas and Pasco Counties) indicate they will need to modify their individual case management systems (CMS) for missing data elements. Additionally, CCIS will need to be modified to transmit information to the FDLE. The clerks estimate the cost to implement the bill for the Sixth Judicial Circuit is approximately \$2 million for the first year of implementation and approximately \$600,000 of recurring funds will be needed for subsequent years.²⁵¹ Other circuits will likely have similar fiscal impacts.

Department of Corrections

The bill will have a fiscal impact on the DOC. The requirements of reporting additional budget information will require one additional full time employee (Senior Management Analyst II) to implement at a cost of approximately \$93,000 per year.

In order to create the digitized scoresheet and provide the additional data information requested there will be significant technology impact, which will include developing new applications to create the digitized scoresheet, and completing programming changes and development to the OBIS related to offender tracking and information screens. According to the DOC, these changes will cost approximate \$340,000. However, it is anticipated that this could be updated at minimal cost given that there is already an electronic version of the scoresheet in existence.²⁵²

Florida Department of Law Enforcement

The bill will have a significant fiscal impact on the FDLE for receiving, publishing, maintaining, and storing the data. The bill requires upkeep and maintenance of the data. The FDLE may need to contract with other vendors to facilitate the publicly available website, allow users to determine their research parameters and data elements to explore, and download the data in a format of their choice.

The bill authorizes nine FTE positions with associated salary rate of 476,163 and appropriates the recurring sum of \$665,884 and the nonrecurring sum of \$1,084,116 from the General Revenue Fund to the FDLE to accomplish the goals of the bill and to begin the transition to incident-based reporting to the FBI. In addition to the FY 2018-19 appropriation, the FDLE reports it will need three FTE with a cost of \$276,069 in year one for salary, benefits, expense, and human resources services and \$264,804 in recurring years. Additionally, the FDLE recommends developing a new information system that will make data specified in the bill accessible to the public through the FDLE website.

²⁵¹ The Clerks of the Court, *HB 7071 Criminal Justice Data Transparency Pilot Initiation Analysis – Sixth Judicial Circuit*, p. 1, provided by the Florida Clerks of Court Operations Corporation (Feb. 8, 2018).

²⁵² DOC, *Agency Analysis of 2018 House Bill 7071*, p. 8, February 8, 2018 (on file with Senate Criminal Justice Staff).

The FDLE estimates the cost to be \$6.4 million over the next 24 months to cover the technology impact of the bill with a recurring cost to manage the database of approximately \$319,000.²⁵³

The FDLE does not yet have a specific fiscal impact estimate, but expects the impact to be significant. If the bill passes, the FDLE anticipates holding a series of workshops with the clerks, SAs, PDs, sheriffs and county detention facility administrators, and the DOC. The FDLE anticipates submitting a legislative budget request to address the significant fiscal impact created by this bill.²⁵⁴

Additionally, the FDLE reports that there will likely be a loss in revenue that is normally collected under s. 943.053(3)(e), F.S., which authorizes the FDLE, for a fee of \$24 per record to the public or reduced for certain state agencies, to provide criminal history information. The provisions of the bill creating s. 900.05, F.S., are in direct conflict with s. 943.053, F.S., due to the lack of fee charged for information that is similar in nature to that which is obtained through a criminal background check for a fee. This could negatively affect the amount of record checks requested and reduce revenue to the FDLE.²⁵⁵

State Attorneys and Public Defenders

The bill will have an indeterminate, but potentially significant, fiscal impact on the SAs and PDs. It is unknown how much of the information required by the bill is currently collected by these entities. The additional data and weekly transmission requirements may require more staff for the twenty SA and PD offices, as well as updated or new technology.

Reinstatement Days Program

The bill requires counties to establish a Reinstatement Days Program to assist persons in obtaining a reinstatement of a driver license. To the extent that this provision increases workload to the specified entities that are required to participate, the local governments may incur additional but indeterminate costs.

Court Security

Currently, a sheriff must provide security at any court facility, which includes office space relating to court administration. The bill limits this duty to securing “trial court facilities.” Therefore, the bill may reduce the fiscal impact to local governments.

Probation Provisions

The CJIC considered HB 7089, which has these identical provisions, on February 19, 2018, and determined that creating statewide ASPs will have a negative significant

²⁵³ See FDLE, *Agency Analysis of HB 7071 (Draft)*, p. 2-4, February 13, 2018 (on file with Senate Criminal Justice Committee) (hereinafter cited as “The FDLE HB 7071 Analysis”).

²⁵⁴ *Id.*, p. 4.

²⁵⁵ *Id.* at 6.

impact on the prison population (i.e. decrease of more than 25 prison beds). The CJIC reports that in FY 2016-17, 5,443 technical violators were sentenced to prison.²⁵⁶ The ASP would apply to certain technical violators and result in greater non-prison sanctions for these violators.

However, one of the ASP sanctions included in the bill is up to 5 days incarceration in a county detention facility for a low-risk violation and up to 21 days for a moderate-risk violation. This section will likely result in increased but indeterminate costs on local government.

The bill requires the DOC to submit additional information to the FCIC if the court modifies conditions of probation. This requirement will cost the DOC a nonrecurring amount of \$6,800 to modify their existing data feed to the FDLE and a nonrecurring amount of \$13,600 to modify the OBIS.²⁵⁷ It is anticipated that these fiscal impacts can be absorbed within existing resources.

Reentry Provisions

Transition Assistance

The bill has a fiscal impact to the DOC for the provisions relating to transition assistance. The DOC indicates that Transition Assistant Specialists have not been funded since 2003. To implement the provisions in the bill, the DOC indicates a need for 13 Correctional Services Assistant Consultant positions at a total cost of \$834,119 (\$774,982 recurring; \$59,137 nonrecurring).²⁵⁸

Currently, the DOC does not have the programming capability to provide for nonprofit faith-based, business and professional, civic or community organizations to apply to be registered to provide inmate reentry services. In order to accomplish this, a new system/web portal would need to be created or purchased. The DOC indicates that the cost to create a new system/web portal is indeterminate and may require a procurement to identify possible solutions.²⁵⁹

Entrepreneurship Program

The bill allows the DOC to develop an entrepreneurship program. If the DOC elects to do so, the bill requires the program to be implemented within existing resources. In its analysis, the DOC identifies the need to have one Correctional Services Consultant to coordinate program services at a total cost of \$68,989 (\$64,440 recurring; \$4,549 nonrecurring) and a recurring cost of \$200,000 to implement and provide services at one location.²⁶⁰

²⁵⁶ Economic and Demographic Research (EDR), Criminal Justice Impact Conference, February 19, 2018, available at <http://edr.state.fl.us/Content/conferences/criminaljusticeimpact/PCBJDC1803.pdf> (last visited February 22, 2018).

²⁵⁷ The DOC HB 7089 Analysis, p. 8.

²⁵⁸ DOC, *Agency Analysis of HB 7089*, p. 3 (February 20, 2018) (on file with Senate Criminal Justice Committee) (hereinafter cited as “The DOC HB 7089 Analysis”).

²⁵⁹ *Id.* at 8.

²⁶⁰ *Id.* at 4.

Certificates of Achievement and Employability

The bill requires the DOC to fund the CAE program within existing resources. The DOC indicates it will cost \$207,825 to develop a system to transmit the necessary information to the various licensing agencies in the state including the DBPR and the ACHA.

Conditional Medical Release

The bill expands CMR by creating new CMR designations and modifying current designations, which will likely cause an increased number of inmates to be referred to the FCOR for CMR. Additionally, the bill requires the FCOR to release inmates that qualify for release under the Mandatory CMR process. However, it is unknown how many additional inmates will be eligible for release under the new provisions of the bill. To the extent that the bill increases the number of inmates released on CMR, the bill will likely result in a negative indeterminate prison bed impact (i.e., an unquantifiable decrease in prison beds).

Oversight Council

The bill provides a specific appropriation of \$168,074 recurring General Revenue funds and \$37,855 nonrecurring General Revenue funds, and creates one FTE for the purpose of administering the Oversight Council at an authorized salary rate of \$70,000.

Additionally, to the extent that creating the Oversight Council improves the corrections and juvenile justice continuum systems, the bill may result in cost savings.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Lines 463-503: The bill creates a Reinstatement Days Program and provides that the events may be held on one or more days. However, the bill language does not indicate if these events are to be recurring events or just one time. The bill may need clarification if the intent is to require counties to hold these events on an annual basis.

Lines 642-644: The definition of “prior incarceration with the state” includes reporting any prior history of a defendant being incarcerated in a county detention facility. This may need to be clarified to indicate whether this reporting requirement applies to only post-disposition sentencing to a county jail or also incarceration in a county jail while awaiting trial.

Lines 652-888: There is no data collection requirement that will capture cases that are assigned to regional conflict counsels or private attorneys that are appointed by the court to handle indigent clients.

Lines 889-900: The FDLE reports that it is unable to meet the July 1, 2019, date to publish all data received under the bill and recommends the effective date be moved to July 1, 2020.²⁶¹

Lines 1477-1482: The definition of “eligible inmate” is not clear as to what makes a person eligible. Additionally, the title of this definition may be confusing as it applies to eligible persons who are out of custody on supervision and eligible persons who are incarcerated with the DOC, whereas the term inmate tends to be associated solely with persons who are incarcerated.

Lines 1562-1590: The bill attempts to create a process whereby specified eligible inmates can provide a CAE to a state agency and receive an individualized review for purposes of obtaining licensure or certification. However, the language related to the effect of a CAE for an unemployed certificate holder does not appear to have an impact. The bill provides that the CAE provides a rebuttable presumption, but does not impact the status of the mandatory civil impacts. Without reclassifying the mandatory civil impact to a discretionary civil impact, an agency will be bound by the requirement to deny licensure to a person that has a criminal conviction.

Lines 1593-1601: The DOC does not monitor inmates after release from prison, unless there is a specific judicial order of post-release supervision. The bill requires the DOC to revoke a certificate of achievement and employability, if the certificate holder is convicted or pleads guilty to a felony. Unless a court sentences the certificate holder to prison or state probation, the DOC may not know of a new felony conviction.

Lines 1822-1840: The language of the bill seems to not have a substantive impact. Courts are provided specific authority for sentencing which includes placing an offender on probation. However, probation and administrative probation are defined independently and it does not appear that anything would change for sentencing options without a specific reference. If the language is intended to permit courts to sentence an offender to administrative probation, the bill needs to provide a specific reference to administrative probation.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 14.32, 23.1225, 30.15, 57.105, 784.046, 784.0485, 893.135, 907.043, 921.0024, 932.7061, 944.704, 944.705, 944.801, 947.005, 947.149, 948.001, 948.013, 948.03, and 948.06.

This bill creates the following sections of the Florida Statutes: 322.75, 900.05, 907.042, 907.0421, 943.687, 944.805, 944.8055, 944.806, 944.8065, 945.041, and 948.081.

The bill reenacts the following sections of the Florida Statutes: 447.203, 944.206, 316.1935, 775.084, 775.087, 784.07, 790.235, 794.0115, 893.135, 921.0024, 944.605, 944.70, 947.13, and 947.141.

²⁶¹ *Id.*

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**Recommended CS/CS by Appropriations Subcommittee on Criminal and Civil Justice on February 21, 2018:**

- Creating the “Florida Correctional Operations Oversight Council” to oversee the criminal and juvenile justice systems, including an appropriation with one FTE position in the Executive Office of the Governor to operate the oversight council;
- Clarifying that law enforcement mutual aid agreements may be used to increase law enforcement presence in the event of an emergency response or evacuation;
- Requiring sheriffs to provide security to the trial court and coordinate with the chief judge on security matters;
- Requiring each circuit to establish a Reinstatement Days Program involving specified entities and hold events through the program on one or more days where a person can pay specified fees and obtain license reinstatement;
- Prohibiting issuance of an attorney’s fee in protective injunctions for repeat, sexual, or dating violence or stalking;
- Authorizing a court to depart from the imposition of a mandatory minimum sentence in drug trafficking cases if certain circumstances are met;
- Establishing a centralized system of uniform data collection for the entire criminal justice system to ensure data transparency;
- Requiring specified criminal justice entities to collect certain data on a monthly basis and report such data to the FDLE quarterly;
- For data reported pursuant to data transparency provisions, the FDLE must:
 - Establish a unique identifier for every person who is the subject of a criminal case, which will be used for all local and state entities’ reported data related to that person in order to track that individual’s entire experience in Florida’s criminal justice system;
 - Create a publicly accessible and searchable database for the data reported;
- Modifying the sentencing scoresheet to a digital format and requiring information contained in the scoresheet to be reported to the FDLE and included in the publicly available database;
- Creating a pilot program in the 6th Judicial Circuit to ensure program data collected is valid and providing an appropriation, including nine FTEs, within the FDLE to support the implementation of data collection and transparency;
- Authorizing counties to establish a Bond Program, which allows eligible defendants to be released on active electronic monitoring, continuous alcohol monitoring, or both subsequent to the administration of a RAI by the county’s sheriff and acceptance into the Bond program;
- Creating a Risk Assessment Pilot Program in Hillsborough, Pasco, and Pinellas Counties that requires the counties to administer a RAI to all persons arrested for a felony offense in the county for use in programming and sentencing;
- Requiring transition assistance staff within the DOC to identify industry certifications or job assignment credentialing for which an inmate is eligible;

- Requiring the DOC to provide inmates with a comprehensive community reentry resource directory that includes specified information related to services and portals available in the county to which the inmate is to be released;
- Permitting specified entities to apply with the DOC to be registered to provide inmate reentry services and requiring the DOC to create a process for screening, approving, and registering such entities;
- Authorizing the DOC to contract with specified Veteran’s Advocacy Clinics to assist qualified veterans with obtaining services in the community upon release;
- Authorizing the DOC to develop a Prison Entrepreneurship Program that includes education with specified curriculum;
- Creating a “certificate of achievement and employability” application process where the DOC may issue certificates to specified eligible inmates that require licensing agencies to individually consider licensing decisions of certificate holders;
- Prohibiting a licensing agency from denying a professional license to a certificate holder solely on the basis of a criminal conviction;
- Creating two new designations for CMR (“inmate with a debilitating illness” and “medically frail inmate”) and modifying the current designation of “terminally ill inmate”;
- Creating a new “Mandatory Conditional Medical Release” process that requires, rather than permits, the FCOR to release an inmate that meets one of four designations if specified factors are met;
- Requiring each circuit to create an alternative sanctions program to handle specified types and occurrences of technical violations of probation or community control outside of a hearing with the judge’s concurrence;
- Authorizing a circuit to create a community court program for certain defendants charged with misdemeanors;
- Adding specified data to the information that must be reported in the OPPAGA’s annual pretrial programs report (s. 907.043, F.S.);
- Requiring the counties to report use and success of the supervised bond program and community court programs created by the act; and
- Modifying the submission date from October 10th to December 1st for the annual contraband seizure report (s. 932.7061, F.S.).

CS by Criminal Justice on January 29, 2018:

The committee substitute removes all provisions related to the charitable bail program and clarifies that the office of the county chief correctional officer will administer the RAI to persons arrested for a felony in the participating county.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/21/2018	.	
	.	
	.	
	.	

Appropriations Subcommittee on Criminal and Civil Justice
(Brandes) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (6) is added to section 14.32,
Florida Statutes, to read:

14.32 Office of Chief Inspector General.—

(6) The Florida Correctional Operations Oversight Council,
a council as defined in s. 20.03, is created within the Office
of Chief Inspector General. The council is created for the



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11 purpose of overseeing matters relating to the corrections and
12 juvenile justice continuum with an emphasis on the safe and
13 effective operations of major institutions and facilities under
14 the purview of the Department of Corrections and the Department
15 of Juvenile Justice. However, in instances in which the policies
16 of other components of the criminal justice system affect
17 corrections or the juvenile justice continuum, the council shall
18 advise and make recommendations. The Office of Chief Inspector
19 General shall provide administrative support to the council. The
20 council is not subject to control, supervision, or direction by
21 the Chief Inspector General in the performance of its duties,
22 but is governed by the classification plan and salary and
23 benefits plan approved by the Executive Office of the Governor.

24 (a) The council is composed of the following members:
25 1. Three members appointed by the Governor.
26 2. Three members appointed by the President of the Senate.
27 3. Three members appointed by the Speaker of the House of
28 Representatives.

29
30 The initial members of the council shall be appointed by January
31 1, 2019. Members of the council shall be appointed for terms of
32 4 years. However, to achieve staggered terms, one appointee of
33 each of the appointing authorities shall be appointed for an
34 initial 2-year term. Members must be appointed in a manner that
35 ensures equitable representation of different geographic regions
36 of the state, and members must be residents of this state.
37 Members of the council must act on behalf of the state as a
38 whole and may not subordinate the needs of the state to those of
39 a particular region. The council's membership should, to the



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40 greatest extent possible, include persons with a background in
41 prison operations, county detention facility management, or the
42 juvenile justice continuum of services.

43 (b) The council's primary duties and responsibilities
44 include:

45 1. Evaluating, investigating, and overseeing the daily
46 operations of correctional and juvenile facilities.

47 2. Conducting announced and unannounced inspections of
48 correctional and juvenile facilities, including facilities
49 operated by private contractors. Members of the council may
50 enter any facility where prisoners, residents, or juveniles are
51 kept. Members shall be immediately admitted to such places as
52 they request and may consult and confer with any prisoner,
53 resident, or juvenile privately with adequate security in place.

54 3. Identifying and monitoring high-risk and problematic
55 correctional or juvenile facilities, and reporting findings and
56 recommendations relating to such facilities.

57 4. Providing technical assistance when appropriate.

58 5. Submitting an annual report to the Governor, the
59 President of the Senate, and the Speaker of the House of
60 Representatives by each November 1, beginning in 2019. The
61 report must include statutory, budgetary, and operational
62 recommendations to the Legislature which address problems
63 identified by the council.

64 6. Conducting confidential interviews with staff, officers,
65 inmates, juveniles, volunteers, and public officials relating to
66 the operations and conditions of correctional and juvenile
67 facilities.

68 7. Developing and implementing a monitoring tool that will



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69 be used to assess the performance of each correctional and
70 juvenile facility.

71 8. Conducting on-site visits to correctional and juvenile
72 facilities on a regular basis.

73 (c) The council may not interfere with the day-to-day
74 operations of the Department of Corrections and the Department
75 of Juvenile Justice, but shall conduct investigations and
76 provide recommendations for improvement.

77 (d) The council shall appoint an executive director who
78 shall serve under the direction of the members of the council.

79 (e) Members of the council shall serve without compensation
80 but are entitled to receive reimbursement for per diem and
81 travel expenses as provided in s. 112.061.

82 (f) Members of the council or its staff may not have
83 immediate family members working for the Department of
84 Corrections, the Department of Juvenile Justice, or a private
85 institution, facility, or provider under contract with either
86 department. A member of the council may not have any direct or
87 indirect interest in a contract, subcontract, franchise,
88 privilege, or other benefit granted or awarded by either
89 department while serving as a member of the council.

90 Section 2. For the 2018-2019 fiscal year, the sums of
91 \$168,074 in recurring funds and \$37,855 in nonrecurring funds
92 are appropriated from the General Revenue Fund to the Executive
93 Office of the Governor, and one full-time equivalent position
94 with associated salary rate of 70,000 is authorized, for the
95 purpose of administering the Florida Correctional Operations
96 Oversight Council.

97 Section 3. Subsection (5) of section 23.1225, Florida



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98 Statutes, is amended to read:

99 23.1225 Mutual aid agreements.—

100 (5) In the event of a disaster or emergency such that a
101 state of emergency is declared by the Governor pursuant to
102 chapter 252, a mutual aid agreement may be used to increase the
103 presence of law enforcement to aid in traffic and crowd control,
104 emergency response, and evacuation support. The requirement that
105 a requested operational assistance agreement be a written
106 agreement for rendering of assistance in a law enforcement
107 emergency may be waived by the participating agencies for a
108 period of up to 90 days from the declaration of the disaster.

109 (a) When a law enforcement agency lends assistance pursuant
110 to this subsection, all powers, privileges, and immunities
111 listed in s. 23.127, except with regard to interstate mutual aid
112 agreements, apply to the agency or entity, if the law
113 enforcement employees rendering services are being requested and
114 coordinated by the affected local law enforcement executive in
115 charge of law enforcement operations.

116 (b) A listing of such agencies or entities and the officers
117 and employees of such agencies or entities rendering assistance
118 pursuant to this subsection must be maintained by the agency or
119 entity requesting such assistance and filed at the end of the
120 90-day period with the Florida Department of Law Enforcement.

121 Section 4. Subsection (4) is added to section 30.15,
122 Florida Statutes, to read:

123 30.15 Powers, duties, and obligations.—

124 (4) (a) Sheriffs, in their respective counties, shall
125 provide security for trial court facilities. Sheriffs shall
126 coordinate with the chief judge of the judicial circuit where



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127 their county is located on all security matters for such
128 facilities, but retain operational control over the manner in
129 which security is provided.

130 (b) Pursuant to s. 26.49, sheriffs and their deputies,
131 employees, and contractors are officers of the court when
132 providing security for trial court facilities under this
133 subsection.

134 (c) The chief judge of the judicial circuit shall have
135 decisionmaking authority to ensure the protection of due process
136 rights, including, but not limited to, the scheduling and
137 conduct of trials and other judicial proceedings, as part of his
138 or her responsibility for the administrative supervision of the
139 trial courts pursuant to s. 43.26.

140 Section 5. Subsection (1) of section 57.105, Florida
141 Statutes, is amended to read:

142 57.105 Attorney's fee; sanctions for raising unsupported
143 claims or defenses; exceptions; service of motions; damages for
144 delay of litigation.—

145 (1) Unless otherwise provided, upon the court's initiative
146 or motion of any party, the court shall award a reasonable
147 attorney's fee, including prejudgment interest, to be paid to
148 the prevailing party in equal amounts by the losing party and
149 the losing party's attorney on any claim or defense at any time
150 during a civil proceeding or action in which the court finds
151 that the losing party or the losing party's attorney knew or
152 should have known that a claim or defense when initially
153 presented to the court or at any time before trial:

154 (a) Was not supported by the material facts necessary to
155 establish the claim or defense; or



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156 (b) Would not be supported by the application of then-
157 existing law to those material facts.

158 Section 6. Section 322.75, Florida Statutes, is created to
159 read:

160 322.75 Driver License Reinstatement Days.-

161 (1) Each judicial circuit shall establish a Driver License
162 Reinstatement Days program for reinstating suspended driver
163 licenses. Participants shall include the Department of Highway
164 Safety and Motor Vehicles, the state attorney's office, the
165 public defender's office, the circuit and county courts, the
166 clerk of court, and any interested community organization.

167 (2) The clerk of court, in consultation with other
168 participants, shall select one or more days for an event at
169 which a person may have his or her driver license reinstated. A
170 person must pay the full license reinstatement fee; however, the
171 clerk may compromise or waive other fees and costs to facilitate
172 reinstatement.

173 (3) (a) A person is eligible for reinstatement under the
174 program if his or her license was suspended due to:

- 175 1. Driving without a valid driver license;
176 2. Driving with a suspended driver license;
177 3. Failing to make a payment on penalties in collection;
178 4. Failing to appear in court for a traffic violation; or
179 5. Failing to comply with provisions of chapter 318 or this
180 chapter.

181 (b) Notwithstanding paragraphs (4) (a) through (c), a person
182 is eligible for reinstatement under the program if the period of
183 suspension or revocation has elapsed, the person has completed
184 any required course or program as described in paragraph (4) (c),



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185 and the person is otherwise eligible for reinstatement.

186 (4) A person is not eligible for reinstatement under the
187 program if his or her driver license is suspended or revoked:

188 (a) Because the person failed to fulfill a court-ordered
189 child support obligation;

190 (b) For a violation of s. 316.193;

191 (c) Because the person has not completed a driver training
192 program, driver improvement course, or alcohol or substance
193 abuse education or evaluation program required under ss.
194 316.192, 316.193, 322.2616, 322.271, or 322.264;

195 (d) For a traffic-related felony; or

196 (e) Because the person is a habitual traffic offender under
197 s. 322.264.

198 (5) The clerk of court and the Department of Highway Safety
199 and Motor Vehicles shall verify any information necessary for
200 reinstatement of a driver license under the program.

201 Section 7. Paragraph (f) is added to subsection (2) of
202 section 784.046, Florida Statutes, to read:

203 784.046 Action by victim of repeat violence, sexual
204 violence, or dating violence for protective injunction; dating
205 violence investigations, notice to victims, and reporting;
206 pretrial release violations; public records exemption.—

207 (2) There is created a cause of action for an injunction
208 for protection in cases of repeat violence, there is created a
209 separate cause of action for an injunction for protection in
210 cases of dating violence, and there is created a separate cause
211 of action for an injunction for protection in cases of sexual
212 violence.

213 (f) Notwithstanding any other law, attorney fees may not be



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214 awarded in any proceeding under this section.

215 Section 8. Paragraph (d) is added to subsection (2) of
216 section 784.0485, Florida Statutes, to read:

217 784.0485 Stalking; injunction; powers and duties of
218 court and clerk; petition; notice and hearing; temporary
219 injunction; issuance of injunction; statewide verification
220 system; enforcement.-

221 (2)

222 (d) Notwithstanding any other law, attorney fees may
223 not be awarded in any proceeding under this section.

224 Section 9. Present subsections (6) and (7) of section
225 893.135, Florida Statutes, are redesignated as subsections (7)
226 and (8), respectively, and a new subsection (6) is added to that
227 section, to read:

228 893.135 Trafficking; mandatory sentences; suspension or
229 reduction of sentences; conspiracy to engage in trafficking.-

230 (6) Notwithstanding any provision of this section, a court
231 may impose a sentence for a violation of this section other than
232 the mandatory minimum term of imprisonment and mandatory fine if
233 the court finds on the record that all of the following
234 circumstances exist:

235 (a) The person did not engage in a continuing criminal
236 enterprise as defined in s. 893.20(1).

237 (b) The person did not use or threaten violence or use a
238 weapon during the commission of the crime.

239 (c) The person did not cause a death or serious bodily
240 injury.

241 Section 10. Section 900.05, Florida Statutes, is created to
242 read:



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243 900.05 Criminal justice data collection.—It is the intent
244 of the Legislature to create a model of uniform criminal justice
245 data collection by requiring local and state criminal justice
246 agencies to report complete, accurate, and timely data, and to
247 make such data available to the public.

248 (1) DEFINITIONS.—As used in this section, the term:

249 (a) "Annual felony caseload" means the yearly caseload of
250 each full-time state attorney and assistant state attorney or
251 public defender and assistant public defender for cases assigned
252 to the circuit criminal division, based on the number of felony
253 cases reported to the Supreme Court under s. 25.075. The term
254 does not include the appellate caseload of a public defender or
255 assistant public defender. Cases reported pursuant to this term
256 must be associated with a case number and each case number must
257 only be reported once regardless of the number of attorney
258 assignments that occur during the course of litigation.

259 (b) "Annual misdemeanor caseload" means the yearly caseload
260 of each full-time state attorney and assistant state attorney or
261 public defender and assistant public defender for cases assigned
262 to the county criminal division, based on the number of
263 misdemeanor cases reported to the Supreme Court under s. 25.075.
264 The term does not include the appellate caseload of a public
265 defender or assistant public defender. Cases reported pursuant
266 to this term must be associated with a case number and each case
267 number must only be reported once regardless of the number of
268 attorney assignments that occur during the course of litigation.

269 (c) "Attorney assignment date" means the date a court-
270 appointed attorney is assigned to the case or, if privately
271 retained, the date an attorney files a notice of appearance with



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272 the clerk of court.

273 (d) "Attorney withdrawal date" means the date the court
274 removes court-appointed counsel from a case or, for a privately
275 retained attorney, the date a motion to withdraw is granted by
276 the court.

277 (e) "Case number" means the identification number assigned
278 by the clerk of court to a criminal case.

279 (f) "Case status" means whether a case is open, inactive,
280 closed, or reopened due to a violation of probation or community
281 control.

282 (g) "Charge description" means the statement of the conduct
283 that is alleged to have been violated, the associated statutory
284 section establishing such conduct as criminal, and the
285 misdemeanor or felony classification that is provided for in the
286 statutory section alleged to have been violated.

287 (h) "Charge modifier" means an aggravating circumstance of
288 an alleged crime that enhances or reclassifies a charge to a
289 more serious misdemeanor or felony offense level.

290 (i) "Concurrent or consecutive sentence flag" means an
291 indication that a defendant is serving another sentence
292 concurrently or consecutively in addition to the sentence for
293 which data is being reported.

294 (j) "Daily number of correctional officers" means the
295 number of full-time, part-time, and auxiliary correctional
296 officers who are actively providing supervision, protection,
297 care, custody, and control of inmates in a county detention
298 facility or state correctional institution or facility each day.

299 (k) "Deferred prosecution or pretrial diversion agreement
300 date" means the date a contract is signed by the parties



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301 regarding a defendant's admission into a deferred prosecution or
302 pretrial diversion program.

303 (l) "Deferred prosecution or pretrial diversion hearing
304 date" means each date that a hearing, including a status
305 hearing, is held on a case that is in a deferred prosecution or
306 pretrial diversion program, if applicable.

307 (m) "Disciplinary violation and action" means any conduct
308 performed by an inmate in violation of the rules of a county
309 detention facility or state correctional institution or facility
310 that results in the initiation of disciplinary proceedings by
311 the custodial entity and the consequences of such disciplinary
312 proceedings.

313 (n) "Disposition date" means the date of final judgment,
314 adjudication, adjudication withheld, dismissal, or nolle
315 prosequi for the case and if different dates apply, the
316 disposition dates of each charge.

317 (o) "Domestic violence flag" means an indication that a
318 charge involves domestic violence as defined in s. 741.28.

319 (p) "Gang affiliation flag" means an indication that a
320 defendant is involved in or associated with a criminal gang as
321 defined in s. 874.03.

322 (q) "Gain-time credit earned" means a credit of time
323 awarded to an inmate in a county detention facility in
324 accordance with s. 951.22 or a state correctional institution or
325 facility in accordance with s. 944.275.

326 (r) "Habitual offender flag" means an indication that a
327 defendant is a habitual felony offender as defined in s. 775.084
328 or a habitual misdemeanor offender as defined in s. 775.0837.

329 (s) "Judicial transfer date" means a date on which a



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330 defendant's case is transferred to another court or presiding
331 judge.

332 (t) "Number of contract attorneys representing indigent
333 defendants for the office of the public defender" means the
334 number of attorneys hired on a temporary basis, by contract, to
335 represent indigent clients who were appointed a public defender.

336 (u) "Pretrial release violation flag" means an indication
337 that the defendant has violated the terms of his or her pretrial
338 release.

339 (v) "Prior incarceration within the state" means any prior
340 history of a defendant being incarcerated in a county detention
341 facility or state correctional institution or facility.

342 (w) "Tentative release date" means the anticipated date
343 that an inmate will be released from incarceration after the
344 application of adjustments for any gain-time earned or credit
345 for time served.

346 (x) "Sexual offender flag" means an indication that a
347 defendant required to register as a sexual predator as defined
348 in s. 775.21 or as a sexual offender as defined in s. 943.0435.

349 (2) DATA COLLECTION AND REPORTING.—Beginning January 1,
350 2019, an entity required to collect data in accordance with this
351 subsection shall collect the specified data required of the
352 entity on a monthly basis. Each entity shall report the data
353 collected in accordance with this subsection to the Department
354 of Law Enforcement on a quarterly basis.

355 (a) Clerk of the Court.—Each clerk of court shall collect
356 the following data for each criminal case:

- 357 1. Case number.
358 2. Date that the alleged offense occurred.



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359 3. County in which the offense is alleged to have occurred.

360 4. Date the defendant is taken into physical custody by a
361 law enforcement agency or is issued a notice to appear on a
362 criminal charge, if such date is different from the date the
363 offense is alleged to have occurred.

364 5. Date that the criminal prosecution of a defendant is
365 formally initiated through the filing, with the clerk of the
366 court, of an information by the state attorney or an indictment
367 issued by a grand jury.

368 6. Arraignment date.

369 7. Attorney assignment date.

370 8. Attorney withdrawal date.

371 9. Case status.

372 10. Disposition date.

373 11. Information related to each defendant, including:

374 a. Identifying information, including name, date of birth,
375 age, race or ethnicity, and gender.

376 b. Zip code of primary residence.

377 c. Primary language.

378 d. Citizenship.

379 e. Immigration status, if applicable.

380 f. Whether the defendant has been found by a court to be
381 indigent pursuant to s. 27.52.

382 12. Information related to the formal charges filed against
383 the defendant, including:

384 a. Charge description.

385 b. Charge modifier, if applicable.

386 c. Drug type for each drug charge, if known.

387 d. Qualification for a flag designation as defined in this



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388 section, including a domestic violence flag, gang affiliation
389 flag, sexual offender flag, habitual offender flag, or pretrial
390 release violation flag.

391 13. Information related to bail or bond and pretrial
392 release determinations, including the dates of any such
393 determinations:

394 a. Pretrial release determination made at a first
395 appearance hearing that occurs within 24 hours of arrest,
396 including all monetary and nonmonetary conditions of release.

397 b. Modification of bail or bond conditions made by a court
398 having jurisdiction to try the defendant or, in the absence of
399 the judge of the trial court, by the circuit court, including
400 modifications to any monetary and nonmonetary conditions of
401 release.

402 c. Cash bail or bond payment, including whether the
403 defendant utilized a bond agent to post a surety bond.

404 d. Date defendant is released on bail, bond, or pretrial
405 release.

406 e. Bail or bond revocation due to a new offense, a failure
407 to appear, or a violation of the terms of bail or bond, if
408 applicable.

409 14. Information related to court dates and dates of motions
410 and appearances, including:

411 a. Date of any court appearance and the type of proceeding
412 scheduled for each date reported.

413 b. Date of any failure to appear in court, if applicable.

414 c. Judicial transfer date, if applicable.

415 d. Trial date.

416 e. Date that a defendant files a notice to participate in



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417 discovery.
418 f. Speedy trial motion and hearing dates, if applicable.
419 g. Dismissal motion and hearing dates, if applicable.
420 15. Whether the attorney representing the defendant is
421 court-appointed to or privately retained by a defendant, or
422 whether the defendant is represented pro se.
423 16. Information related to sentencing, including:
424 a. Date that a court enters a sentence against a defendant.
425 b. Sentence type and length imposed by the court,
426 including, but not limited to, the total duration of
427 imprisonment in a county detention facility or state
428 correctional institution or facility, and conditions probation
429 or community control supervision.
430 c. Amount of time served in custody by the defendant
431 related to the reported criminal case that is credited at the
432 time of disposition of the case to reduce the actual length of
433 time the defendant will serve on the term of imprisonment that
434 is ordered by the court at disposition.
435 d. Total amount of court fees imposed by the court at the
436 disposition of the case.
437 e. Outstanding balance of the defendant's court fees
438 imposed by the court at disposition of the case.
439 f. Total amount of fines imposed by the court at the
440 disposition of the case.
441 g. Outstanding balance of the defendant's fines imposed by
442 the court at disposition of the case.
443 h. Restitution amount ordered, including the amount
444 collected by the court and the amount paid to the victim, if
445 applicable.



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446 i. Digitized sentencing scoresheet prepared in accordance
447 with s. 921.0024.

448 17. The number of judges or magistrates, or their
449 equivalents, hearing cases in circuit or county criminal
450 divisions of the circuit court. Judges or magistrates, or their
451 equivalents, who solely hear appellate cases from the county
452 criminal division are not to be reported under this
453 subparagraph.

454 (b) State attorney.—Each state attorney shall collect the
455 following data:

456 1. Information related to a human victim of a criminal
457 offense, including:

458 a. Identifying information of the victim, including race or
459 ethnicity, gender, and age.

460 b. Relationship to the offender, if any.

461 2. Number of full-time prosecutors.

462 3. Number of part-time prosecutors.

463 4. Annual felony caseload.

464 5. Annual misdemeanor caseload.

465 6. Any charge referred to the state attorney by a law
466 enforcement agency related to an episode of criminal activity.

467 7. Number of cases in which a no-information was filed.

468 8. Information related to each defendant, including:

469 a. Each charge referred to the state attorney by a law
470 enforcement agency related to an episode of criminal activity.

471 b. Drug type for each drug charge, if applicable.

472 c. Deferred prosecution or pretrial diversion agreement
473 date, if applicable.

474 d. Deferred prosecution or pretrial diversion hearing date,



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475 if applicable.

476 (c) Public defender.—Each public defender shall collect the
477 following data for each criminal case:

478 1. Number of full-time public defenders.

479 2. Number of part-time public defenders.

480 3. Number of contract attorneys representing indigent
481 defendants for the office of the public defender.

482 4. Annual felony caseload.

483 5. Annual misdemeanor caseload.

484 (d) County detention facility.—The administrator of each
485 county detention facility shall collect the following data:

486 1. Maximum capacity for the county detention facility.

487 2. Weekly admissions to the county detention facility for a
488 revocation of probation or community control.

489 3. Daily population of the county detention facility,
490 including the specific number of inmates in the custody of the
491 county that:

492 a. Are awaiting case disposition.

493 b. Have been sentenced by a court to a term of imprisonment
494 in the county detention facility.

495 c. Have been sentenced by a court to a term of imprisonment
496 with the Department of Corrections and who are awaiting
497 transportation to the department.

498 d. Have a federal detainer or are awaiting disposition of a
499 case in federal court.

500 4. Information related to each inmate, including:

501 a. Date a defendant is processed into the county detention
502 facility subsequent to an arrest for a new violation of law or
503 for a violation of probation or community control.



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504 b. Qualification for a flag designation as defined in this
505 section, including domestic violence flag, gang affiliation
506 flag, habitual offender flag, pretrial release violation flag,
507 or sexual offender flag.

508 5. Total population of the county detention facility at
509 year-end. This data must include the same specified
510 classifications as subparagraph 3.

511 6. Per diem rate for a county detention facility bed.

512 7. Daily number of correctional officers for the county
513 detention facility.

514 8. Annual county detention facility budget. This
515 information only needs to be reported once annually at the
516 beginning of the county's fiscal year.

517 9. Revenue generated for the county from the temporary
518 incarceration of federal defendants or inmates.

519 (e) Department of Corrections.—The Department of
520 Corrections shall collect the following data:

521 1. Information related to each inmate, including:

522 a. Identifying information, including name, date of birth,
523 race or ethnicity, and identification number assigned by the
524 department.

525 b. Number of children.

526 c. Education level, including any vocational training.

527 d. Date the inmate was admitted to the custody of the
528 department.

529 e. Current institution placement and the security level
530 assigned to the institution.

531 f. Custody level assignment.

532 g. Qualification for a flag designation as defined in this



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533 section, including sexual offender flag, habitual offender flag,
534 gang affiliation flag, or concurrent or consecutive sentence
535 flag.

536 h. County that committed the prisoner to the custody of the
537 department.

538 i. Whether the reason for admission to the department is
539 for a new conviction or a violation of probation, community
540 control, or parole. For an admission for a probation, community
541 control, or parole violation, the department shall report
542 whether the violation was technical or based on a new violation
543 of law.

544 j. Specific statutory citation for which the inmate was
545 committed to the department, including, for an inmate convicted
546 of drug trafficking under s. 893.135, the statutory citation for
547 each specific drug trafficked.

548 k. Length of sentence or concurrent or consecutive
549 sentences served.

550 l. Tentative release date.

551 m. Gain time earned in accordance with s. 944.275.

552 n. Prior incarceration within the state.

553 o. Disciplinary violation and action.

554 p. Participation in rehabilitative or educational programs
555 while in the custody of the department.

556 2. Information about each state correctional institution or
557 facility, including:

558 a. Budget for each state correctional institution or
559 facility.

560 b. Daily prison population of all inmates incarcerated in a
561 state correctional institution or facility.



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562 c. Daily number of correctional officers for each state
563 correctional institution or facility.

564 3. Information related to persons supervised by the
565 department on probation or community control, including:

566 a. Identifying information for each person supervised by
567 the department on probation or community control, including his
568 or her name, date of birth, race or ethnicity, sex, and
569 department-assigned case number.

570 b. Length of probation or community control sentence
571 imposed and amount of time that has been served on such
572 sentence.

573 c. Projected termination date for probation or community
574 control.

575 d. Revocation of probation or community control due to a
576 violation, including whether the revocation is due to a
577 technical violation of the conditions of supervision or from the
578 commission of a new law violation.

579 4. Per diem rates for:

580 a. Prison bed.

581 b. Probation.

582 c. Community control.

583

584 This information only needs to be reported once annually at the
585 time the most recent per diem rate is published.

586 (3) DATA PUBLICLY AVAILABLE.—Beginning January 1, 2019, the
587 Department of Law Enforcement shall publish datasets in its
588 possession in a modern, open, electronic format that is machine-
589 readable and readily accessible by the public on the
590 department's website. The published data must be searchable, at



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591 a minimum, by each data element, county, circuit, and unique
592 identifier. Beginning March 1, 2019, the department shall begin
593 publishing the data received under subsection (2) in the same
594 modern, open, electronic format that is machine-readable and
595 readily accessible to the public on the department's website.
596 The department shall publish all data received under subsection
597 (2) no later than July 1, 2019.

598 Section 11. A pilot project is established in the Sixth
599 Judicial Circuit for the purpose of improving criminal justice
600 data transparency and ensuring that data submitted under s.
601 900.05, Florida Statutes, is accurate, valid, reliable, and
602 structured. The clerk of court, the state attorney, the public
603 defender, or a sheriff in the circuit may enter into a
604 memorandum of understanding with a national, nonpartisan, not-
605 for-profit entity which provides data and measurement for
606 county-level criminal justice systems to establish the duties
607 and responsibilities of a data fellow, completely funded by the
608 entity, to be embedded with the office or agency. The data
609 fellow shall assist with data extraction, validation, and
610 quality and shall publish such data consistent with the terms of
611 the memorandum. The data fellow shall assist the office or
612 agency in compiling and reporting data pursuant to s. 900.05,
613 Florida Statutes, in compliance with rules established by the
614 Department of Law Enforcement. The pilot project shall expire as
615 provided in the memorandum.

616 Section 12. For the 2018-2019 fiscal year, nine full-time
617 equivalent positions with associated salary rate of 476,163 are
618 authorized and the recurring sum of \$665,884 and the
619 nonrecurring sum of \$1,084,116 is appropriated from the General



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620 Revenue Fund to the Department of Law Enforcement for the
621 purposes of implementing ss. 900.05(3) and 943.687, Florida
622 Statutes, transitioning to incident-based crime reporting, and
623 collecting and submitting crime statistics that meet the
624 requirements of the Federal Bureau of Investigation under the
625 National Incident-Based Reporting System.

626 Section 13. Section 907.042, Florida Statutes, is created
627 to read:

628 907.042 Supervised bond program.—

629 (1) LEGISLATIVE FINDINGS.—The Legislature finds that there
630 is a need to use evidence-based methods to identify defendants
631 that can successfully comply with specified pretrial release
632 conditions. The Legislature finds that the use of actuarial
633 instruments that evaluate criminogenic based needs and classify
634 defendants according to levels of risk provides a more
635 consistent and accurate assessment of a defendant's risk of
636 noncompliance while on pretrial release pending trial. The
637 Legislature also finds that both the community and a defendant
638 are better served when a defendant, who poses a low risk to
639 society, is provided the opportunity to fulfill employment and
640 familial responsibilities in the community under a structured
641 pretrial release plan that ensures the best chance of remaining
642 compliant with all pretrial conditions rather than remaining in
643 custody. The Legislature finds that there is a benefit to
644 establishing a supervised bond program in each county for the
645 purpose of providing pretrial release to certain defendants who
646 may not otherwise be eligible for pretrial release on
647 unsupervised nonmonetary conditions and who do not have the
648 ability to satisfy the bond imposed by the court. The



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649 Legislature finds that the creation of such a program will
650 reduce the likelihood of defendants remaining unnecessarily in
651 custody pending trial.

652 (2) CREATION.—A supervised bond program may be established
653 in each county with the terms of each program to be developed
654 with concurrence of the chief judge of the circuit, the county's
655 chief correctional officer, the state attorney, and the public
656 defender. A county that has already established and implemented
657 a supervised bond program whose program and risk assessment
658 instrument is in compliance with subsections (3) and (4) may
659 continue to operate without such concurrence.

660 (3) PROGRAM REQUIREMENTS.—A supervised bond program, at a
661 minimum, shall:

662 (a) Require the county's chief correctional officer to
663 administer the supervised bond program.

664 (b) Provide that a risk assessment instrument may be
665 utilized to determine eligible defendants and determine an
666 appropriate level of supervision for each defendant upon
667 release.

668 (c) Require the county's chief correctional officer, or his
669 or her designee, to administer the risk assessment instrument to
670 a potential defendant if a county elects to utilize a risk
671 assessment instrument for its supervised bond program.

672 (d) Provide that the findings of a risk assessment
673 instrument may be used to create an individualized supervision
674 plan for each eligible defendant that is tailored to the
675 defendant's risk level and supervision needs.

676 (e) Require the appropriate court to make a final
677 determination regarding whether a defendant will be placed into



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678 the supervised bond program and, if the court makes such a
679 determination, the court must also:

680 1. Determine the conditions of the individualized
681 supervision plan for which the defendant must comply as a part
682 of the supervised bond program, including, but not limited to,
683 the requirement that the defendant:

684 a. Be placed on active electronic monitoring or active
685 continuous alcohol monitoring, or both, dependent upon the level
686 of risk indicated by the risk assessment instrument;

687 b. Communicate weekly, via telephone or in person contact
688 as determined by the court, with the office of the county's
689 chief correctional officer; and

690 2. Review the bond of a defendant who is being accepted
691 into the supervised bond program to determine if a reduction of
692 the court-ordered bond, up to its entirety, is appropriate.

693 (f) Establish procedures for reassessing or terminating
694 defendants from the supervised bond program who do not comply
695 with the terms of the individualized supervision plan imposed
696 through the program.

697 (4) RISK ASSESSMENT INSTRUMENT.—

698 (a) Each county that establishes a supervised bond program
699 may utilize a risk assessment instrument that conducts a
700 criminogenic assessment for use in evaluating the proper level
701 of supervision appropriate to ensure compliance with pretrial
702 conditions and safety to the community. The risk assessment
703 instrument must consider, but need not be limited to, the
704 following criteria:

705 1. The nature and circumstances of the offense the
706 defendant is alleged to have committed.



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707 2. The nature and extent of the defendant's prior criminal
708 history, if any.

709 3. Any prior history of the defendant failing to appear in
710 court.

711 4. The defendant's employment history, employability
712 skills, and employment interests.

713 5. The defendant's educational, vocational, and technical
714 training.

715 6. The defendant's background, including his or her family,
716 home, and community environment.

717 7. The defendant's physical and mental health history,
718 including any substance use.

719 8. An evaluation of the defendant's criminal thinking,
720 criminal associates, and social awareness.

721 (b) A county may contract with the Department of
722 Corrections to develop a risk assessment instrument or modify an
723 instrument that has already been developed by the department,
724 provided the instrument contains the criteria enumerated in
725 paragraph (a). If a county elects to utilize a risk assessment
726 instrument developed or modified by the department in accordance
727 with this paragraph, the county's chief correctional officer
728 shall enter into a contract with the department for such use.

729 (c) Each county may create its own risk assessment
730 instrument for the purpose of operating a supervised bond
731 program or may utilize a risk assessment instrument that has
732 previously been developed for a similar purpose as provided for
733 in this section. Additionally, a county may utilize a risk
734 assessment instrument that has been developed by another county
735 for a similar purpose as provided for in this section. To



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736 utilize a risk assessment instrument developed by a county in
737 accordance with this paragraph, the risk assessment instrument
738 must be validated by the Department of Corrections and contain
739 the criteria enumerated in paragraph (a). If a county elects to
740 utilize a risk assessment instrument developed or modified by
741 another county in accordance with this paragraph, the counties'
742 chief correctional officers shall enter into a contract for such
743 use.

744 (d) A county may contract with an independent entity to
745 utilize a risk assessment instrument that has previously been
746 developed for a similar purpose as provided for in this section.
747 To utilize a risk assessment instrument developed by an
748 independent entity in accordance with this paragraph, the risk
749 assessment instrument must be validated by the Department of
750 Corrections and contain the criteria enumerated in paragraph
751 (a). If a county elects to utilize a risk assessment instrument
752 developed or modified by an independent entity in accordance
753 with this paragraph, the county's chief correctional officer
754 shall enter into a contract with the independent entity for such
755 use.

756 (e) A county that elects to utilize a risk assessment
757 instrument in its supervised bond program may begin to implement
758 the program immediately upon securing a contract for the
759 utilization of or the completion of development or modification,
760 and if applicable, validation of, a risk assessment instrument.
761 A county that intends to utilize a risk assessment instrument it
762 has already developed or modified may implement a supervised
763 bond program immediately upon validation of the risk assessment
764 instrument. A county that has already implemented a supervised



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765 bond program may continue to operate such program while the risk
766 assessment instrument it utilizes is being validated.

767 Implementation must include training of all county staff that
768 will administer the risk assessment instrument.

769 (5) REPORTING.—Each county that establishes a supervised
770 bond program pursuant to this section, or has an existing
771 supervised bond program that operates in compliance with this
772 section, shall provide an annual report to the Office of Program
773 Policy Analysis and Government Accountability that details the
774 results of the administration of the risk assessment instrument,
775 programming used for defendants who received the assessment and
776 were accepted into the supervised bond program, the success rate
777 of such program, and savings realized by the county as a result
778 of such defendants being released from custody pending trial.
779 The annual report from the county must be submitted to OPPAGA by
780 October 1 each year. OPPAGA shall compile the results of the
781 counties reports for inclusion in an independent section of its
782 annual report developed and submitted to the Governor, the
783 President of the Senate, and the Speaker of the House of
784 Representatives in accordance with s. 907.044.

785 Section 14. Section 907.0421, Florida Statutes, is created
786 to read:

787 907.0421 Risk Assessment Pilot Program.—

788 (1) LEGISLATIVE FINDINGS.—The Legislature finds that there
789 is a need to use evidence-based methods to reduce recidivism.
790 The Legislature finds that the use of actuarial instruments that
791 classify offenders according to levels of risk to reoffend
792 provides a more consistent and accurate assessment of an
793 offender's risk and needs. The Legislature also finds that



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794 research indicates that using accurate risk and needs assessment
795 instruments to identify appropriate interventions and
796 programming for offenders reduces recidivism.

797 (2) RISK ASSESSMENT INSTRUMENT.—

798 (a) The Department of Corrections shall develop a risk
799 assessment instrument that conducts a criminogenic assessment
800 for use in evaluating the proper placement and programming needs
801 for a person who is arrested. The risk assessment instrument
802 must consider, but need not be limited to, the following
803 criteria:

804 1. The nature and circumstances of the offense the person
805 committed.

806 2. The nature and extent of the person's prior criminal
807 history, if any.

808 3. Any prior history of the person failing to appear in
809 court.

810 4. The person's employment history, employability skills,
811 and employment interests.

812 5. The person's educational, vocational, and technical
813 training.

814 6. The person's background, including his or her family,
815 home, and community environment.

816 7. The person's physical and mental health history,
817 including any substance use.

818 8. An evaluation of the person's criminal thinking,
819 criminal associates, and social awareness.

820 (b) The Department of Corrections may use or modify an
821 existing risk assessment instrument, if the instrument contains
822 the criteria enumerated in paragraph (a).



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823 (c) The Department of Corrections shall complete the
824 development or modification of a risk assessment instrument no
825 later than March 1, 2019. The department may begin to implement
826 the risk assessment instrument immediately upon completion.
827 Implementation, including training all staff that will
828 administer the risk assessment instrument, must be completed by
829 June 30, 2019.

830 (d) A representative of the county's chief correctional
831 officer shall administer the risk assessment instrument as early
832 as reasonably possible after a person's arrest, but no later
833 than 10 business days after the arrest. If a person is released
834 from jail pursuant to chapter 903 before the administration of
835 the risk assessment instrument, the chief correctional officer,
836 or his or her representative, must schedule and provide written
837 notification of a date and time for the person to return to the
838 jail for the administration of the risk assessment instrument.
839 The date and time must be provided in writing upon the person's
840 pretrial release. The risk assessment instrument may be
841 conducted by video teleconference.

842 (e) A risk assessment instrument report must be made
843 available to the person to whom the instrument is administered,
844 his or her legal counsel, and the state attorney upon completion
845 of the report. The Department of Corrections shall submit to the
846 court the risk assessment instrument report, but the court may
847 not review it without the consent of the person who is the
848 subject of the report and his or her legal counsel.

849 (3) CREATION.—Contingent upon appropriations and a contract
850 with each participating county, it is the intent of the
851 Legislature to establish a 3-year Risk Assessment Pilot Program



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852 to perform a risk assessment evaluation on all persons arrested
853 for a felony in participating counties.

854 (4) PARTICIPATING COUNTIES.—Participation in the pilot
855 program is limited to Hillsborough, Pasco, and Pinellas
856 Counties. Each participating county's chief correctional officer
857 shall enter into a 3-year contract with the Department of
858 Corrections for the ability to utilize the risk assessment
859 instrument that is developed in accordance with this section.

860 (5) PILOT PROGRAM REQUIREMENTS.—

861 (a) The participating counties shall administer the risk
862 assessment instrument to all persons arrested for a felony and
863 utilize the results of such risk assessment instrument as a tool
864 for determining appropriate programming and sentencing with the
865 goal of reducing recidivism.

866 (b) Each county participating in the pilot program shall
867 provide an annual report to the Department of Corrections by
868 July 1 of each year of the pilot program which details the
869 results of the administration of the risk assessment instrument,
870 programming used for persons who received the assessment, and
871 the success rate of such programming. The department shall
872 compile the county reports and submit one annual report to the
873 Governor, the President of the Senate, and the Speaker of the
874 House of Representatives by October 1 of each year of the pilot
875 program.

876 (6) RULEMAKING.—The Department of Corrections, in
877 consultation with a participating county's chief correctional
878 officer, chief judge, state attorney, and public defender, may
879 adopt rules to administer this section.

880 Section 15. Paragraph (b) of subsection (4) of section



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881 907.043, Florida Statutes, is amended to read:
882 907.043 Pretrial release; citizens' right to know.—
883 (4)
884 (b) The annual report must contain, but need not be limited
885 to:
886 1. The name, location, and funding sources of the pretrial
887 release program, including the amount of public funds, if any,
888 received by the pretrial release program.
889 2. The operating and capital budget of each pretrial
890 release program receiving public funds.
891 3.a. The percentage of the pretrial release program's total
892 budget representing receipt of public funds.
893 b. The percentage of the total budget which is allocated to
894 assisting defendants obtain release through a nonpublicly funded
895 program.
896 c. The amount of fees paid by defendants to the pretrial
897 release program.
898 4. The number of persons employed by the pretrial release
899 program.
900 5. The number of defendants assessed and interviewed for
901 pretrial release.
902 6. The number of defendants recommended for pretrial
903 release.
904 7. The number of defendants for whom the pretrial release
905 program recommended against nonsecured release.
906 8. The number of defendants granted nonsecured release
907 after the pretrial release program recommended nonsecured
908 release.
909 9. The number of defendants assessed and interviewed for



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910 pretrial release who were declared indigent by the court.
911 10. The number of defendants accepted into a pretrial
912 release program who paid a surety or cash bail or bond.
913 11. The number of defendants for whom a risk assessment
914 tool was used in determining whether the defendant should be
915 released pending the disposition of the case and the number of
916 defendants for whom a risk assessment tool was not used.
917 12. The specific statutory citation for each criminal
918 charge related to a defendant whose case is accepted into a
919 pretrial release program, including, at a minimum, the number of
920 defendants charged with dangerous crimes as defined in s.
921 907.041; nonviolent felonies; or misdemeanors only. A
922 "nonviolent felony" for purposes of this subparagraph excludes
923 the commission of, an attempt to commit, or a conspiracy to
924 commit any of the following:
925 a. An offense enumerated in s. 775.084(1)(c);
926 b. An offense that requires a person to register as a
927 sexual predator in accordance with s. 775.21 or as a sexual
928 offender in accordance with s. 943.0435
929 c. Failure to register as a sexual predator in violation of
930 s. 775.21 or as a sexual offender in violation of s. 943.0435;
931 d. Facilitating or furthering terrorism in violation of s.
932 775.31;
933 e. A forcible felony as described in s. 776.08;
934 f. False imprisonment in violation of s. 787.02;
935 g. Burglary of a dwelling or residence in violation of s.
936 810.02(3).
937 h. Abuse, aggravated abuse, and neglect of an elderly
938 person or disabled adult in violation of s. 825.102;



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939 i. Abuse, aggravated abuse, and neglect of a child in
940 violation of s. 827.03;

941 j. Poisoning of food or water in violation of s. 859.01;
942 k. Abuse of a dead human body in violation of s. 872.06;
943 l. A capital offense in violation of chapter 893;
944 m. An offense that results in serious bodily injury or
945 death to another human; or

946 n. A felony offense in which the defendant used a weapon or
947 firearm in the commission of the offense.

948 13. The number of defendants accepted into a pretrial
949 release program with no prior criminal conviction.

950 ~~14.10.~~ The name and case number of each person granted
951 nonsecured release who:

952 a. Failed to attend a scheduled court appearance.
953 b. Was issued a warrant for failing to appear.
954 c. Was arrested for any offense while on release through
955 the pretrial release program.

956 ~~15.11.~~ Any additional information deemed necessary by the
957 governing body to assess the performance and cost efficiency of
958 the pretrial release program.

959 Section 16. Subsections (3) through (7) of section
960 921.0024, Florida Statutes, are amended to read:

961 921.0024 Criminal Punishment Code; worksheet computations;
962 scoresheets.-

963 (3) A single digitized scoresheet shall be prepared for
964 each defendant to determine the permissible range for the
965 sentence that the court may impose, except that if the defendant
966 is before the court for sentencing for more than one felony and
967 the felonies were committed under more than one version or



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968 revision of the guidelines or the code, separate digitized
969 scoresheets must be prepared. The scoresheet or scoresheets must
970 cover all the defendant's offenses pending before the court for
971 sentencing. The state attorney shall prepare the digitized
972 scoresheet or scoresheets, which must be presented to the
973 defense counsel for review for accuracy in all cases unless the
974 judge directs otherwise. The defendant's scoresheet or
975 scoresheets must be approved and signed by the sentencing judge.

976 (4) The Department of Corrections, in consultation with the
977 Office of the State Courts Administrator, state attorneys, and
978 public defenders, must develop and submit the revised digitized
979 Criminal Punishment Code scoresheet to the Supreme Court for
980 approval by June 15 of each year, as necessary. The digitized
981 scoresheet shall have individual, structured data cells for each
982 data field on the scoresheet. Upon the Supreme Court's approval
983 of the revised digitized scoresheet, the Department of
984 Corrections shall produce and provide ~~sufficient copies of the~~
985 revised digitized scoresheets by September 30 of each year, as
986 necessary. Digitized scoresheets must include individual data
987 cells to indicate ~~item entries for the scoresheet preparer's use~~
988 ~~in indicating~~ whether any prison sentence imposed includes a
989 mandatory minimum sentence or the sentence imposed was a
990 downward departure from the lowest permissible sentence under
991 the Criminal Punishment Code.

992 (5) The Department of Corrections shall make available
993 ~~distribute sufficient copies of the~~ digitized Criminal
994 Punishment Code scoresheets to those persons charged with the
995 responsibility for preparing scoresheets.

996 (6) The clerk of the circuit court shall transmit a



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997 complete, and accurate digitized, ~~and legible~~ copy of the
998 Criminal Punishment Code scoresheet used in each sentencing
999 proceeding to the Department of Corrections. Scoresheets must be
1000 electronically transmitted no less frequently than monthly, by
1001 the first of each month, and may be sent collectively.

1002 (7) A digitized sentencing scoresheet must be prepared for
1003 every defendant who is sentenced for a felony offense. ~~A copy of~~
1004 The individual offender's digitized Criminal Punishment Code
1005 scoresheet and any attachments thereto prepared pursuant to Rule
1006 3.701, Rule 3.702, or Rule 3.703, Florida Rules of Criminal
1007 Procedure, or any other rule pertaining to the preparation and
1008 submission of felony sentencing scoresheets, must be included
1009 with ~~attached to the copy of~~ the uniform judgment and sentence
1010 form provided to the Department of Corrections.

1011 Section 17. Subsection (1) of section 932.7061, Florida
1012 Statutes, is amended to read:

1013 932.7061 Reporting seized property for forfeiture.—

1014 (1) Every law enforcement agency shall submit an annual
1015 report to the Department of Law Enforcement indicating whether
1016 the agency has seized or forfeited property under the Florida
1017 Contraband Forfeiture Act. A law enforcement agency receiving or
1018 expending forfeited property or proceeds from the sale of
1019 forfeited property in accordance with the Florida Contraband
1020 Forfeiture Act shall submit a completed annual report by
1021 December 1 ~~October 10~~ documenting the receipts and expenditures.
1022 The report shall be submitted in an electronic form, maintained
1023 by the Department of Law Enforcement in consultation with the
1024 Office of Program Policy Analysis and Government Accountability,
1025 to the entity that has budgetary authority over such agency and



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1026 to the Department of Law Enforcement. The annual report must, at
1027 a minimum, specify the type, approximate value, court case
1028 number, type of offense, disposition of property received, and
1029 amount of any proceeds received or expended.

1030 Section 18. Section 943.687, Florida Statutes, is created
1031 to read:

1032 943.687 Criminal justice data transparency.—In order to
1033 facilitate the availability of comparable and uniform criminal
1034 justice data, the department shall:

1035 (1) Collect, compile, maintain, and manage the data
1036 submitted by local and state entities pursuant to s. 900.05 and
1037 coordinate related activities to collect and submit data. The
1038 department shall create a unique identifier for each criminal
1039 case received from the clerks of court which identifies the
1040 person who is the subject of the criminal case. The unique
1041 identifier must be the same for that person in any court case
1042 and used across local and state entities for all information
1043 related to that person at any time. The unique identifier shall
1044 be randomly created and may not include any portion of the
1045 person's social security number or date of birth.

1046 (2) Promote criminal justice data sharing by making such
1047 data received under s. 900.05 comparable, transferable, and
1048 readily usable.

1049 (3) Create and maintain an Internet-based database of
1050 criminal justice data received under s. 900.05 in a modern,
1051 open, electronic format that is machine-readable and readily
1052 accessible through an application program interface. The
1053 database must allow the public to search, at a minimum, by each
1054 data element, county, judicial circuit, or unique identifier.



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1055 The department may not require a license or charge a fee to
1056 access or receive information from the database.

1057 (4) Develop written agreements with local, state, and
1058 federal agencies to facilitate criminal justice data sharing.

1059 (5) Establish by rule:

1060 (a) Requirements for the entities subject to the
1061 requirements of s. 900.05 to submit data through an application
1062 program interface.

1063 (b) A data catalog defining data objects, describing data
1064 fields, and detailing the meaning of and options for each data
1065 element reported pursuant to s. 900.05.

1066 (c) How data collected pursuant to s. 900.05 is compiled,
1067 processed, structured, used, or shared. The rule shall provide
1068 for the tagging of all information associated with each case
1069 number and unique identifier.

1070 (d) Requirements for implementing and monitoring the
1071 Internet-based database established under subsection (3).

1072 (e) How information contained in the Internet-based
1073 database established under subsection (3) is accessed by the
1074 public.

1075 (6) Consult with local, state, and federal criminal justice
1076 agencies and other public and private users of the database
1077 established under subsection (3) on the data elements collected
1078 under s. 900.05, the use of such data, and adding data elements
1079 to be collected.

1080 (7) Monitor data collection procedures and test data
1081 quality to facilitate the dissemination of accurate, valid,
1082 reliable, and complete criminal justice data.

1083 (8) Develop methods for archiving data, retrieving archived



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1084 data, and data editing and verification.

1085 Section 19. Subsection (3) of section 944.704, Florida
1086 Statutes, is amended to read:

1087 944.704 Staff who provide transition assistance; duties.—
1088 The department shall provide a transition assistance specialist
1089 at each of the major institutions whose duties include, but are
1090 not limited to:

1091 (3) Obtaining job placement information, which must
1092 include identifying any job assignment credentialing or industry
1093 certifications for which an inmate is eligible.

1094
1095 The transition assistance specialist may not be a correctional
1096 officer or correctional probation officer as defined in s.
1097 943.10.

1098 Section 20. Subsections (3) through (6) of section 944.705,
1099 Florida Statutes, are renumbered as subsections (4), (5), (6),
1100 and (10), respectively, and new subsections (3), (7), (8), (9),
1101 and (11) are added to that section, to read:

1102 944.705 Release orientation program.—

1103 (3) Each inmate shall receive a comprehensive community
1104 reentry resource directory organized by the county to which the
1105 inmate is being released. The directory shall include the name,
1106 address, and telephone number of each provider, and a
1107 description of services offered. The directory must also include
1108 the name, address, and telephone number of existing portals of
1109 entry.

1110 (7) The department shall allow a nonprofit faith-based,
1111 business and professional, civic, or community organization to
1112 apply to be registered under this section to provide inmate



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1113 reentry services. Reentry services include, but are not limited
1114 to, counseling; providing information on housing and job
1115 placement; money management assistance; and programs addressing
1116 substance abuse, mental health, or co-occurring conditions.

1117 (8) The department shall adopt policies and procedures for
1118 screening, approving, and registering an organization that
1119 applies to be registered to provide inmate reentry services
1120 under subsection (7). The department may deny approval and
1121 registration of an organization or a representative from an
1122 organization if it determines that the organization or
1123 representative does not meet the department's policies or
1124 procedures.

1125 (9) The department may contract with a public or private
1126 educational institution's Veteran's Advocacy Clinic or Veteran's
1127 Legal Clinic to assist qualified veteran inmates in applying for
1128 veteran's assistance benefits upon release.

1129 (11) The department shall adopt rules to implement this
1130 section.

1131 Section 21. Subsections (4) and (5) of section 944.801,
1132 Florida Statutes, are renumbered (5) and (6), respectively, and
1133 new subsection (4) is added to that section to read:

1134 944.801 Education for state prisoners.—

1135 (4) The Correctional Education Program may develop a Prison
1136 Entrepreneurship Program and adopt procedures for admitting
1137 student inmates. If the department elects to develop the
1138 program, it must include at least 180 days of in-prison
1139 education. Program curriculum must include a component on
1140 developing a business plan, procedures for graduation and
1141 certification of successful student inmates, and at least 90



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1142 days of transitional and postrelease continuing education
1143 services. Transitional and postrelease continuing education
1144 services may be offered to graduate student inmates on a
1145 voluntary basis and shall not be a requirement for completion of
1146 the program. The department shall enter into agreements with
1147 public or private community colleges, junior colleges, colleges,
1148 universities, or other non-profit entities to implement the
1149 program. The program shall be funded within existing resources.

1150 Section 22. Section 944.805, Florida Statutes, is created
1151 to read:

1152 944.805 Certificate of achievement and employability;
1153 definitions.-

1154 (1) As used in this section and ss. 944.806-944.8065, the
1155 term:

1156 (a) "Discretionary civil impact" means any Florida statute
1157 or rule that creates a penalty, disability, or disadvantage to
1158 which all of the following apply:

1159 1. The impact is triggered in whole or in part by a
1160 person's conviction of an offense, whether or not the penalty,
1161 disability, or disadvantage is included in the judgment or
1162 sentence.

1163 2. The impact is imposed on a person, licensing agency, or
1164 employer.

1165 3. The impact permits, but does not require, that a
1166 convicted person have a license denied or revoked, permits an
1167 agency to deny or revoke a license or certification to a
1168 convicted person, or permits a business to refuse to employ a
1169 convicted person.

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1171 The term does not include imprisonment, probation, parole,
1172 supervised release, forfeiture, restitution, fine, assessment,
1173 or costs of prosecution.

1174 (b) "Eligible inmate" means a person who is serving a
1175 prison term in a state correctional institution or facility;
1176 under the supervision of the department on probation or
1177 community control; or under a postrelease control sanction; and
1178 who is eligible to apply to the department for a certificate of
1179 achievement and employability.

1180 (c) "Licensing agency" means any regulatory or licensing
1181 entity with authority to issue, suspend, or revoke any
1182 professional license or certification.

1183 (d) "Mandatory civil impact" means any Florida statute or
1184 rule that creates a penalty, disability, or disadvantage to
1185 which all of the following apply:

1186 1. The impact is triggered automatically solely by a
1187 person's conviction of an offense, whether or not the penalty,
1188 disability, or disadvantage is included in the judgment or
1189 sentence.

1190 2. The impact is imposed on a person, licensing agency, or
1191 employer.

1192 3. The impact precludes a convicted person from maintaining
1193 or obtaining licensure or employment, precludes a licensing
1194 agency from issuing a license or certification to a convicted
1195 person, or precludes a business from being certified or from
1196 employing a convicted person.

1197
1198 The term does not include imprisonment, probation, parole,
1199 supervised release, forfeiture, restitution, fine, assessment,



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1200 or costs of prosecution.
1201 Section 23. Section 944.8055, Florida Statutes, is created
1202 to read:
1203 944.8055 Certificate of achievement and employability;
1204 eligibility.-
1205 (1) An eligible inmate may apply to the department at a
1206 time specified in paragraph (2) (a) for a certificate of
1207 achievement and employability if the inmate:
1208 (a) Has satisfactorily completed one or more in-prison
1209 vocational programs approved by the department.
1210 (b) Has demonstrated exemplary performance as determined by
1211 completion of one or more cognitive or behavioral improvement
1212 programs approved by the department while incarcerated in a
1213 state correctional institution or facility or under supervision,
1214 or during both periods of time.
1215 (c) Shows other evidence of achievement and rehabilitation.
1216 (d) Is not currently serving a sentence for or has not been
1217 previously convicted of a violation of a dangerous crime as
1218 defined in s. 907.041, or a violation specified as a predicate
1219 offense for registration as a sexual predator under s. 775.21 or
1220 for registration as a sexual offender under s. 943.0435.
1221 (2) (a) An eligible inmate may apply for a certificate of
1222 achievement and employability no earlier than one year prior to
1223 the date of his or her release from department custody and no
1224 later than the actual date of release.
1225 (b) An inmate released from a state correctional
1226 institution or facility, or under supervision or postrelease
1227 control sanction, and who satisfies all the criteria set forth
1228 in subsection (1), is eligible to apply to the department for a



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1229 certificate of achievement and employability at any time while
1230 under supervision or postrelease control sanction.

1231 (3) When applying for a certificate of achievement and
1232 employability, an eligible inmate shall specify the mandatory
1233 civil impacts for which he or she is seeking relief through a
1234 certificate. If a mandatory civil impact of a licensing agency
1235 is affected by issuing the certificate, the department shall
1236 notify the licensing agency, provide the licensing agency with a
1237 copy of the application and documentation that the department
1238 has concerning the eligible inmate, and afford the licensing
1239 agency an opportunity to object in writing to issuing the
1240 certificate.

1241 (4) The department shall consider the eligible inmate's
1242 application and all objections to issuing the certificate of
1243 achievement and employability. If the department determines that
1244 the inmate is eligible, the application was filed timely, and
1245 all objections to issuing the certificate are insufficient, it
1246 shall issue the certificate.

1247 (5) A certificate of achievement or employability does not
1248 affect the mandatory civil impacts under s. 4, Art. VI of the
1249 state Constitution, or ss. 775.13, 775.21, 943.0435, and
1250 944.292.

1251 (6) The department is not liable for a claim for damages
1252 arising from issuing, denying, or revoking a certificate of
1253 achievement and employability or for failing to revoke a
1254 certificate under the circumstances described in s. 944.0865.

1255 (7) The department shall adopt rules to implement this
1256 section.

1257 Section 24. Section 944.806, Florida Statutes, is created



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1258 to read:

1259 944.806 Certificate of achievement and employability;
1260 effect.—

1261 (1) A certificate holder who applies to a licensing agency
1262 and has a conviction or guilty plea that otherwise would bar
1263 licensure or certification because of a mandatory civil impact
1264 shall be given individualized consideration by the licensing
1265 agency. The certificate constitutes a rebuttable presumption
1266 that the certificate holder's conviction alone is insufficient
1267 evidence that he or she is unfit for the license or
1268 certification. Notwithstanding the presumption established under
1269 this section, the licensing agency may deny the license or
1270 certification if it determines that the certificate holder is
1271 unfit for licensure or certification after considering all
1272 relevant facts and circumstances.

1273 (2) If an employer that has hired a certificate holder
1274 applies to a licensing agency and the certificate holder has a
1275 conviction or guilty plea that otherwise would bar his or her
1276 employment with the employer, or would bar the employer's
1277 licensure or certification because of a mandatory civil impact,
1278 the agency shall give the certificate holder individualized
1279 consideration for licensure or certification. The mandatory
1280 civil impact shall be deemed a discretionary civil impact, and
1281 the certificate constitutes a rebuttable presumption that the
1282 holder's criminal convictions are insufficient evidence that he
1283 or she is unfit for the employment, or that the employer is
1284 unfit for the licensure or certification. The agency may deny
1285 the employer licensure or certification if it determines that
1286 the certificate holder is unfit for employment or that the



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1287 employer is unfit for licensure or certification.

1288 Section 25. Section 944.8065, Florida Statutes, is created
1289 to read:

1290 944.8065 Certificate of achievement and employability;
1291 revocation.—The department shall adopt rules governing
1292 revocation of a certificate of achievement and employability
1293 issued under s. 944.8055. The rules shall, at a minimum, require
1294 revocation if a certificate holder is convicted of or pleads
1295 guilty to a felony subsequent to the issuance of the certificate
1296 of eligibility. The department shall determine which additional
1297 offenses require revocation, considering the nature of the
1298 offense and the employment of a certificate holder.

1299 Section 26. Section 945.041, Florida Statutes, is created
1300 to read:

1301 945.041 Department of Corrections reports.—The department
1302 shall publish on its website and make available to the public
1303 the following information, updated on a quarterly basis:

1304 (1) Inmate admissions by offense type. Burglary of dwelling
1305 offenses under s. 810.02(2), (3) (a), and (3) (b) must be reported
1306 as a separate category from all other property crimes.

1307 (2) The recidivism rate, defined as rearrest, reconviction,
1308 reincarceration, and probation revocation in the state within a
1309 3-year time period following release from incarceration.

1310 Section 27. Current subsections (6) through (15) of section
1311 947.005, Florida Statutes, are redesignated as subsections (8)
1312 through (17), respectively, and new subsections (6) and (7) are
1313 added to that section, to read:

1314 947.005 Definitions.—As used in this chapter, unless the
1315 context clearly indicates otherwise:



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1316 (6) "Electronic monitoring device" means an electronic or
1317 telecommunications device that is used to track and supervise
1318 the location of a person. Such devices include, but are not
1319 limited to, voice tracking systems, position tracking systems,
1320 position location systems, or biometric tracking systems.

1321 (7) "Conditional medical release" means the release from a
1322 state correctional institution or facility under this chapter
1323 for medical or mental health treatment pursuant to s. 947.149.

1324 Section 28. Section 947.149, Florida Statutes, is amended
1325 to read:

1326 947.149 Conditional medical release.—

1327 (1) ELIGIBILITY.—The commission shall, in conjunction with
1328 the department, establish the conditional medical release
1329 program. An inmate is eligible for supervised ~~consideration for~~
1330 release under the conditional medical release program when the
1331 inmate, because of an existing medical or physical condition, is
1332 determined by the department to be within one of the ~~following~~
1333 designations provided for in subsection (2) and meet the
1334 qualifications of subsection (3) or subsection (4).÷

1335 (2) DESIGNATIONS.—

1336 (a) "Inmate with a debilitating illness," which means an
1337 inmate who is determined to be suffering from a significant and
1338 permanent terminal or nonterminal condition, disease, or
1339 syndrome that has rendered the inmate so physically or
1340 cognitively debilitated or incapacitated as to create a
1341 reasonable probability that the inmate does not constitute a
1342 danger to herself or himself or others.

1343 (b) "Medically frail inmate," which means an inmate whose
1344 physical or mental health has deteriorated to a point that



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1345 creates a reasonable probability that the inmate does not
1346 constitute a danger to herself or himself or others, as
1347 determined by a risk assessment completed by a qualified
1348 practitioner, and whose deterioration is the direct result of
1349 the inmate's:

1350 1. Impairment of the mental or emotional processes that
1351 exercise conscious control of one's actions or of the ability to
1352 perceive or understand reality, where such impairment
1353 substantially interferes with the person's ability to meet the
1354 ordinary demands of living;

1355 2. History of substance abuse, as defined in s.
1356 397.311(45); or

1357 3. Requirement of acute long-term medical or mental health
1358 treatment or services.

1359 (c)(a) "Permanently incapacitated inmate," which means an
1360 inmate who has a condition caused by injury, disease, or illness
1361 which, to a reasonable degree of medical certainty, renders the
1362 inmate permanently and irreversibly physically incapacitated to
1363 the extent that the inmate does not constitute a danger to
1364 herself or himself or others.

1365 (d)(b) "Terminally ill inmate," which means an inmate who
1366 has a condition caused by injury, disease, or illness which, to
1367 a reasonable degree of medical certainty, renders the inmate
1368 terminally ill to the extent that there can be no recovery and
1369 death is expected within 12 months ~~is imminent~~, so that the
1370 inmate does not constitute a danger to herself or himself or
1371 others.

1372 (3)(2) PERMISSIVE CONDITIONAL MEDICAL RELEASE.-

1373 (a) Notwithstanding any provision to the contrary, an



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1374 inmate that is sentenced to the custody of the department and
1375 who qualifies for one of the designations defined in subsection
1376 (2) any person determined eligible under this section and
1377 sentenced to the custody of the department may, upon referral by
1378 the department, be considered for conditional medical release by
1379 the commission, in addition to any parole consideration for
1380 which the inmate may be considered, except that conditional
1381 medical release is not authorized for an inmate who is under
1382 sentence of death. ~~No inmate has a right to conditional medical~~
1383 ~~release or to a medical evaluation to determine eligibility for~~
1384 ~~such release.~~

1385 (b) (3) The authority and whether or not to grant
1386 conditional medical release and establish additional conditions
1387 of conditional medical release under this subsection rests
1388 solely within the discretion of the commission, in accordance
1389 with the provisions of this section, together with the authority
1390 to approve the release plan to include necessary medical care
1391 and attention.

1392 (c) The department shall identify inmates who may be
1393 eligible for conditional medical release based upon available
1394 medical information and shall refer them to the commission for
1395 consideration.

1396 (d) In considering an inmate for conditional medical
1397 release in accordance with this subsection, the commission may
1398 require that additional medical evidence be produced or that
1399 additional medical examinations be conducted, and may require
1400 such other investigations to be made as may be warranted.

1401 (4) MANDATORY CONDITIONAL MEDICAL RELEASE.-

1402 (a) An inmate is eligible for mandatory conditional medical



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1403 release under this subsection if he or she qualifies for one of
1404 the designations defined in subsection (2) and the department
1405 determines that he or she meets all of the following criteria:
1406 1. Has served at least 50 percent of his or her sentence.
1407 2. Has no current or prior conviction for:
1408 a. A capital, life, or first degree felony.
1409 b. A sexual offense specified in s. 775.21(4)(a)1. or s.
1410 943.0435(1)(h)1.a.(I).
1411 c. An offense involving a child.
1412 3. Has not received a disciplinary report within the
1413 previous 6 months.
1414 4. Has never received a disciplinary report for a violent
1415 act.
1416 5. Has renounced any gang affiliation.
1417 (b) Any person sentenced to the custody of the department
1418 who is determined to be eligible for placement on mandatory
1419 conditional medical release in accordance with this subsection
1420 must be referred by the department to the commission. Upon
1421 receiving a referral from the department, the commission shall
1422 verify the eligibility of an inmate and, upon verification, such
1423 inmate must be placed on conditional medical release.
1424 (c) In verifying the inmate's eligibility for mandatory
1425 conditional medical release, the commission shall review the
1426 information provided by the department.
1427 (d) The commission must finish its verification of an
1428 inmate's eligibility within 60 days after the department refers
1429 the inmate for conditional medical release.
1430 (5) RIGHTS NOT CONFERRED.—An inmate does not have a right
1431 to conditional medical release or to a medical evaluation to



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1432 determine eligibility for such release.

1433 (6) REFERRAL REQUIREMENTS.—The department's referral of an
1434 inmate to the commission for release under this section must
1435 include all of the following information on the inmate:

1436 (a) The proposed conditional medical release plan.

1437 (b) Any relevant medical history, including current medical
1438 prognosis.

1439 (c) Criminal history. The criminal history must include all
1440 of the following information:

1441 1. The inmate's claim of innocence, if any.

1442 2. The degree to which the inmate accepts responsibility
1443 for his or her actions leading to the conviction of the crime.

1444 3. How any claim of responsibility has affected the
1445 inmate's feelings of remorse.

1446 (d) If authorized by the inmate, any history of substance
1447 abuse and mental health issues that is collected by the
1448 department in accordance with 42 C.F.R. s. 2.

1449 (e) Any disciplinary action taken against the inmate while
1450 in prison.

1451 (f) Any participation in prison work and other prison
1452 programs.

1453 (g) Any other information that the department deems
1454 necessary.

1455 (7) PLACEMENT REQUIREMENT.—A determination to approve a
1456 release on conditional medical release must take into
1457 consideration conditions such as whether:

1458 (a) A placement option has been secured for the inmate in
1459 the community. A placement option may include, but is not
1460 limited to, home confinement or a medical or mental health



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1461 facility that is not a public institution as defined at Title
1462 42, Chapter IV, Subchapter C, Part 434, Subpart K of the Code of
1463 Federal Regulations. A placement option need not involve any
1464 type of supervision of the inmate by an employee or a private
1465 contractor of the department or otherwise be considered a secure
1466 facility. A placement option may involve the use of an
1467 electronic monitoring device as defined in 947.005(6).

1468 (b) The placement option secured under this section poses a
1469 minimal risk to society.

1470 (c) The department has made a reasonable effort to
1471 determine whether expenses related to the placement option
1472 secured under this subsection are covered by Medicaid, a health
1473 care policy, a certificate of insurance, or another source for
1474 the payment of medical expenses or whether the inmate has
1475 sufficient income or assets to pay for the expenses related to
1476 the placement.

1477 (d) The department has provided notice to the prosecutor's
1478 office in the county in which the prisoner was sentenced and to
1479 each victim entitled to notice under s. 16(b), Art. I of the
1480 State Constitution.

1481 (8)-(4) EFFECT OF RELEASE ON CONDITIONAL MEDICAL RELEASE.-
1482 The conditional medical release term of an inmate released on
1483 conditional medical release is for the remainder of the inmate's
1484 sentence, without diminution of sentence for good behavior.
1485 Supervision of the medical releasee must include a release plan
1486 as proposed by the department and approved by the commission and
1487 periodic medical evaluations. Supervision may also include
1488 electronic monitoring at intervals determined by the commission
1489 at the time of release.



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1490 ~~(9)-(5)-(a)~~ REVOCATION AND RECOMMITMENT.—

1491 (a) If it is discovered during the conditional medical
1492 release that the medical or physical condition of the medical
1493 releasee has improved to the extent that she or he would no
1494 longer be eligible for conditional medical release under this
1495 section, the commission may order that the releasee be returned
1496 to the custody of the department for a conditional medical
1497 release revocation hearing, in accordance with s. 947.141. If
1498 conditional medical release is revoked due to improvement in the
1499 medical or physical condition of the releasee, she or he shall
1500 serve the balance of her or his sentence with credit for the
1501 time served on conditional medical release and without
1502 forfeiture of any gain-time accrued prior to conditional medical
1503 release. If the person whose conditional medical release is
1504 revoked due to an improvement in medical or physical condition
1505 would otherwise be eligible for parole or any other release
1506 program, the person may be considered for such release program
1507 pursuant to law.

1508 (b) In addition to revocation of conditional medical
1509 release pursuant to paragraph (a), conditional medical release
1510 may also be revoked for violation of any condition of the
1511 release established by the commission, in accordance with s.
1512 947.141, and the releasee's gain-time may be forfeited pursuant
1513 to s. 944.28(1).

1514 ~~(10)-(6)~~ RULEMAKING.—The department and the commission shall
1515 adopt rules as necessary to implement the conditional medical
1516 release program.

1517 Section 29. Subsection (1) of section 948.001, Florida
1518 Statutes, is amended to read:



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1519 948.001 Definitions.—As used in this chapter, the term:
1520 (1) “Administrative probation” means a form of no contact,
1521 nonreporting supervision in which an offender who presents a low
1522 risk of harm to the community may, upon satisfactory completion
1523 of half the term of probation, be transferred by the Department
1524 of Corrections to this type of reduced level of supervision, as
1525 provided in s. 948.013.

1526 Section 30. Subsection (1) of section 948.013, Florida
1527 Statutes, is amended to read:

1528 948.013 Administrative probation.—

1529 (1) The Department of Corrections may transfer an offender
1530 to administrative probation if he or she presents a low risk of
1531 harm to the community and has satisfactorily completed at least
1532 half of the probation term. The department ~~of Corrections~~ may
1533 establish procedures for transferring an offender to
1534 administrative probation. The department may collect an initial
1535 processing fee of up to \$50 for each probationer transferred to
1536 administrative probation. The offender is exempt from further
1537 payment for the cost of supervision as required in s. 948.09.

1538 Section 31. Subsection (3) is added to section 948.03,
1539 Florida Statutes, to read:

1540 948.03 Terms and conditions of probation.—

1541 (3) The Department of Corrections shall include all
1542 conditions of probation for each probationer, as determined by
1543 the court, in the Florida Crime Information Center database.

1544 Section 32. Subsection (1) of section 948.06, Florida
1545 Statutes, is amended, and subsection (9) is added to that
1546 section, to read:

1547 948.06 Violation of probation or community control;



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1548 revocation; modification; continuance; failure to pay
1549 restitution or cost of supervision.—

1550 (1)

1551 (c) If a probationer or offender on community control
1552 commits a technical violation, the probation officer shall
1553 determine whether he or she is eligible for the alternative
1554 sanctioning program under subsection (9). If the probationer or
1555 offender on community control is eligible, the probation officer
1556 may proceed with the alternative sanctioning program in lieu of
1557 filing an affidavit of violation with the court. For purposes of
1558 this section, the term "technical violation" means an alleged
1559 violation of supervision that is not a new felony offense,
1560 misdemeanor offense, or criminal traffic offense.

1561 (d)~~(e)~~ If a judge finds reasonable grounds to believe that
1562 a probationer or an offender has violated his or her probation
1563 or community control in a material respect by committing a new
1564 violation of law, the judge may issue a warrant for the arrest
1565 of the person.

1566 (e)~~(d)~~ 1. At a first appearance hearing for an offender who
1567 has been arrested for violating his or her probation or
1568 community control in a material respect by committing a new
1569 violation of law the court:

1570 a. Shall inform the person of the violation.

1571 b. May order the person to be taken before the court that
1572 granted the probation or community control if the person admits
1573 the violation.

1574 2. If the probationer or offender does not admit the
1575 violation at the first appearance hearing, the court:

1576 a. May commit the probationer or offender or may release



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1577 the person with or without bail to await further hearing,
1578 notwithstanding s. 907.041, relating to pretrial detention and
1579 release; or

1580 b. May order the probationer or offender to be brought
1581 before the court that granted the probation or community
1582 control.

1583 3. In determining whether to require or set the amount of
1584 bail, and notwithstanding s. 907.041, relating to pretrial
1585 detention and release, the court may consider whether the
1586 probationer or offender is more likely than not to receive a
1587 prison sanction for the violation.

1588
1589 This paragraph does not apply to a probationer or offender on
1590 community control who is subject to the hearing requirements
1591 under subsection (4) or paragraph (8) (e).

1592 (f)~~(e)~~ Any probation officer, any officer authorized to
1593 serve criminal process, or any peace officer of this state is
1594 authorized to serve and execute such warrant. Any probation
1595 officer is authorized to serve such notice to appear.

1596 (g)~~(f)~~ Upon the filing of an affidavit alleging a violation
1597 of probation or community control and following issuance of a
1598 warrant for such violation, a warrantless arrest under this
1599 section, or a notice to appear under this section, the
1600 probationary period is tolled until the court enters a ruling on
1601 the violation. Notwithstanding the tolling of probation, the
1602 court shall retain jurisdiction over the offender for any
1603 violation of the conditions of probation or community control
1604 that is alleged to have occurred during the tolling period. The
1605 probation officer is permitted to continue to supervise any



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1606 offender who remains available to the officer for supervision
1607 until the supervision expires pursuant to the order of probation
1608 or community control or until the court revokes or terminates
1609 the probation or community control, whichever comes first.

1610 ~~(h)~~ ~~(g)~~ The chief judge of each judicial circuit may direct
1611 the department to use a notification letter of a technical
1612 violation in appropriate cases in lieu of a violation report,
1613 affidavit, and warrant or a notice to appear when the alleged
1614 violation is not a new felony or misdemeanor offense. Such
1615 direction must be in writing and must specify the types of
1616 specific technical violations which are to be reported by a
1617 notification letter of a technical violation, any exceptions to
1618 those violations, and the required process for submission. At
1619 the direction of the chief judge, the department shall send the
1620 notification letter of a technical violation to the court.

1621 ~~(h)1. The chief judge of each judicial circuit, in~~
1622 ~~consultation with the state attorney, the public defender, and~~
1623 ~~the department, may establish an alternative sanctioning program~~
1624 ~~in which the department, after receiving court approval, may~~
1625 ~~enforce specified sanctions for certain technical violations of~~
1626 ~~supervision. For purposes of this paragraph, the term "technical~~
1627 ~~violation" means any alleged violation of supervision that is~~
1628 ~~not a new felony offense, misdemeanor offense, or criminal~~
1629 ~~traffic offense.~~

1630 ~~2. To establish an alternative sanctioning program, the~~
1631 ~~chief judge must issue an administrative order specifying:~~

1632 ~~a. Eligibility criteria.~~

1633 ~~b. The technical violations that are eligible for the~~
1634 ~~program.~~



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1635 ~~e. The sanctions that may be recommended by a probation~~
1636 ~~officer for each technical violation.~~

1637 ~~d. The process for reporting technical violations through~~
1638 ~~the alternative sanctioning program, including approved forms.~~

1639 ~~3. If an offender is alleged to have committed a technical~~
1640 ~~violation of supervision that is eligible for the program, the~~
1641 ~~offender may:~~

1642 ~~a. Waive participation in the alternative sanctioning~~
1643 ~~program, in which case the probation officer may submit a~~
1644 ~~violation report, affidavit, and warrant to the court in~~
1645 ~~accordance with this section; or~~

1646 ~~b. Elect to participate in the alternative sanctioning~~
1647 ~~program after receiving written notice of an alleged technical~~
1648 ~~violation and a disclosure of the evidence against the offender,~~
1649 ~~admit to the technical violation, agree to comply with the~~
1650 ~~probation officer's recommended sanction if subsequently ordered~~
1651 ~~by the court, and agree to waive the right to:~~

1652 ~~(I) Be represented by legal counsel.~~

1653 ~~(II) Require the state to prove his or her guilt before a~~
1654 ~~neutral and detached hearing body.~~

1655 ~~(III) Subpoena witnesses and present to a judge evidence in~~
1656 ~~his or her defense.~~

1657 ~~(IV) Confront and cross-examine adverse witnesses.~~

1658 ~~(V) Receive a written statement from a factfinder as to the~~
1659 ~~evidence relied on and the reasons for the sanction imposed.~~

1660 ~~4. If the offender admits to committing the technical~~
1661 ~~violation and agrees with the probation officer's recommended~~
1662 ~~sanction, the probation officer must, before imposing the~~
1663 ~~sanction, submit the recommended sanction to the court as well~~



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1664 ~~as documentation reflecting the offender's admission to the~~
1665 ~~technical violation and agreement with the recommended sanction.~~

1666 ~~5. The court may impose the recommended sanction or may~~
1667 ~~direct the department to submit a violation report, affidavit,~~
1668 ~~and warrant to the court in accordance with this section.~~

1669 ~~6. An offender's participation in an alternative~~
1670 ~~sanctioning program is voluntary. The offender may elect to~~
1671 ~~waive or discontinue participation in an alternative sanctioning~~
1672 ~~program at any time before the issuance of a court order~~
1673 ~~imposing the recommended sanction.~~

1674 ~~7. If an offender waives or discontinues participation in~~
1675 ~~an alternative sanctioning program, the probation officer may~~
1676 ~~submit a violation report, affidavit, and warrant to the court~~
1677 ~~in accordance with this section. The offender's prior admission~~
1678 ~~to the technical violation may not be used as evidence in~~
1679 ~~subsequent proceedings.~~

1680 ~~(i) The court may allow the department to file an~~
1681 ~~affidavit, notification letter, violation report, or other~~
1682 ~~report under this section by facsimile or electronic submission.~~

1683 ~~(9) (a) For a first or second low-risk violation, as defined~~
1684 ~~in paragraph (b), within the current term of supervision, a~~
1685 ~~probation officer may offer an eligible probationer one or more~~
1686 ~~of the following as an alternative sanction:~~

- 1687 ~~1. Up to five days in the county detention facility;~~
1688 ~~2. Up to fifty additional community service hours;~~
1689 ~~3. Counseling or treatment;~~
1690 ~~4. Support group attendance;~~
1691 ~~5. Drug testing;~~
1692 ~~6. Loss of travel or other privileges;~~



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1693 7. Curfew for up to thirty days;
1694 8. House arrest for up to thirty days; or
1695 9. Any other sanction as determined by administrative order
1696 by the chief judge of the circuit.

1697 (b) When committed by a probationer, a low-risk violation
1698 includes:

1699 1. Positive drug or alcohol test result;
1700 2. Failure to report to the probation office;
1701 3. Failure to report a change in address or other required
1702 information;

1703 4. Failure to attend a required class, treatment or
1704 counseling session, or meeting;

1705 5. Failure to submit to a drug or alcohol test;

1706 6. Violation of curfew;

1707 7. Failure to meet a monthly quota on any required
1708 probation condition, including, but not limited to, making
1709 restitution payments, payment of court costs, and completing
1710 community service hours;

1711 8. Leaving the county without permission;

1712 9. Failure to report a change in employment;

1713 10. Associating with a person engaged in criminal activity;

1714 or

1715 11. Any other violation as determined by administrative
1716 order of the chief judge of the circuit.

1717 (c) For a first time moderate-risk violation, as defined in
1718 paragraph (d), within the current term of supervision, a
1719 probation officer, with supervisor approval, may offer an
1720 eligible probationer or offender on community control one or
1721 more of the following as an alternative sanction:



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- 1722 1. Up to 21 days in the county detention facility;
1723 2. Curfew for up to 90 days;
1724 3. House arrest for up to 90 days;
1725 4. Electronic monitoring for up to 90 days;
1726 5. Residential treatment for up to 90 days;
1727 6. Any other sanction available for a low-risk violation;
1728 or
1729 7. Any other sanction as determined by administrative order
1730 of the chief judge of the circuit.
1731 (d) A moderate-risk violation includes:
1732 1. A violation listed under paragraph (b) when committed by
1733 an offender on community control;
1734 2. Failure to remain at an approved residence by an
1735 offender on community control;
1736 3. A third violation listed under paragraph (b) by a
1737 probationer within the current term of supervision; or
1738 4. Any other violation as determined by administrative
1739 order by the chief judge of the circuit.
1740 (e) A probationer or offender on community control is not
1741 eligible for an alternative sanction if:
1742 1. He or she is a violent felony offender of special
1743 concern, as defined in paragraph (8) (b).
1744 2. The violation is a felony, misdemeanor, or criminal
1745 traffic offense.
1746 3. The violation is absconding.
1747 4. The violation is of a stay-away order or no-contact
1748 order.
1749 5. The violation is not identified as low-risk or moderate-
1750 risk under this paragraph or by administrative order.



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- 1751 6. He or she has a prior moderate-risk level violation
1752 during the current term of supervision.
- 1753 7. He or she has three prior low-risk level violations
1754 during the same term of supervision.
- 1755 8. The term of supervision is scheduled to terminate in
1756 less than 90 days.
- 1757 9. The terms of the sentence prohibit alternative
1758 sanctioning.
- 1759 (f) If a probationer or offender on community control is
1760 eligible for the alternative sanctioning program, he or she may:
- 1761 1. Waive participation in the program, in which case the
1762 probation officer may submit a violation report, affidavit, and
1763 warrant to the court; or
- 1764 2. Elect to participate in the program after receiving
1765 written notice of an alleged technical violation and disclosure
1766 of the evidence against him or her, admit to the technical
1767 violation, agree to comply with the probation officer's
1768 recommended sanction if subsequently ordered by the court, and
1769 agree to waive the right to:
- 1770 a. Be represented by legal counsel.
- 1771 b. Require the state to prove his or her guilt before a
1772 neutral and detached hearing body.
- 1773 c. Subpoena witnesses and present to a judge evidence in
1774 his or her defense.
- 1775 d. Confront and cross-examine adverse witnesses.
- 1776 e. Receive a written statement from a judge as to the
1777 evidence relied on and the reasons for the sanction imposed.
- 1778 3. If the probationer or offender on community control
1779 admits to committing the technical violation and agrees with the



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1780 probation officer's recommended sanction, the probation officer
1781 must, before imposing the sanction, submit the recommended
1782 sanction to the court with documentation reflecting the
1783 probationer's admission to the technical violation and agreement
1784 with the recommended sanction.

1785 (g) The court may impose the recommended sanction or direct
1786 the department to submit a violation report, affidavit, and
1787 warrant to the court.

1788 (h) An offender's participation in the program is
1789 voluntary. The probationer or offender on community control may
1790 waive or discontinue participation in the program at any time
1791 before the court imposes a recommended sanction.

1792 (i) If a probationer or offender on community control
1793 waives or discontinues participation in the program or fails to
1794 complete successfully all alternative sanctions within 90 days
1795 of imposition or within the timeframe specified in the agreed
1796 upon sanction, the probation officer may submit a violation
1797 report, affidavit, and warrant to the court. A prior admission
1798 by the probationer or offender on community control to a
1799 technical violation may not be used as evidence in subsequent
1800 proceedings.

1801 (j) Each judicial circuit shall establish an alternative
1802 sanctioning program as provided in this subsection. The chief
1803 judge of each judicial circuit may, by administrative order,
1804 define additional sanctions or eligibility criteria and specify
1805 the process for reporting technical violations through the
1806 alternative sanctioning program.

1807 Section 33. Section 948.081, Florida Statutes, is created
1808 to read:



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1809 948.081 Community court programs.-
1810 (1) Each judicial circuit may establish a community court
1811 program for defendants charged with certain misdemeanor
1812 offenses. Each community court shall, at a minimum:
1813 (a) Adopt a nonadversarial approach.
1814 (b) Establish an advisory committee to recommend solutions
1815 and sanctions in each case.
1816 (c) Consider the needs of the victim.
1817 (d) Consider individualized treatment services for the
1818 defendant.
1819 (e) Provide for judicial leadership and interaction.
1820 (f) Monitor the defendant's compliance.
1821 (2) In the event a county elects to establish a community
1822 court program pursuant to this section, the chief judge of the
1823 judicial circuit shall, by administrative order, specify each
1824 misdemeanor crime eligible for the community court program. In
1825 making such determination, the chief judge shall consider the
1826 particular needs and concerns of the communities within the
1827 judicial circuit.
1828 (3) The Department of Corrections, Department of Juvenile
1829 Justice, Department of Health, Department of Law Enforcement,
1830 Department of Education, law enforcement agencies, and other
1831 government entities involved in the criminal justice system
1832 shall support such community court programs.
1833 (4) A defendant's entry into a community court program
1834 shall be voluntary.
1835 (5) Each community court program shall have a resource
1836 coordinator who:
1837 (a) Coordinates the responsibilities of the participating



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1838 agencies and service providers;
1839 (b) Provides case management services;
1840 (c) Monitors compliance by defendants with court
1841 requirements; and
1842 (d) Manages the collection of data for program evaluation
1843 and accountability.
1844 (6) The chief judge of the judicial circuit shall appoint
1845 an advisory committee for each community court. Membership must
1846 include, at a minimum:
1847 (a) The chief judge or a community court judge designated
1848 by the chief judge, who shall serve as chair;
1849 (b) The state attorney;
1850 (c) The public defender; and
1851 (d) The community court resource coordinator.
1852
1853 The committee may also include community stakeholders, treatment
1854 representatives, and other persons the chair deems appropriate.
1855 (7) The advisory committee shall review each defendant's
1856 case. Each committee member may make recommendations to the
1857 judge, including appropriate sanctions and treatment solutions
1858 for the defendant. The judge shall consider such recommendations
1859 and make the final decision concerning sanctions and treatment
1860 with respect to each defendant.
1861 (8) Each judicial circuit that establishes a community
1862 court program pursuant to this section shall report client-level
1863 and programmatic data to the Office of State Courts
1864 Administrator annually for program evaluation. Client-level data
1865 include primary offenses resulting in the community court
1866 referral or sentence, treatment compliance, completion status,



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1867 reasons for failing to complete the program, offenses committed
1868 during treatment and sanctions imposed, frequency of court
1869 appearances, and units of service. Programmatic data include
1870 referral and screening procedures, eligibility criteria, type
1871 and duration of treatment offered, and residential treatment
1872 resources.

1873 (9) Community court program funding must be secured from
1874 sources other than the state for costs not assumed by the state
1875 under s. 29.004. However, this subsection does not preclude the
1876 use of funds provided for treatment and other services through
1877 state executive branch agencies.

1878 Section 34. For the purpose of incorporating the amendment
1879 made by this act to section 944.801, Florida Statutes, in a
1880 reference thereto, subsection (3) of section 447.203, Florida
1881 Statutes, is reenacted to read:

1882 447.203 Definitions.—As used in this part:

1883 (2) "Public employer" or "employer" means the state or any
1884 county, municipality, or special district or any subdivision or
1885 agency thereof which the commission determines has sufficient
1886 legal distinctiveness properly to carry out the functions of a
1887 public employer. With respect to all public employees determined
1888 by the commission as properly belonging to a statewide
1889 bargaining unit composed of State Career Service System
1890 employees or Selected Professional Service employees, the
1891 Governor shall be deemed to be the public employer; and the
1892 Board of Governors of the State University System, or the
1893 board's designee, shall be deemed to be the public employer with
1894 respect to all public employees of each constituent state
1895 university. The board of trustees of a community college shall



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1896 be deemed to be the public employer with respect to all
1897 employees of the community college. The district school board
1898 shall be deemed to be the public employer with respect to all
1899 employees of the school district. The Board of Trustees of the
1900 Florida School for the Deaf and the Blind shall be deemed to be
1901 the public employer with respect to the academic and academic
1902 administrative personnel of the Florida School for the Deaf and
1903 the Blind. The Governor shall be deemed to be the public
1904 employer with respect to all employees in the Correctional
1905 Education Program of the Department of Corrections established
1906 pursuant to s. 944.801.

1907 Section 35. For the purpose of incorporating the amendment
1908 made by this act to section 944.704, Florida Statutes, in a
1909 reference thereto, subsection (3) of section 944.026, Florida
1910 Statutes, is reenacted to read:

1911 944.026 Community-based facilities and programs.—

1912 (3) (a) The department shall develop and implement
1913 procedures to diagnose offenders prior to sentencing, for the
1914 purpose of recommending to the sentencing court suitable
1915 candidates for placement in a community-based residential drug
1916 treatment facility or probation and restitution center as
1917 provided in this section. The department shall also develop and
1918 implement procedures to properly identify inmates prior to
1919 release who demonstrate the need for or interest in and
1920 suitability for placement in a community-based substance abuse
1921 transition housing program as provided in this section and
1922 pursuant to ss. 944.4731 and 944.704.

1923 (b) Pretrial intervention programs in appropriate counties
1924 to provide early counseling and supervision services to



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1925 specified offenders as provided in s. 948.08.

1926 Section 36. For the purpose of incorporating the amendment
1927 made by this act to section 947.149, Florida Statutes, in a
1928 reference thereto, subsection (6) of section 316.1935, Florida
1929 Statutes, is reenacted to read:

1930 316.1935 Fleeing or attempting to elude a law enforcement
1931 officer; aggravated fleeing or eluding.-

1932 (6) Notwithstanding s. 948.01, no court may suspend, defer,
1933 or withhold adjudication of guilt or imposition of sentence for
1934 any violation of this section. A person convicted and sentenced
1935 to a mandatory minimum term of incarceration under paragraph
1936 (3) (b) or paragraph (4) (b) is not eligible for statutory gain-
1937 time under s. 944.275 or any form of discretionary early
1938 release, other than pardon or executive clemency or conditional
1939 medical release under s. 947.149, prior to serving the mandatory
1940 minimum sentence.

1941 Section 37. For the purpose of incorporating the amendment
1942 made by this act to section 947.149, Florida Statutes, in a
1943 reference thereto, paragraph (k) of subsection (4) of section
1944 775.084, Florida Statutes, is reenacted to read:

1945 775.084 Violent career criminals; habitual felony offenders
1946 and habitual violent felony offenders; three-time violent felony
1947 offenders; definitions; procedure; enhanced penalties or
1948 mandatory minimum prison terms.-

1949 (4)

1950 (k)1. A defendant sentenced under this section as a
1951 habitual felony offender, a habitual violent felony offender, or
1952 a violent career criminal is eligible for gain-time granted by
1953 the Department of Corrections as provided in s. 944.275(4) (b).



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1954 2. For an offense committed on or after October 1, 1995, a
1955 defendant sentenced under this section as a violent career
1956 criminal is not eligible for any form of discretionary early
1957 release, other than pardon or executive clemency, or conditional
1958 medical release granted pursuant to s. 947.149.

1959 3. For an offense committed on or after July 1, 1999, a
1960 defendant sentenced under this section as a three-time violent
1961 felony offender shall be released only by expiration of sentence
1962 and shall not be eligible for parole, control release, or any
1963 form of early release.

1964 Section 38. For the purpose of incorporating the amendment
1965 made by this act to section 947.149, Florida Statutes, in
1966 references thereto, paragraph (b) of subsection (2) and
1967 paragraph (b) of subsection (3) of section 775.087, Florida
1968 Statutes, are reenacted to read:

1969 775.087 Possession or use of weapon; aggravated battery;
1970 felony reclassification; minimum sentence.-

1971 (2)

1972 (b) Subparagraph (a)1., subparagraph (a)2., or subparagraph
1973 (a)3. does not prevent a court from imposing a longer sentence
1974 of incarceration as authorized by law in addition to the minimum
1975 mandatory sentence, or from imposing a sentence of death
1976 pursuant to other applicable law. Subparagraph (a)1.,
1977 subparagraph (a)2., or subparagraph (a)3. does not authorize a
1978 court to impose a lesser sentence than otherwise required by
1979 law.

1980
1981 Notwithstanding s. 948.01, adjudication of guilt or imposition
1982 of sentence shall not be suspended, deferred, or withheld, and



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1983 the defendant is not eligible for statutory gain-time under s.
1984 944.275 or any form of discretionary early release, other than
1985 pardon or executive clemency, or conditional medical release
1986 under s. 947.149, prior to serving the minimum sentence.

1987 (3)

1988 (b) Subparagraph (a)1., subparagraph (a)2., or subparagraph
1989 (a)3. does not prevent a court from imposing a longer sentence
1990 of incarceration as authorized by law in addition to the minimum
1991 mandatory sentence, or from imposing a sentence of death
1992 pursuant to other applicable law. Subparagraph (a)1.,
1993 subparagraph (a)2., or subparagraph (a)3. does not authorize a
1994 court to impose a lesser sentence than otherwise required by
1995 law.

1996
1997 Notwithstanding s. 948.01, adjudication of guilt or imposition
1998 of sentence shall not be suspended, deferred, or withheld, and
1999 the defendant is not eligible for statutory gain-time under s.
2000 944.275 or any form of discretionary early release, other than
2001 pardon or executive clemency, or conditional medical release
2002 under s. 947.149, prior to serving the minimum sentence.

2003 Section 39. For the purpose of incorporating the amendment
2004 made by this act to section 947.149, Florida Statutes, in a
2005 reference thereto, subsection (3) of section 784.07, Florida
2006 Statutes, is reenacted to read:

2007 784.07 Assault or battery of law enforcement officers,
2008 firefighters, emergency medical care providers, public transit
2009 employees or agents, or other specified officers;
2010 reclassification of offenses; minimum sentences.-

2011 (3) Any person who is convicted of a battery under



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2012 paragraph (2)(b) and, during the commission of the offense, such
2013 person possessed:

2014 (a) A "firearm" or "destructive device" as those terms are
2015 defined in s. 790.001, shall be sentenced to a minimum term of
2016 imprisonment of 3 years.

2017 (b) A semiautomatic firearm and its high-capacity
2018 detachable box magazine, as defined in s. 775.087(3), or a
2019 machine gun as defined in s. 790.001, shall be sentenced to a
2020 minimum term of imprisonment of 8 years.

2021
2022 Notwithstanding s. 948.01, adjudication of guilt or imposition
2023 of sentence shall not be suspended, deferred, or withheld, and
2024 the defendant is not eligible for statutory gain-time under s.
2025 944.275 or any form of discretionary early release, other than
2026 pardon or executive clemency, or conditional medical release
2027 under s. 947.149, prior to serving the minimum sentence.

2028 Section 40. For the purpose of incorporating the amendment
2029 made by this act to section 947.149, Florida Statutes, in a
2030 reference thereto, subsection (1) of section 790.235, Florida
2031 Statutes, is reenacted to read:

2032 790.235 Possession of firearm or ammunition by violent
2033 career criminal unlawful; penalty.—

2034 (1) Any person who meets the violent career criminal
2035 criteria under s. 775.084(1)(d), regardless of whether such
2036 person is or has previously been sentenced as a violent career
2037 criminal, who owns or has in his or her care, custody,
2038 possession, or control any firearm, ammunition, or electric
2039 weapon or device, or carries a concealed weapon, including a
2040 tear gas gun or chemical weapon or device, commits a felony of



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2041 the first degree, punishable as provided in s. 775.082, s.
2042 775.083, or s. 775.084. A person convicted of a violation of
2043 this section shall be sentenced to a mandatory minimum of 15
2044 years' imprisonment; however, if the person would be sentenced
2045 to a longer term of imprisonment under s. 775.084(4)(d), the
2046 person must be sentenced under that provision. A person
2047 convicted of a violation of this section is not eligible for any
2048 form of discretionary early release, other than pardon,
2049 executive clemency, or conditional medical release under s.
2050 947.149.

2051 Section 41. For the purpose of incorporating the amendment
2052 made by this act to section 947.149, Florida Statutes, in a
2053 reference thereto, subsection (7) of section 794.0115, Florida
2054 Statutes, is reenacted to read:

2055 794.0115 Dangerous sexual felony offender; mandatory
2056 sentencing.—

2057 (7) A defendant sentenced to a mandatory minimum term of
2058 imprisonment under this section is not eligible for statutory
2059 gain-time under s. 944.275 or any form of discretionary early
2060 release, other than pardon or executive clemency, or conditional
2061 medical release under s. 947.149, before serving the minimum
2062 sentence.

2063 Section 42. For the purpose of incorporating the amendment
2064 made by this act to section 947.149, Florida Statutes, in a
2065 reference thereto, paragraphs (b), (c), and (g) of subsection
2066 (1) and subsection (3) of section 893.135, Florida Statutes, are
2067 reenacted to read:

2068 893.135 Trafficking; mandatory sentences; suspension or
2069 reduction of sentences; conspiracy to engage in trafficking.—



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2070 (1) Except as authorized in this chapter or in chapter 499
2071 and notwithstanding the provisions of s. 893.13:

2072 (b)1. Any person who knowingly sells, purchases,
2073 manufactures, delivers, or brings into this state, or who is
2074 knowingly in actual or constructive possession of, 28 grams or
2075 more of cocaine, as described in s. 893.03(2)(a)4., or of any
2076 mixture containing cocaine, but less than 150 kilograms of
2077 cocaine or any such mixture, commits a felony of the first
2078 degree, which felony shall be known as "trafficking in cocaine,"
2079 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
2080 If the quantity involved:

2081 a. Is 28 grams or more, but less than 200 grams, such
2082 person shall be sentenced to a mandatory minimum term of
2083 imprisonment of 3 years, and the defendant shall be ordered to
2084 pay a fine of \$50,000.

2085 b. Is 200 grams or more, but less than 400 grams, such
2086 person shall be sentenced to a mandatory minimum term of
2087 imprisonment of 7 years, and the defendant shall be ordered to
2088 pay a fine of \$100,000.

2089 c. Is 400 grams or more, but less than 150 kilograms, such
2090 person shall be sentenced to a mandatory minimum term of
2091 imprisonment of 15 calendar years and pay a fine of \$250,000.

2092 2. Any person who knowingly sells, purchases, manufactures,
2093 delivers, or brings into this state, or who is knowingly in
2094 actual or constructive possession of, 150 kilograms or more of
2095 cocaine, as described in s. 893.03(2)(a)4., commits the first
2096 degree felony of trafficking in cocaine. A person who has been
2097 convicted of the first degree felony of trafficking in cocaine
2098 under this subparagraph shall be punished by life imprisonment



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2099 and is ineligible for any form of discretionary early release
2100 except pardon or executive clemency or conditional medical
2101 release under s. 947.149. However, if the court determines that,
2102 in addition to committing any act specified in this paragraph:

2103 a. The person intentionally killed an individual or
2104 counseled, commanded, induced, procured, or caused the
2105 intentional killing of an individual and such killing was the
2106 result; or

2107 b. The person's conduct in committing that act led to a
2108 natural, though not inevitable, lethal result,

2109
2110 such person commits the capital felony of trafficking in
2111 cocaine, punishable as provided in ss. 775.082 and 921.142. Any
2112 person sentenced for a capital felony under this paragraph shall
2113 also be sentenced to pay the maximum fine provided under
2114 subparagraph 1.

2115 3. Any person who knowingly brings into this state 300
2116 kilograms or more of cocaine, as described in s. 893.03(2)(a)4.,
2117 and who knows that the probable result of such importation would
2118 be the death of any person, commits capital importation of
2119 cocaine, a capital felony punishable as provided in ss. 775.082
2120 and 921.142. Any person sentenced for a capital felony under
2121 this paragraph shall also be sentenced to pay the maximum fine
2122 provided under subparagraph 1.

2123 (c)1. A person who knowingly sells, purchases,
2124 manufactures, delivers, or brings into this state, or who is
2125 knowingly in actual or constructive possession of, 4 grams or
2126 more of any morphine, opium, hydromorphone, or any salt,
2127 derivative, isomer, or salt of an isomer thereof, including



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2128 heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c)3., or
2129 (3)(c)4., or 4 grams or more of any mixture containing any such
2130 substance, but less than 30 kilograms of such substance or
2131 mixture, commits a felony of the first degree, which felony
2132 shall be known as "trafficking in illegal drugs," punishable as
2133 provided in s. 775.082, s. 775.083, or s. 775.084. If the
2134 quantity involved:

2135 a. Is 4 grams or more, but less than 14 grams, such person
2136 shall be sentenced to a mandatory minimum term of imprisonment
2137 of 3 years and shall be ordered to pay a fine of \$50,000.

2138 b. Is 14 grams or more, but less than 28 grams, such person
2139 shall be sentenced to a mandatory minimum term of imprisonment
2140 of 15 years and shall be ordered to pay a fine of \$100,000.

2141 c. Is 28 grams or more, but less than 30 kilograms, such
2142 person shall be sentenced to a mandatory minimum term of
2143 imprisonment of 25 years and shall be ordered to pay a fine of
2144 \$500,000.

2145 2. A person who knowingly sells, purchases, manufactures,
2146 delivers, or brings into this state, or who is knowingly in
2147 actual or constructive possession of, 14 grams or more of
2148 hydrocodone, as described in s. 893.03(2)(a)1.j., codeine, as
2149 described in s. 893.03(2)(a)1.g., or any salt thereof, or 14
2150 grams or more of any mixture containing any such substance,
2151 commits a felony of the first degree, which felony shall be
2152 known as "trafficking in hydrocodone," punishable as provided in
2153 s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

2154 a. Is 14 grams or more, but less than 28 grams, such person
2155 shall be sentenced to a mandatory minimum term of imprisonment
2156 of 3 years and shall be ordered to pay a fine of \$50,000.



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2157 b. Is 28 grams or more, but less than 50 grams, such person
2158 shall be sentenced to a mandatory minimum term of imprisonment
2159 of 7 years and shall be ordered to pay a fine of \$100,000.

2160 c. Is 50 grams or more, but less than 200 grams, such
2161 person shall be sentenced to a mandatory minimum term of
2162 imprisonment of 15 years and shall be ordered to pay a fine of
2163 \$500,000.

2164 d. Is 200 grams or more, but less than 30 kilograms, such
2165 person shall be sentenced to a mandatory minimum term of
2166 imprisonment of 25 years and shall be ordered to pay a fine of
2167 \$750,000.

2168 3. A person who knowingly sells, purchases, manufactures,
2169 delivers, or brings into this state, or who is knowingly in
2170 actual or constructive possession of, 7 grams or more of
2171 oxycodone, as described in s. 893.03(2)(a)1.o., or any salt
2172 thereof, or 7 grams or more of any mixture containing any such
2173 substance, commits a felony of the first degree, which felony
2174 shall be known as "trafficking in oxycodone," punishable as
2175 provided in s. 775.082, s. 775.083, or s. 775.084. If the
2176 quantity involved:

2177 a. Is 7 grams or more, but less than 14 grams, such person
2178 shall be sentenced to a mandatory minimum term of imprisonment
2179 of 3 years and shall be ordered to pay a fine of \$50,000.

2180 b. Is 14 grams or more, but less than 25 grams, such person
2181 shall be sentenced to a mandatory minimum term of imprisonment
2182 of 7 years and shall be ordered to pay a fine of \$100,000.

2183 c. Is 25 grams or more, but less than 100 grams, such
2184 person shall be sentenced to a mandatory minimum term of
2185 imprisonment of 15 years and shall be ordered to pay a fine of



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2186 \$500,000.

2187 d. Is 100 grams or more, but less than 30 kilograms, such
2188 person shall be sentenced to a mandatory minimum term of
2189 imprisonment of 25 years and shall be ordered to pay a fine of
2190 \$750,000.

2191 4.a. A person who knowingly sells, purchases, manufactures,
2192 delivers, or brings into this state, or who is knowingly in
2193 actual or constructive possession of, 4 grams or more of:

2194 (I) Alfentanil, as described in s. 893.03(2)(b)1.;

2195 (II) Carfentanil, as described in s. 893.03(2)(b)6.;

2196 (III) Fentanyl, as described in s. 893.03(2)(b)9.;

2197 (IV) Sufentanil, as described in s. 893.03(2)(b)29.;

2198 (V) A fentanyl derivative, as described in s.

2199 893.03(1)(a)62.;

2200 (VI) A controlled substance analog, as described in s.

2201 893.0356, of any substance described in sub-sub-subparagraphs

2202 (I)-(V); or

2203 (VII) A mixture containing any substance described in sub-
2204 sub-subparagraphs (I)-(VI),

2205

2206 commits a felony of the first degree, which felony shall be
2207 known as "trafficking in fentanyl," punishable as provided in s.
2208 775.082, s. 775.083, or s. 775.084.

2209 b. If the quantity involved under sub-subparagraph a.:

2210 (I) Is 4 grams or more, but less than 14 grams, such person
2211 shall be sentenced to a mandatory minimum term of imprisonment
2212 of 3 years, and shall be ordered to pay a fine of \$50,000.

2213 (II) Is 14 grams or more, but less than 28 grams, such
2214 person shall be sentenced to a mandatory minimum term of



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2215 imprisonment of 15 years, and shall be ordered to pay a fine of
2216 \$100,000.

2217 (III) Is 28 grams or more, such person shall be sentenced
2218 to a mandatory minimum term of imprisonment of 25 years, and
2219 shall be ordered to pay a fine of \$500,000.

2220 5. A person who knowingly sells, purchases, manufactures,
2221 delivers, or brings into this state, or who is knowingly in
2222 actual or constructive possession of, 30 kilograms or more of
2223 any morphine, opium, oxycodone, hydrocodone, codeine,
2224 hydromorphone, or any salt, derivative, isomer, or salt of an
2225 isomer thereof, including heroin, as described in s.
2226 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 30 kilograms or
2227 more of any mixture containing any such substance, commits the
2228 first degree felony of trafficking in illegal drugs. A person
2229 who has been convicted of the first degree felony of trafficking
2230 in illegal drugs under this subparagraph shall be punished by
2231 life imprisonment and is ineligible for any form of
2232 discretionary early release except pardon or executive clemency
2233 or conditional medical release under s. 947.149. However, if the
2234 court determines that, in addition to committing any act
2235 specified in this paragraph:

2236 a. The person intentionally killed an individual or
2237 counseled, commanded, induced, procured, or caused the
2238 intentional killing of an individual and such killing was the
2239 result; or

2240 b. The person's conduct in committing that act led to a
2241 natural, though not inevitable, lethal result,
2242
2243 such person commits the capital felony of trafficking in illegal



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2244 drugs, punishable as provided in ss. 775.082 and 921.142. A
2245 person sentenced for a capital felony under this paragraph shall
2246 also be sentenced to pay the maximum fine provided under
2247 subparagraph 1.

2248 6. A person who knowingly brings into this state 60
2249 kilograms or more of any morphine, opium, oxycodone,
2250 hydrocodone, codeine, hydromorphone, or any salt, derivative,
2251 isomer, or salt of an isomer thereof, including heroin, as
2252 described in s. 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or
2253 60 kilograms or more of any mixture containing any such
2254 substance, and who knows that the probable result of such
2255 importation would be the death of a person, commits capital
2256 importation of illegal drugs, a capital felony punishable as
2257 provided in ss. 775.082 and 921.142. A person sentenced for a
2258 capital felony under this paragraph shall also be sentenced to
2259 pay the maximum fine provided under subparagraph 1.

2260 (g)1. Any person who knowingly sells, purchases,
2261 manufactures, delivers, or brings into this state, or who is
2262 knowingly in actual or constructive possession of, 4 grams or
2263 more of flunitrazepam or any mixture containing flunitrazepam as
2264 described in s. 893.03(1)(a) commits a felony of the first
2265 degree, which felony shall be known as "trafficking in
2266 flunitrazepam," punishable as provided in s. 775.082, s.
2267 775.083, or s. 775.084. If the quantity involved:

2268 a. Is 4 grams or more but less than 14 grams, such person
2269 shall be sentenced to a mandatory minimum term of imprisonment
2270 of 3 years, and the defendant shall be ordered to pay a fine of
2271 \$50,000.

2272 b. Is 14 grams or more but less than 28 grams, such person



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2273 shall be sentenced to a mandatory minimum term of imprisonment
2274 of 7 years, and the defendant shall be ordered to pay a fine of
2275 \$100,000.

2276 c. Is 28 grams or more but less than 30 kilograms, such
2277 person shall be sentenced to a mandatory minimum term of
2278 imprisonment of 25 calendar years and pay a fine of \$500,000.

2279 2. Any person who knowingly sells, purchases, manufactures,
2280 delivers, or brings into this state or who is knowingly in
2281 actual or constructive possession of 30 kilograms or more of
2282 flunitrazepam or any mixture containing flunitrazepam as
2283 described in s. 893.03(1)(a) commits the first degree felony of
2284 trafficking in flunitrazepam. A person who has been convicted of
2285 the first degree felony of trafficking in flunitrazepam under
2286 this subparagraph shall be punished by life imprisonment and is
2287 ineligible for any form of discretionary early release except
2288 pardon or executive clemency or conditional medical release
2289 under s. 947.149. However, if the court determines that, in
2290 addition to committing any act specified in this paragraph:

2291 a. The person intentionally killed an individual or
2292 counseled, commanded, induced, procured, or caused the
2293 intentional killing of an individual and such killing was the
2294 result; or

2295 b. The person's conduct in committing that act led to a
2296 natural, though not inevitable, lethal result,

2297
2298 such person commits the capital felony of trafficking in
2299 flunitrazepam, punishable as provided in ss. 775.082 and
2300 921.142. Any person sentenced for a capital felony under this
2301 paragraph shall also be sentenced to pay the maximum fine



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2302 provided under subparagraph 1.

2303 (3) Notwithstanding the provisions of s. 948.01, with
2304 respect to any person who is found to have violated this
2305 section, adjudication of guilt or imposition of sentence shall
2306 not be suspended, deferred, or withheld, nor shall such person
2307 be eligible for parole prior to serving the mandatory minimum
2308 term of imprisonment prescribed by this section. A person
2309 sentenced to a mandatory minimum term of imprisonment under this
2310 section is not eligible for any form of discretionary early
2311 release, except pardon or executive clemency or conditional
2312 medical release under s. 947.149, prior to serving the mandatory
2313 minimum term of imprisonment.

2314 Section 43. For the purpose of incorporating the amendment
2315 made by this act to section 947.149, Florida Statutes, in a
2316 reference thereto, subsection (2) of section 921.0024, Florida
2317 Statutes, is reenacted to read:

2318 921.0024 Criminal Punishment Code; worksheet computations;
2319 scoresheets.—

2320 (2) The lowest permissible sentence is the minimum sentence
2321 that may be imposed by the trial court, absent a valid reason
2322 for departure. The lowest permissible sentence is any nonstate
2323 prison sanction in which the total sentence points equals or is
2324 less than 44 points, unless the court determines within its
2325 discretion that a prison sentence, which may be up to the
2326 statutory maximums for the offenses committed, is appropriate.
2327 When the total sentence points exceeds 44 points, the lowest
2328 permissible sentence in prison months shall be calculated by
2329 subtracting 28 points from the total sentence points and
2330 decreasing the remaining total by 25 percent. The total sentence



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2331 points shall be calculated only as a means of determining the
2332 lowest permissible sentence. The permissible range for
2333 sentencing shall be the lowest permissible sentence up to and
2334 including the statutory maximum, as defined in s. 775.082, for
2335 the primary offense and any additional offenses before the court
2336 for sentencing. The sentencing court may impose such sentences
2337 concurrently or consecutively. However, any sentence to state
2338 prison must exceed 1 year. If the lowest permissible sentence
2339 under the code exceeds the statutory maximum sentence as
2340 provided in s. 775.082, the sentence required by the code must
2341 be imposed. If the total sentence points are greater than or
2342 equal to 363, the court may sentence the offender to life
2343 imprisonment. An offender sentenced to life imprisonment under
2344 this section is not eligible for any form of discretionary early
2345 release, except executive clemency or conditional medical
2346 release under s. 947.149.

2347 Section 44. For the purpose of incorporating the amendment
2348 made by this act to section 947.149, Florida Statutes, in a
2349 reference thereto, paragraph (b) of subsection (7) of section
2350 944.605, Florida Statutes, is reenacted to read:

2351 944.605 Inmate release; notification; identification card.-
2352 (7)

2353 (b) Paragraph (a) does not apply to inmates who:

2354 1. The department determines have a valid driver license or
2355 state identification card, except that the department shall
2356 provide these inmates with a replacement state identification
2357 card or replacement driver license, if necessary.

2358 2. Have an active detainer, unless the department
2359 determines that cancellation of the detainer is likely or that



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2360 the incarceration for which the detainer was issued will be less
2361 than 12 months in duration.

2362 3. Are released due to an emergency release or a
2363 conditional medical release under s. 947.149.

2364 4. Are not in the physical custody of the department at or
2365 within 180 days before release.

2366 5. Are subject to sex offender residency restrictions, and
2367 who, upon release under such restrictions, do not have a
2368 qualifying address.

2369 Section 45. For the purpose of incorporating the amendment
2370 made by this act to section 947.149, Florida Statutes, in a
2371 reference thereto, paragraph (b) of subsection (1) of section
2372 944.70, Florida Statutes, is reenacted to read:

2373 944.70 Conditions for release from incarceration.—

2374 (1)

2375 (b) A person who is convicted of a crime committed on or
2376 after January 1, 1994, may be released from incarceration only:

2377 1. Upon expiration of the person's sentence;

2378 2. Upon expiration of the person's sentence as reduced by
2379 accumulated meritorious or incentive gain-time;

2380 3. As directed by an executive order granting clemency;

2381 4. Upon placement in a conditional release program pursuant
2382 to s. 947.1405 or a conditional medical release program pursuant
2383 to s. 947.149; or

2384 5. Upon the granting of control release, including
2385 emergency control release, pursuant to s. 947.146.

2386 Section 46. For the purpose of incorporating the amendment
2387 made by this act to section 947.149, Florida Statutes, in a
2388 reference thereto, paragraph (h) of subsection (1) of section



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2389 947.13, Florida Statutes, is reenacted to read:

2390 947.13 Powers and duties of commission.—

2391 (1) The commission shall have the powers and perform the
2392 duties of:

2393 (h) Determining what persons will be released on
2394 conditional medical release under s. 947.149, establishing the
2395 conditions of conditional medical release, and determining
2396 whether a person has violated the conditions of conditional
2397 medical release and taking action with respect to such a
2398 violation.

2399 Section 47. For the purpose of incorporating the amendment
2400 made by this act to section 947.149, Florida Statutes, in a
2401 reference thereto, subsections (1), (2), and (7) of section
2402 947.141, Florida Statutes, are reenacted to read:

2403 947.141 Violations of conditional release, control release,
2404 or conditional medical release or addiction-recovery
2405 supervision.—

2406 (1) If a member of the commission or a duly authorized
2407 representative of the commission has reasonable grounds to
2408 believe that an offender who is on release supervision under s.
2409 947.1405, s. 947.146, s. 947.149, or s. 944.4731 has violated
2410 the terms and conditions of the release in a material respect,
2411 such member or representative may cause a warrant to be issued
2412 for the arrest of the releasee; if the offender was found to be
2413 a sexual predator, the warrant must be issued.

2414 (2) Upon the arrest on a felony charge of an offender who
2415 is on release supervision under s. 947.1405, s. 947.146, s.
2416 947.149, or s. 944.4731, the offender must be detained without
2417 bond until the initial appearance of the offender at which a



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2418 judicial determination of probable cause is made. If the trial
2419 court judge determines that there was no probable cause for the
2420 arrest, the offender may be released. If the trial court judge
2421 determines that there was probable cause for the arrest, such
2422 determination also constitutes reasonable grounds to believe
2423 that the offender violated the conditions of the release. Within
2424 24 hours after the trial court judge's finding of probable
2425 cause, the detention facility administrator or designee shall
2426 notify the commission and the department of the finding and
2427 transmit to each a facsimile copy of the probable cause
2428 affidavit or the sworn offense report upon which the trial court
2429 judge's probable cause determination is based. The offender must
2430 continue to be detained without bond for a period not exceeding
2431 72 hours excluding weekends and holidays after the date of the
2432 probable cause determination, pending a decision by the
2433 commission whether to issue a warrant charging the offender with
2434 violation of the conditions of release. Upon the issuance of the
2435 commission's warrant, the offender must continue to be held in
2436 custody pending a revocation hearing held in accordance with
2437 this section.

2438 (7) If a law enforcement officer has probable cause to
2439 believe that an offender who is on release supervision under s.
2440 947.1405, s. 947.146, s. 947.149, or s. 944.4731 has violated
2441 the terms and conditions of his or her release by committing a
2442 felony offense, the officer shall arrest the offender without a
2443 warrant, and a warrant need not be issued in the case.

2444 Section 48. This act shall take effect October 1, 2018.

2445

2446 ===== T I T L E A M E N D M E N T =====



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2447 And the title is amended as follows:

2448 Delete everything before the enacting clause
2449 and insert:

2450 A bill to be entitled

2451 An act relating to public safety; amending s. 14.32,
2452 F.S.; creating the council within the Office of Chief
2453 Inspector General; specifying the purpose of the
2454 council; requiring the Office of Chief Inspector
2455 General to provide administrative support to the
2456 council; specifying the composition of the council;
2457 providing terms of office and requirements regarding
2458 the council's membership; prescribing the duties and
2459 responsibilities of the council; prohibiting the
2460 council from interfering with the operations of the
2461 Department of Corrections or the Department of
2462 Juvenile Justice; authorizing the council to appoint
2463 an executive director; authorizing reimbursement for
2464 per diem and travel expenses for members of the
2465 council; establishing certain restrictions applicable
2466 to members of the council and council staff; providing
2467 an appropriation; amending s. 23.1225, F.S.;
2468 authorizing a mutual aid agreement in the event of a
2469 declared state of emergency for certain law
2470 enforcement purposes; amending s. 30.15, F.S.; making
2471 sheriffs responsible for providing security for trial
2472 court facilities in their respective counties;
2473 requiring a sheriff to coordinate with the chief judge
2474 of the judicial circuit on trial court facility
2475 security matters; deeming sheriffs and their deputies,



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2476 employees, and contractors officers of the court when
2477 providing security; granting the chief judge of the
2478 judicial circuit authority to protect due process
2479 rights in certain circumstances; amending s. 57.105,
2480 F.S.; limiting attorney fee awards in civil
2481 proceedings in certain circumstances; creating s.
2482 322.75, F.S.; requiring each judicial circuit to
2483 establish a Driver License Reinstatement Days program
2484 for reinstating suspended driver licenses in certain
2485 circumstances; providing duties of the clerks of court
2486 and the Department of Highway Safety and Motor
2487 Vehicles; authorizing the clerk of court to compromise
2488 on certain fees and costs; providing for program
2489 eligibility; amending 784.046, F.S.; prohibiting
2490 attorney fee awards in certain proceedings; amending
2491 s. 784.0485, F.S.; prohibiting attorney fee awards in
2492 certain proceedings; amending s. 893.135, F.S.;
2493 authorizing a court to impose a sentence other than a
2494 mandatory minimum term of imprisonment and mandatory
2495 fine for a person convicted of trafficking if the
2496 court makes certain findings on the record; creating
2497 s. 900.05, F.S.; providing legislative intent;
2498 providing definitions; requiring specified entities to
2499 collect specific data monthly beginning on a certain
2500 date; requiring specified entities to transmit certain
2501 collected data to the Department of Law Enforcement
2502 quarterly; requiring the Department of Law Enforcement
2503 to compile, maintain, and make publicly accessible
2504 such data beginning on a certain date; creating a



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2505 pilot project in a specified judicial circuit to
2506 improve criminal justice data transparency and ensure
2507 data submitted under s. 900.05, F.S., is accurate,
2508 valid, reliable, and structured; authorizing certain
2509 persons to enter into a memorandum of understanding
2510 with a national, nonpartisan, not-for-profit entity
2511 meeting certain criteria for the purpose of embedding
2512 a data fellow in the office or agency; establishing
2513 data fellow duties and responsibilities; providing for
2514 the expiration of the pilot project; providing an
2515 appropriation; creating s. 907.042, F.S.; authorizing
2516 each county to create a supervised bond release
2517 program; providing legislative findings; providing a
2518 supervised bond program must be created with the
2519 concurrence of the chief judge, county's chief
2520 correctional officer, state attorney, and public
2521 defender; providing an exception to a county that has
2522 already established and implemented a supervised bond
2523 program that utilizes a risk assessment instrument;
2524 providing specified program components; providing
2525 guidelines for the risk assessment instrument;
2526 authorizing the county to contract with the Department
2527 of Corrections to develop or modify a risk assessment
2528 instrument if such instrument meets certain
2529 requirements; authorizing a county to develop or use
2530 an existing risk assessment instrument if validated by
2531 the department and such instrument meets certain
2532 requirements; authorizing a county to contract with
2533 another county for the use of a risk assessment



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2534 instrument if validated and such instrument meets
2535 certain requirements; authorizing the county to
2536 contract with an independent entity for use of a risk
2537 assessment instrument if validated and such instrument
2538 meets certain requirements; specifying requirements
2539 for the use, implementation, and distribution of the
2540 risk assessment instrument; requiring each county that
2541 establishes a supervised bond program to submit a
2542 report annually by a certain date to the Office of
2543 Program Policy Analysis and Government Accountability
2544 (OPPAGA); requiring OPPAGA to compile the reports and
2545 include such information in a report sent to the
2546 Governor, President of the Senate, and Speaker of the
2547 House of Representatives in accordance with s.
2548 907.044, F.S.; creating s. 907.0421, F.S.; providing
2549 legislative findings; requiring the Department of
2550 Corrections to develop a risk assessment instrument;
2551 authorizing the department to use or modify an
2552 existing risk assessment instrument; requiring the
2553 department to develop or modify the risk assessment
2554 instrument by a certain date; specifying requirements
2555 for the use, implementation, and distribution of the
2556 risk assessment instrument; creating the Risk
2557 Assessment Pilot Program for a specified period;
2558 specifying the participating counties; requiring each
2559 participating county's chief correctional officer to
2560 contract with the department to administer the risk
2561 assessment instrument; requiring all counties to
2562 administer the risk assessment instrument to all



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2563 persons arrested for a felony; requiring each
2564 participating county to submit a report annually by a
2565 certain date to the department with specified
2566 information; requiring the department to compile the
2567 information of the findings from the participating
2568 counties and submit an annual report by a certain date
2569 to the Governor and the Legislature; authorizing the
2570 department, in consultation with specified persons, to
2571 adopt rules; amending s. 907.043, F.S.; requiring each
2572 pretrial release program to include in its annual
2573 report the types of criminal charges of defendants
2574 accepted into a pretrial release program, the number
2575 of defendants accepted into a pretrial release program
2576 who paid a bail or bond, the number of defendants
2577 accepted into a pretrial release program with no prior
2578 criminal conviction, and the number of defendants for
2579 whom a pretrial risk assessment tool was used or was
2580 not used; creating a pilot project in a specified
2581 judicial circuit to improve criminal justice data
2582 transparency and ensure data submitted under s.
2583 900.05, F.S., is accurate, valid, reliable, and
2584 structured; authorizing certain persons to enter into
2585 a memorandum of understanding with a national,
2586 nonpartisan, not-for-profit entity meeting certain
2587 criteria for the purpose of embedding a data fellow in
2588 the office or agency; establishing data fellow duties
2589 and responsibilities; providing for the expiration of
2590 the pilot project; providing an appropriation;
2591 amending s. 921.0024, F.S.; requiring scoresheets



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2592 prepared for all criminal defendants to be digitized;
2593 requiring the Department of Corrections to develop and
2594 submit revised digitized scoresheets to the Supreme
2595 Court for approval; requiring digitized scoresheets to
2596 include individual data cells for each field on the
2597 scoresheet; requiring the clerk of court to
2598 electronically transmit the digitized scoresheet used
2599 in each sentencing proceeding to the Department of
2600 Corrections; amending s. 932.7061, F.S.; revising the
2601 deadline for submitting an annual report by law
2602 enforcement agencies concerning property seized or
2603 forfeited under the Florida Contraband Forfeiture Act;
2604 creating s. 943.687, F.S.; requiring the Department of
2605 Law Enforcement to collect, compile, maintain, and
2606 manage data collected pursuant to s. 900.05, F.S.;
2607 requiring the Department of Law Enforcement to make
2608 data comparable, transferable, and readily usable;
2609 requiring the department to create a unique identifier
2610 for each criminal case received from the clerks of
2611 court; requiring the department to create and maintain
2612 a certain Internet-based database; providing
2613 requirements for data searchability and sharing;
2614 requiring the department to establish certain rules;
2615 requiring the department to monitor data collection
2616 procedures and test data quality; providing for data
2617 archiving, editing, retrieval, and verification;
2618 amending s. 944.704, F.S.; requiring transition
2619 assistance staff to include information about job
2620 assignment credentialing and industry certification in



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2621 job placement information given to an inmate; amending
2622 s. 944.705, F.S.; requiring the Department of
2623 Corrections to provide a comprehensive community
2624 reentry resource directory to each inmate prior to
2625 release; requiring the department to allow nonprofit
2626 faith-based, business and professional, civic, and
2627 community organizations to apply to be registered to
2628 provide inmate reentry services; requiring the
2629 department to adopt policies for screening, approving,
2630 and registering organizations that apply; authorizing
2631 the department to contract with public or private
2632 educational institutions to assist veteran inmates in
2633 applying for certain benefits; amending s. 944.801,
2634 F.S.; requiring the department to develop a Prison
2635 Entrepreneurship Program and adopt procedures for
2636 student inmate admission; specifying requirements for
2637 the program; requiring the department to enter into
2638 agreements with certain entities to carry out duties
2639 associated with the program; authorizing the
2640 department to contract with certain entities to
2641 provide education services for the Correctional
2642 Education Program; creating s. 944.805, F.S.; creating
2643 definitions relating to a certificate of achievement
2644 and employability; creating s. 944.8055, F.S.;
2645 establishing eligibility requirements; establishing a
2646 timeframe for an eligible inmate to apply for a
2647 certificate; establishing eligibility requirements for
2648 an inmate under probation or post-control sanction;
2649 establishing a timeframe for an eligible inmate under



504974

2650 probation or post-control sanction to apply for a
2651 certificate; requiring the department to notify a
2652 licensing agency upon the filing of an application and
2653 provide the opportunity to object to issuing a
2654 certificate; authorizing the department to issue a
2655 certificate; excluding mandatory civil impacts for
2656 which a certificate will not provide relief; requiring
2657 the department to adopt rules; creating s. 944.806,
2658 F.S.; providing a certificate of achievement and
2659 employability shall convert a mandatory civil impact
2660 into a discretionary civil impact for purposes of
2661 determining licensure or certification; providing a
2662 certificate shall convert a mandatory civil impact
2663 into a discretionary civil impact for purposes of
2664 determining licensure or certification for an employer
2665 who has hired a certificate holder; creating s.
2666 944.8065, F.S.; requiring the department to adopt
2667 rules governing revocation of a certificate of
2668 achievement and employability; creating s. 945.041,
2669 F.S.; requiring the Department of Corrections to
2670 publish quarterly on its website inmate admissions
2671 based on offense type and the recidivism rate and rate
2672 of probation revocation within a specified period
2673 after release from incarceration; amending s. 947.005,
2674 F.S.; defining the terms "electronic monitoring
2675 device" and "conditional medical release"; amending s.
2676 947.149, F.S.; defining the terms "inmate with a
2677 debilitating illness" and "medically frail inmate";
2678 amending the definition of "terminally ill inmate";



504974

2679 expanding eligibility for conditional medical release
2680 to include inmates with debilitating illnesses;
2681 entitling the current conditional medical release
2682 process as "permissive conditional medical release";
2683 requiring the Department of Corrections to refer
2684 eligible inmates; authorizing the Florida Commission
2685 on Offender Review to release eligible inmates;
2686 creating mandatory conditional medical release;
2687 specifying eligibility criteria for mandatory
2688 conditional medical release; requiring the department
2689 to refer an eligible inmate to the commission;
2690 requiring that certain inmates whose eligibility is
2691 verified by the commission be placed on conditional
2692 medical release; requiring the commission to review
2693 the information and verify an inmate's eligibility
2694 within a certain timeframe; requiring that the
2695 department's referral for release include certain
2696 information; requiring that release consider specified
2697 factors related to placement upon release; authorizing
2698 electronic monitoring for an inmate on conditional
2699 medical release; amending s. 948.001, F.S.; revising a
2700 definition; amending s. 948.013, F.S.; authorizing the
2701 Department of Corrections to transfer an offender to
2702 administrative probation in certain circumstances;
2703 amending s. 948.03, F.S.; requiring the Department of
2704 Corrections to include conditions of probation in the
2705 Florida Crime Information Center database; amending s.
2706 948.06, F.S.; requiring each judicial circuit to
2707 establish an alternative sanctioning program; defining



504974

2708 low- and moderate-risk level technical violations of
2709 probation; establishing permissible sanctions for low-
2710 and moderate-risk violations of probation under the
2711 program; establishing eligibility criteria;
2712 authorizing a probationer who allegedly committed a
2713 technical violation to waive participation in or elect
2714 to participate in the program, admit to the violation,
2715 agree to comply with the recommended sanction, and
2716 agree to waive certain rights; requiring a probation
2717 officer to submit the recommended sanction and certain
2718 documentation to the court if the probationer admits
2719 to committing the violation; authorizing the court to
2720 impose the recommended sanction or direct the
2721 department to submit a violation report, affidavit,
2722 and warrant to the court; specifying that a
2723 probationer's participation in the program is
2724 voluntary; authorizing a probation officer to submit a
2725 violation report, affidavit, and warrant to the court
2726 in certain circumstances; creating s. 948.081, F.S.;
2727 authorizing the establishment of community court
2728 programs; detailing program criteria; reenacting s.
2729 932.7062, F.S., relating to a penalty for
2730 noncompliance with reporting requirements, to
2731 incorporate the amendment made to s. 932.7061, F.S.,
2732 in a reference thereto; reenacting ss. 447.203(3),
2733 F.S., and 944.026(3), F.S., relating to definitions
2734 and community-based facilities, to incorporate the
2735 amendment made to s. 944.801, F.S., in references
2736 thereto; reenacting ss. 316.1935(6), 775.084(4)(k),



504974

2737 775.087(2)(b) and(3)(b), 784.07(3), 790.235(1),
2738 794.0115(7), 893.135(1)(b), (c), and (g) and (3),
2739 921.0024(2), 944.605(7)(b), 944.70(1)(b),
2740 947.13(1)(h), and 947.141(1), (2), and (7), F.S., all
2741 relating to authorized conditional medical release
2742 granted under s. 947.149, F.S., to incorporate the
2743 amendment made to s. 947.149, F.S., in references
2744 thereto; providing an effective date.



431678

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/21/2018	.	
	.	
	.	
	.	

Appropriations Subcommittee on Criminal and Civil Justice
(Brandes) recommended the following:

Senate Amendment to Amendment (504974) (with title amendment)

Delete lines 124 - 129
and insert:

(4) (a) The sheriff and the governing board of the county shall provide security for trial court facilities located within each county of a judicial circuit. The sheriff and the county shall coordinate with the chief judge of the applicable judicial circuit on security matters for such facilities, but the sheriff



431678

11 and county shall retain operational control over the manner in
12 which security is provided, as applicable, in such facilities.
13 Nothing in this subsection shall be construed to affect or erode
14 the authority of counties under Article V, s.14, of the Florida
15 Constitution or s. 29.008, to provide and fund the security of
16 facilities as defined s. 29.008(1)(e).

17
18 ===== T I T L E A M E N D M E N T =====

19 And the title is amended as follows:

20 Delete line 2475

21 and insert:

22 security matters; providing that this provision does
23 not affect or erode the authority of the counties
24 under Article V, s. 14, of the Florida Constitution,
25 or s. 29.08, F.S., to provide and fund the security of
26 facilities as defined in s. 29.008(1)(e), F.S.;

27 deeming sheriffs and their deputies,

By the Committee on Criminal Justice; and Senator Brandes

591-02583-18

20181218c1

1 A bill to be entitled
2 An act relating to persons awaiting trial; creating s.
3 907.042, F.S.; providing legislative findings;
4 requiring the Department of Corrections to develop a
5 risk assessment instrument; authorizing the department
6 to use or modify an existing risk assessment
7 instrument; requiring the department to develop or
8 modify the risk assessment instrument by a certain
9 date; specifying requirements for the use,
10 implementation, and distribution of the risk
11 assessment instrument; creating the Risk Assessment
12 Pilot Program for a specified period; specifying the
13 participating counties; requiring each participating
14 county's chief correctional officer to contract with
15 the department to administer the risk assessment
16 instrument; requiring all counties to administer the
17 risk assessment instrument to all persons arrested for
18 a felony; requiring each participating county to
19 submit a report annually by a certain date to the
20 department with specified information; requiring the
21 department to compile the information of the findings
22 from the participating counties and submit an annual
23 report by a certain date to the Governor and the
24 Legislature; authorizing the department, in
25 consultation with specified persons, to adopt rules;
26 providing an effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:
29

591-02583-18

20181218c1

30 Section 1. Section 907.042, Florida Statutes, is created to
31 read:

32 907.042 Risk Assessment Pilot Program.-

33 (1) LEGISLATIVE FINDINGS.-The Legislature finds that there
34 is a need to use evidence-based methods to reduce recidivism.
35 The Legislature finds that the use of actuarial instruments that
36 classify offenders according to levels of risk to reoffend
37 provides a more consistent and accurate assessment of an
38 offender's risk and needs. The Legislature also finds that
39 research indicates that using accurate risk and needs assessment
40 instruments to identify appropriate interventions and
41 programming for offenders reduces recidivism.

42 (2) RISK ASSESSMENT INSTRUMENT.-

43 (a) The Department of Corrections shall develop a risk
44 assessment instrument that conducts a criminogenic assessment
45 for use in evaluating the proper placement and programming needs
46 for a person who is arrested. The risk assessment instrument
47 must consider, but need not be limited to, the following
48 criteria:

49 1. The nature and circumstances of the offense the person
50 committed.

51 2. The nature and extent of the person's prior criminal
52 history, if any.

53 3. Any prior history of the person failing to appear in
54 court.

55 4. The person's employment history, employability skills,
56 and employment interests.

57 5. The person's educational, vocational, and technical
58 training.

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20181218c1

59 6. The person's background, including his or her family,
60 home, and community environment.

61 7. The person's physical and mental health history,
62 including any substance use.

63 8. An evaluation of the person's criminal thinking,
64 criminal associates, and social awareness.

65 (b) The Department of Corrections may use or modify an
66 existing risk assessment instrument, if the instrument contains
67 the criteria enumerated in paragraph (a).

68 (c) The Department of Corrections shall complete the
69 development or modification of a risk assessment instrument no
70 later than March 1, 2019. The department may begin to implement
71 the risk assessment instrument immediately upon completion.
72 Implementation, including training all staff that will
73 administer the risk assessment instrument, must be completed by
74 June 30, 2019.

75 (d) A representative of the county's chief correctional
76 officer shall administer the risk assessment instrument as early
77 as reasonably possible after a person's arrest, but no later
78 than 10 business days after the arrest. If a person is released
79 from jail pursuant to chapter 903 before the administration of
80 the risk assessment instrument, the chief correctional officer,
81 or his or her representative, must schedule and provide written
82 notification of a date and time for the person to return to the
83 jail for the administration of the risk assessment instrument.
84 The date and time must be provided in writing upon the person's
85 pretrial release. The risk assessment instrument may be
86 conducted by video teleconference.

87 (e) A risk assessment instrument report must be made

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20181218c1

88 available to the person to whom the instrument is administered,
89 his or her legal counsel, and the state attorney upon completion
90 of the report. The Department of Corrections shall submit to the
91 court the risk assessment instrument report, but the court may
92 not review it without the consent of the person who is the
93 subject of the report and his or her legal counsel.

94 (3) CREATION.—Contingent upon appropriations and a contract
95 with each participating county, it is the intent of the
96 Legislature to establish a 3-year Risk Assessment Pilot Program
97 to perform a risk assessment evaluation on all persons arrested
98 for a felony in participating counties.

99 (4) PARTICIPATING COUNTIES.—Participation in the pilot
100 program is limited to Hillsborough, Pasco, and Pinellas
101 Counties. Each participating county's chief correctional officer
102 shall enter into a 3-year contract with the Department of
103 Corrections for the ability to utilize the risk assessment
104 instrument that is developed in accordance with this section.

105 (5) PILOT PROGRAM REQUIREMENTS.—

106 (a) The participating counties shall administer the risk
107 assessment instrument to all persons arrested for a felony and
108 utilize the results of such risk assessment instrument as a tool
109 for determining appropriate programming and sentencing with the
110 goal of reducing recidivism.

111 (b) Each county participating in the pilot program shall
112 provide an annual report to the Department of Corrections by
113 July 1 of each year of the pilot program which details the
114 results of the administration of the risk assessment instrument,
115 programming used for persons who received the assessment, and
116 the success rate of such programming. The department shall

591-02583-18

20181218c1

117 compile the county reports and submit one annual report to the
118 Governor, the President of the Senate, and the Speaker of the
119 House of Representatives by October 1 of each year of the pilot
120 program.

121 (6) RULEMAKING.—The Department of Corrections, in
122 consultation with a participating county's chief correctional
123 officer, chief judge, state attorney, and public defender, may
124 adopt rules to administer this section.

125 Section 2. This act shall take effect upon becoming a law.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/21/18

Meeting Date

SB 1218

Bill Number (if applicable)

431678

Amendment Barcode (if applicable)

Topic security at trial court facilities

Name Rebecca Delacruz

Job Title Legislative Affairs Director

Address 301 N Olive Ave. 1101.3

Street

West Palm Beach, FL 33401

City

State

Zip

Phone

Email

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Palm Beach County

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-21-18

Meeting Date

1218

Bill Number (if applicable)

431678

Amendment Barcode (if applicable)

Topic SB 1218

Name Brian Sullivan

Job Title Chief Legal Counsel

Address 100 S. Monroe

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Tallahassee

City

FL

State

32301

Zip

Phone 810-335-0150

Email bsullivan@flcounties.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Association of Counties

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/21/18

Meeting Date

1218

Bill Number (if applicable)

431678

Amendment Barcode (if applicable)

Topic PERSONS AWAITING TRIAL

Name EDWARD G. LABRADOR

Job Title LEGISLATIVE COUNSEL

Address 115 S. ANDREWS AVE

Street

Phone 954-826-1155

FT. LAUDERDALE FL 33301

City

State

Zip

Email elabrador@broward.org

Speaking: [X] For [] Against [] Information

Waive Speaking: [] In Support [] Against (The Chair will read this information into the record.)

Representing BROWARD COUNTY BO. OF COUNTY CMSRS.

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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2/21/18

Meeting Date

1218

Bill Number (if applicable)

431678

Amendment Barcode (if applicable)

Topic Amend to Amend Barcode 431678

Name Nicole Fogarty

Job Title Legislative Affairs Director

Address 2380 Virginia Ave

Street

Ft. Pierce

City

FL

State

34982

Zip

Phone 772-708-3954

Email

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing St. Lucie County

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-21-18 Meeting Date

SB 1218 Bill Number (if applicable)

#504974 Amendment Barcode (if applicable)

Topic Public Safety

Name Agnes Fery

Job Title

Address 2979 Woodrich Dr.

Phone 850-321-7756

Tallahassee FL 32301

Email

Speaking: [X] For [] Against [] Information

Waive Speaking: [] In Support [] Against (The Chair will read this information into the record.)

Representing

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [] Yes [X] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD



(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/21/18
Meeting Date

1218
Bill Number (if applicable)

504974
Amendment Barcode (if applicable)

Topic _____

Name SAZ WOOD

Job Title VP Policy

Address 100 N DUVAL ST.
Street

Phone 850-322-9941

TALL FL 32301
City State Zip

Email SNUZZ@JAMESMADISON.ORG

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing THE JAMES MADISON INSTITUTE

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/21/18

Meeting Date

1218

Bill Number (if applicable)

504974

Amendment Barcode (if applicable)

Topic _____

Name Skylar Zander

Job Title Deputy State Director

Address 200 W College Ave. 109

Street

Phone 850-728-4522

Tallahassee

City

FL

State

32301

Zip

Email SZander@afphq.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Americans for Prosperity

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)



THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/21/18
Meeting Date

1218
Bill Number (if applicable)

504974
Amendment Barcode (if applicable)

Topic CJ

Name Chelsea Murphy

Job Title State Director

Address 824 N. Duval St
Street

Phone 954-557-0714

City FL State 32303 Zip

Email

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Right on Crime

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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APPEARANCE RECORD



21 Feb 2018

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

1218

Bill Number (if applicable)

504974

Amendment Barcode (if applicable)

Topic _____

Name Diego Echeverri

Job Title Director of Coalitions

Address 200 W College Ave

Street

Phone 813-767-2084

Tallahassee FL

City

State

Zip

Email decheverri@cv4a

.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Concerned Veterans For America

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/21/18

Meeting Date

1218

Bill Number (if applicable)

504974

Amendment Barcode (if applicable)

Topic

Criminal Justice / Mandatory Minimums

Name

George Chamizo

Job Title

Attorney

Address

108 South Monroe Street

Phone

(850) 681-0024

Street

Tallahassee, FL 32301

Email

george@flapartners.com

City

State

Zip

Speaking:

For

Against

Information

Waive Speaking:

In Support

Against

(The Chair will read this information into the record.)

Representing

FACDL

Appearing at request of Chair:

Yes

No

Lobbyist registered with Legislature:

Yes

No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-21-18

Meeting Date

1218

Bill Number (if applicable)

504974

Amendment Barcode (if applicable)

Topic Roll Speech

Name Demetrius Minor

Job Title Director of Coalitions

727-270-1407

Address 200 W College Ave

Phone ~~850-728-4522~~

Street

Tallahassee FL 32301

City

State

Zip

Email dminor@genopp.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Generation Opportunity

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/21/19
Meeting Date

1218
Bill Number (if applicable)

Topic Criminal Justice

Amendment Barcode (if applicable)

Name Sal Nuzzo

Job Title Vice President of Policy

Address 100 N Duval Street

Phone 850-322-9941

Street

Tallahassee

FL

32301

Email snuzzo@jamesmadison.org

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing The James Madison Institute

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2.21.18
Meeting Date

1218
Bill Number (if applicable)

Topic Persons Awaiting Trial

Amendment Barcode (if applicable)

Name Barney Bishop

Job Title CEO

Address 204 South Monroe Street

Phone 510-9922

Street
Tallahassee FL 32301
City *State* *Zip*

Email Barney@BarneyBishop.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Smart Justice Alliance

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-21-18

Meeting Date

1218

Bill Number (if applicable)

Topic Persons Awaiting Trial

Amendment Barcode (if applicable)

Name Matthew Jones

Job Title President

Address 312 May St ~~Punta Gorda~~

Phone _____

Street

Punta Gorda

FL

33945

City

State

Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Bail Agents Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

APPEARANCE RECORD



2/21/18

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1218

Meeting Date

Bill Number (if applicable)

Topic

CJ

Amendment Barcode (if applicable)

Name

Chelsea Murray

Job Title

State Director

Address

824 N. Duval St.

Phone

954.557.0114

Street

FL

FL

32303

Email

City

State

Zip

Speaking:

For

Against

Information

Waive Speaking:

In Support

Against

(The Chair will read this information into the record.)

Representing

Right on Crime

Appearing at request of Chair:

Yes

No

Lobbyist registered with Legislature:

Yes

No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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APPEARANCE RECORD



21 Feb 2018

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1218

Meeting Date

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Diego Echeverri

Job Title Director of Coalitions

Address 200 W College Ave

Phone 813-767-2084

City Tallahassee State FL Zip _____

Email decheverri@cvva.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Concerned Veterans For America

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/21/18

Meeting Date

0218

Bill Number (if applicable)

Topic Bail Reform Etc

Amendment Barcode (if applicable)

Name Curtis Lee

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City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

02/21/2018

Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB 1218

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

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Job Title COALITIONS DIRECTOR

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Phone 786.260.9283

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TALAHASSEE FL

Email

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing THE LIBRE INITIATIVE

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/21/15
Meeting Date

CS/SB 1218
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Robert Trammell

Job Title Gen Counsel

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Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Public Defenders

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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APPEARANCE RECORD

02-21-2018

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1218

Meeting Date

Bill Number (if applicable)

Topic Bail Reform

Amendment Barcode (if applicable)

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State

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Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Citizens For Criminal ~~Justice~~ Reform

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1218

Bill Number (if applicable)

Meeting Date

Topic Bail Reform

Amendment Barcode (if applicable)

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Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Criminal Justice Reform ACLU

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/24/18

Meeting Date

1218

Bill Number (if applicable)

504979

Amendment Barcode (if applicable)

Topic Criminal Justice / Safety Valve

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Speaking: [X] For [] Against [] Information

Waive Speaking: [X] In Support [] Against (The Chair will read this information into the record.)

Representing Families Against Mandatory Minimums (FAMM)

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Criminal and Civil Justice

BILL: CS/SB 1442

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Book

SUBJECT: Early Childhood Court Programs

DATE: February 20, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Preston</u>	<u>Hendon</u>	<u>CF</u>	Fav/CS
2.	<u>Harkness</u>	<u>Sadberry</u>	<u>ACJ</u>	Recommend: Favorable
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1442 creates an early childhood court program that addresses cases involving children typically under the age of three and utilizes specialized dockets, multidisciplinary teams, and a nonadversarial approach. The bill requires:

- Specific core components to be included in the program before the Office of the State Courts Administrator (OSCA) recognizes an early childhood court. Those components include judicial leadership, community coordination, a court team, and a continuum of mental health services.
- The OSCA, in coordination with the circuit courts, to hire and train a full-time community coordinator at each program site. The OSCA may also hire a statewide community coordinator to implement the program.
- The OSCA to contract with one or more university-based centers with an expertise in infant mental health to hire a statewide clinical director.
- The Florida Institute for Child Welfare, in consultation with other entities, to evaluate the impact of these programs on children in the child welfare system, to include an analysis of data collected by the OSCA. The institute is required to submit the results of the evaluation to the Governor, the President of the Senate, and the Speaker of the House by October 1, 2021.

The bill's staffing provisions are contingent upon appropriations. If funded by the Legislature, the OSCA expects the bill will cost \$1.7 million from the General Revenue Fund. See Section V. Fiscal Impact Statement.

The bill is effective on July 1, 2018.

II. Present Situation:

Problem-Solving Courts

In 1989, Florida started problem-solving court initiatives by creating the first drug court in the United States in Miami-Dade County. Other types of problem-solving court dockets subsequently followed using the drug court model and were implemented to assist individuals with a range of problems such as drug addiction, mental illness, domestic violence, and child abuse and neglect.¹

Florida's problem-solving courts address the root causes of justice system involvement through specialized dockets, multidisciplinary teams, and a nonadversarial approach. Offering evidence-based treatment, judicial supervision, and accountability, problem-solving courts provide individualized interventions for participants, thereby reducing recidivism and promoting confidence and satisfaction with the justice system process.²

Early Childhood Courts in Florida

Early childhood courts address child welfare cases involving children typically under the age of three. Traditional dependency courts focus on ensuring the safety and permanency of children while focusing less on underlying non-legal issues such as the mental health of the child and parents, the effects of trauma on young children, and the long-lasting effects of abuse and neglect on childhood development. Early childhood courts are designed to improve child safety and well-being, heal trauma and repair the parent-child relationship, expedite permanency, prevent recurrence of maltreatment, and stop the intergenerational cycle of abuse/neglect/violence.³

Since 2014, early childhood courts programs have been operating in Florida using the Miami Child Well-Being Court model and the National ZERO TO THREE organization's Safe Babies Court Teams approach.⁴

The Miami Child Well-Being Court

The development of the Miami Child Well-Being Court (CWBC) model began in the early 1990s out of an atypical collaboration that included a judge, a psychologist, and an early interventionist/education expert. The Miami CWBC model evolved over the course of more than a decade and is now widely recognized as one of the country's leading court improvement

¹ The most common problem-solving courts in Florida are drug courts, mental health courts, veterans courts and early childhood courts. Florida Courts, Office of Court Improvement, Problem-Solving Courts, *available at*: <http://www.flcourts.org/resources-and-services/court-improvement/problem-solving-courts/index.stml> (last visited January 24, 2018).

² *Id.*

³ Center for Prevention & Early Intervention Policy, Florida State University, Florida's Early Childhood Court Manual, April 2015, *available at*: <http://cpeip.fsu.edu/babyCourt/resources/Early%20Childhood%20Court%20Manual%204172015.pdf>. (last accessed January 24, 2018).

⁴ *Id.*

efforts, with ties to the National Council for Juvenile and Family Court Judges and Office of Juvenile Justice and Delinquency Prevention Model Courts Project.⁵

The Miami CWBC was unique due to the leadership of a judge who insisted that the court process should be informed by the science of early childhood development and who required the court to engage in intensive efforts to heal the child and, if possible, the parent-child relationship. As with the problem-solving approach of drug and mental health courts, such leadership represented a paradigm shift away from the traditional adversarial culture of the court for one in which judges utilize a court-initiated systems-integration approach to promote healing and recovery from trauma in maltreated young children and to break the intergenerational transmission of child abuse and neglect.^{6,7}

The Miami CWBC galvanized the long-term commitment and shared vision of decision-makers across the judiciary, child welfare, child mental health, and other child- and family-serving systems in Miami- Dade to create meaningful, lasting change for court involved children and their families. The Miami CWBC model is anchored by three essential principles:

- The needs of vulnerable children involved in dependency court will be best served through a problem-solving court approach led by a science-informed judge. This approach is realized through a court team that is committed to collaboration in the interest of the child's safety and emotional well-being. In addition to the judge, the court team includes the attorney representing the parent, the attorney for the state, the guardian ad litem (GAL) or court-appointed special advocate (CASA), the child's attorney, or both; and the child welfare caseworker.
- Young children exposed to maltreatment and other harmful experiences need evidence-based clinical interventions to restore their sense of safety and trust and ameliorate early emotional and behavioral problems. Such interventions must address the child-caregiver relationship and have the potential to catalyze the parent's insight to address the risks to the child's safety and well-being. The intervention employed in the Miami CWBC is Child-Parent Psychotherapy applied to the context of court-ordered treatment.
- The judicial decision-making process is improved when ongoing assessment of the child-parent relationship, the parent's ability to protect and care for the child, and the child's well-being is provided by the treating clinician. This is best accomplished by involving the clinician on the court team to collaborate with the other parties usually involved in court proceedings. This unusual role for the clinician in the court process is actively supported by the judge.⁸

⁵ The Miami Child Well-Being Court Model, Essential Elements and Implementation Guidance, *available at*: <http://www.floridaschildrenfirst.org/wp-content/uploads/2013/02/MiamiChild.pdf>. (last visited January 25, 2018).

⁶ Harvard Law School, Child Advocacy Program, The Miami Child Well Being Court Model, *available at*: http://cap.law.harvard.edu/wp-content/uploads/2015/07/22_miami-child-well-being-court-model.pdf (last visited January 20, 2018).

⁷ In 1994, Dr. Joy Osofsky began developing a similar court in New Orleans, working through an "infant team" of judges, lawyers, therapists and others to provide interventions for abused and neglected babies. They had two goals: to achieve permanency more quickly, although not necessarily reunification, and to prevent further abuse and neglect.

⁸ The Miami Child Well-Being Court Model, Essential Elements and Implementation Guidance, *available at*: <http://www.floridaschildrenfirst.org/wp-content/uploads/2013/02/MiamiChild.pdf>. (last visited January 25, 2018).

Safe Babies Court Teams

ZERO TO THREE was founded in 1977 at the National Center for Clinical Infant Programs by internationally recognized professionals in the fields of medicine, mental health, social science research, child development and community leadership interested in advancing the healthy development of infants, toddlers, and families. ZERO TO THREE has a history of turning the science of early development into helpful resources, practical tools and responsive policies for millions of parents, professionals, and policymakers. The organization houses a number of programs including Safe Babies Court Teams.⁹

In 2003, in partnership with the National Council of Juvenile and Family Court Judges, Court Teams for Maltreated Infants and Toddlers were conceptualized and in 2005, the first court teams were established in Fort Bend, Texas; Hattiesburg, Mississippi; and Des Moines, Iowa. Currently, the initiative operates in multiple sites around the country.¹⁰

Based on the Miami Child Well-Being Court and the New Orleans models,^{11,12} the Safe Babies Court Teams Project is based on developmental science and aims to:

- Increase awareness among those who work with maltreated infants and toddlers about the negative impact of abuse and neglect on very young children; and,
- Change local systems to improve outcomes and prevent future court involvement in the lives of very young children.¹³

This approach is recognized by the California Evidence-Based Clearinghouse for Child Welfare as being highly relevant to the child welfare system and demonstrating promising research evidence.¹⁴

The following performance data is based on cases closed during calendar year 2016 for children who were removed from their parents' care due to allegations of abandonment, abuse, or neglect. These measures compare groups of children ages 0-3 who were in the early childhood court program to children ages 0-3 who were not in the program.¹⁵

⁹ ZERO TO THREE, *Our History*, available at: <https://www.zerotothree.org/about/our-history>. (last visited January 24, 2018).

¹⁰ ZERO TO THREE, *The Safe Babies Court Team Approach: Championing Children, Encouraging Parents, Engaging Communities*, available at: <https://www.zerotothree.org/resources/528-the-safe-babies-court-team-approach-championing-children-encouraging-parents-engaging-communities>. (last visited January 24, 2018).

¹¹ ACES Too High, In Safe Babies Courts, 99% of kids don't suffer more abuse — but less than 1% of U.S. family courts are Safe Babies Courts. February 23, 2015, available at: <https://acestoohigh.com/2015/02/23/in-safe-babies-courts-99-of-kids-dont-suffer-more-abuse-but-less-than-1-of-u-s-family-courts-are-safe-babies-courts/>. (last visited January 23, 2018).

¹² *Id.* Safe Babies Courts differ from the other models by providing community coordinators who work with court personnel to keep the process on track.

¹³ ZERO TO THREE, *Safe Babies Court Teams*, available at: <https://www.zerotothree.org/resources/services/safe-babies-court-teams>. (last visited January 21, 2018).

¹⁴ The California Evidence-Based Clearinghouse for Child Welfare, available at: <http://www.cebc4cw.org/program/safe-babies-court-teams-project/> (last accessed January 20, 2018).

¹⁵ Florida Courts, Office of Court Improvement, *Early Childhood Courts*, available at: <http://www.flcourts.org/resources-and-services/court-improvement/problem-solving-courts/early-childhood-court.stml> (last visited January 24, 2018).

Measure	Children <u>Not</u> in program	Children in program
Median number of days from removal to reunification	298.5	226
Median number of days from removal to adoption	704	537
Median number of days from removal to another permanency option	497	385
Re-removal after case closure	3.86%	3.39%

Florida Institute for Child Welfare

In 2014, the Legislature established the Florida Institute for Child Welfare at the Florida State University College of Social Work. The purpose of the institute is to advance the well-being of children and families by improving the performance of child protection and child welfare services through research, policy analysis, evaluation, and leadership development.¹⁶ The institute is required to:

- Maintain a program of research which contributes to scientific knowledge and informs both policy and practice;
- Advise the department and other organizations participating in the child protection and child welfare system regarding scientific evidence;
- Provide advice regarding management practices and administrative processes used by DCF and other organizations participating in the child protection and child welfare system and recommend improvements; and
- Assess the performance of child protection and child welfare services based on specific outcome measures.¹⁷

III. Effect of Proposed Changes:

Section 1 creates s. 39.01304, F.S., related to the creation of an early childhood court program that addresses cases involving children most frequently under the age of three and utilizes specialized dockets, multidisciplinary teams, and a nonadversarial approach. The bill provides legislative findings and intent and core components that are required for a court to be recognized as an early childhood court. The bill requires:

- The OSCA to hire and train a full-time community coordinator at each program site. The OSCA may also hire a statewide community coordinator to implement the program.
- The OSCA to contract with one or more university-based centers with an expertise in infant mental health to hire a statewide clinical consultant.
- The OSCA to provide training to court teams on meeting program objectives.
- The Florida Institute for Child Welfare, in consultation with other entities, to evaluate the impact of early childhood court programs on children in the child welfare system, to include an analysis of data collected by the OSCA. The institute is also required to submit interim reports in 2019 and 2020 and the results of the evaluation to the Governor, the President of the Senate, and the Speaker of the House by October 1, 2021.

Section 2 provides that the bill takes effect July 1, 2018.

¹⁶ Section 1004.615, F.S.

¹⁷ Id.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill requires the OSCA, subject appropriation and the availability of additional resources, to hire staff and contract for a clinical director. According to the OSCA, 21 early childhood courts will be in operation as of the effective date of the bill (19 current programs and two in the process of being created). If funded by the Legislature, the cost for community coordinators at the 21 program sites will be \$1,462,440 in recurring general revenue funds.¹⁸ An additional \$69,640 in recurring general revenue funds will be needed to fund any future early childhood courts. In addition, the cost to hire a clinical director to oversee the court model is estimated to be \$88,487 in recurring general revenue funds.¹⁹

The bill requires the OSCA, within appropriated funds, to provide training to the court teams on the program objectives. The OSCA estimates these costs to be \$100,000 in nonrecurring general revenue funds.²⁰ The bill requires the Florida Institute for Child Welfare evaluate the early childhood courts. The bill is silent on funding for this provision, but the OSCA estimates that it will require an information systems consultant to collect and analyze the data for the evaluation. This position is estimated to cost \$91,934 in recurring general revenue funds.²¹

¹⁸ Office of the State Court Administrator, *Senate Bill 1442 Fiscal Analysis* (Jan. 24, 2018) (on file with the Senate Subcommittee on Criminal and Civil Justice Appropriations).

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

The bill does not expressly increase the number of hearings being held in dependency cases; however, successful early childhood court programs will require more frequent and lengthier hearings. These hearings may increase judicial workload in those circuits that do not currently have a program but implement one under the bill and may reduce caseloads in existing dependency courts.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill creates s. 39.01304 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Children, Families, and Elder Affairs on January 29, 2018:

The amendment does the following:

- Removes definitions from the bill;
- Removes references to ZERO TO THREE and Safe Babies Court Team to enable the Miami Child Well-Being Court and other models that meet the specified criteria to be recognized as early childhood courts in Florida;
- Removes the reference to the FSU Center for Prevention and Early Intervention Policy to allow other university centers with a specified expertise to participate in the process; and
- Provides for core components that must be in place for a court to be recognized as an early childhood court.

- B. **Amendments:**

None.

By the Committee on Children, Families, and Elder Affairs; and
Senator Book

586-02592-18

20181442c1

1 A bill to be entitled
2 An act relating to Early Childhood Court programs;
3 creating s. 39.01304, F.S.; providing legislative
4 findings and intent; requiring the program to
5 incorporate specified components to be considered an
6 early childhood court; authorizing the courts to
7 create early childhood court programs; requiring the
8 office to coordinate with the appropriate circuit
9 court to employ and train a community coordinator for
10 each program site; authorizing the office to hire a
11 statewide community coordinator; authorizing the use
12 of an alternative coordination system; requiring the
13 office to contract with certain university based
14 centers; requiring a contracted center to hire a
15 statewide clinical consultant for specified purposes;
16 requiring the office, in partnership with the center
17 and within appropriated funds, to provide training to
18 program court teams; requiring the Florida Institute
19 for Child Welfare to conduct an evaluation of the
20 program's impact in consultation with the Department
21 of Children and Families, the office, and the center;
22 requiring the evaluation to include certain data and
23 recommendations; requiring the institute to submit the
24 results of its evaluation to the Governor and the
25 Legislature by a specified date; requiring the
26 institute to submit annual reports; providing an
27 effective date.

28
29 Be It Enacted by the Legislature of the State of Florida:

586-02592-18

20181442c1

30
31 Section 1. Section 39.01304, Florida Statutes, is created
32 to read:

33 39.01304 Early Childhood Court programs.-

34 (1) LEGISLATIVE FINDINGS AND INTENT.-

35 (a) The Legislature finds that the traditional dependency
36 court process focuses primarily on ensuring safety and
37 permanency for young children, while paying less attention to
38 the mental health and developmental needs of those children
39 related to maltreatment and the disruption in the parent-child
40 relationship.

41 (b) The Legislature also finds that the emotional problems
42 that manifest themselves in infancy and early childhood are less
43 obvious than the behavioral and mental health problems of older
44 children in out-of-home care.

45 (c) The Legislature also finds it is important to identify
46 evidence-based practices and trauma-informed care approaches to
47 mitigate the impact of maltreatment on young children placed in
48 out-of-home care and to improve outcomes for them and their
49 families.

50 (d) The Legislature further finds that every young child in
51 out-of-home care should be afforded the advantages that can be
52 gained from the use of specialized dockets, multidisciplinary
53 teams, and a nonadversarial approach in connection with
54 dependency proceedings in a systems integration approach to heal
55 the child and, if possible, the parent-child relationship.

56 (e) It is the intent of the Legislature to encourage the
57 department, the Department of Health, the Early Learning
58 Coalitions, and other such agencies, local governments,

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59 interested public or private entities, and individuals to
60 support the creation and establishment of early childhood court
61 programs.

62 (2) PROGRAM DEVELOPMENT.—An early childhood court is a
63 problem solving court with a specialized court docket created
64 under this section that uses evidence-based practices and
65 trauma-informed care approaches to address cases involving young
66 children in out-of-home care. An early childhood court depends
67 on the leadership of a judge knowledgeable about the science of
68 early childhood development who requires rigorous efforts to
69 heal the child physically and emotionally, as well as broad
70 collaboration among professionals from different systems working
71 directly in the court as a team with a shared understanding that
72 the parent-child relationship is the foundation of child well-
73 being. A court may be recognized by the Office of the State
74 Courts Administrator as an early childhood court if it contains
75 the following components:

76 (a) *Judicial leadership.*—In an early childhood court,
77 therapeutic jurisprudence drives every aspect of judicial
78 practice on the bench. The judge engages in practices seldom
79 seen in traditional courtrooms in order to support the
80 therapeutic work of the parent and child in a nonadversarial
81 manner. As used in this section, the term “therapeutic
82 jurisprudence” means the study of how the law acts as a
83 therapeutic agent and focuses on the law’s impact on emotional
84 and psychological well-being.

85 (b) *Community coordination.*—Each early childhood court must
86 have a procedure for coordinating services and resources for
87 families with a case on the court docket. To meet this

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88 requirement, the court either may hire a local community
89 coordinator with child development expertise who works with the
90 judge to facilitate collaboration among the members of the court
91 team or use a coordination system that integrates and
92 institutionalizes a progression of services.

93 (c) Court team.—The court team is made up of key community
94 stakeholders who commit to work with the judge to restructure
95 the way the community responds to the needs of maltreated
96 children. The team may include, but not be limited to, early
97 intervention specialists; mental health and infant mental health
98 professionals; attorneys representing children, parents and the
99 child welfare system; children’s advocates; early learning
100 coalitions and child care providers; substance abuse providers;
101 primary health care providers; and guardians ad litem. The court
102 team shall also address the need for children in an early
103 childhood court program to receive medical care in a medical
104 home, a screening for developmental delays conducted by the
105 local agency responsible for complying with Part C of the
106 Individuals with Disabilities Education Act, and quality child
107 care.

108 (d) Continuum of mental health services.—Young children who
109 have experienced trauma may benefit from mental health services
110 that work with them and their parents. Parents who maltreat
111 their very young children need some level of intervention to
112 help them understand their children’s needs and learn ways to
113 build strong supportive bonds. The continuum of mental health
114 services provided should include a focus on the parent-child
115 relationship and should be appropriate for each child and family
116 served.

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117
118 While an early childhood court typically serves children from
119 the ages of 0-3 years of age, nothing in this section shall
120 prevent a court from expanding the docket to include children
121 over three years of age depending on available resources.

122 (3) PROGRAM IMPLEMENTATION.—Subject to appropriation and
123 the availability of additional resources:

124 (a) The courts may create early childhood court programs
125 that use specialized dockets, multidisciplinary teams, and a
126 nonadversarial approach in connection with dependency
127 proceedings.

128 (b) By August 1, 2018, the Office of the State Courts
129 Administrator shall coordinate with the appropriate circuit
130 court to hire and train a full-time community coordinator at
131 each early childhood court program site that was in existence on
132 July 1, 2018 and may hire a statewide community coordinator to
133 implement the program. If an early childhood court uses an
134 alternative coordination system under (2) (b), the Office of the
135 State Courts Administrator may provide funding equivalent to a
136 community coordinator position to the court for case
137 coordination functions.

138 (c) The Office of the State Courts Administrator shall
139 contract with one or more university-based centers with an
140 expertise in infant mental health to hire a clinical director to
141 ensure quality, accountability, and fidelity to the early
142 childhood court model, including, but not limited to, training
143 and technical assistance related to clinical services, clinical
144 consultation and guidance for difficult cases, ongoing clinical
145 training for court teams.

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146 (4) TRAINING.—Within appropriated funds, the Office of the
147 State Courts Administrator, in partnership with contracted
148 centers in subsection (3), shall provide training to the
149 participating court teams on meeting the program objectives.

150 (5) EVALUATION OF THE PROGRAM.—

151 (a) In consultation with the department, the Office of the
152 State Courts Administrator, and contracted centers in subsection
153 (3), the Florida Institute for Child Welfare shall evaluate the
154 impact of the Early Childhood Court program on children and
155 families in Florida's child welfare system.

156 (b) The evaluation must include the analysis of data
157 collected by the Office of the State Courts Administrator and
158 measurable outcomes, including, but not limited to, the impact
159 of the early childhood court program on the future incidence of
160 maltreatment of children, timely permanency, reunification of
161 families, and incidents of children reentering the child welfare
162 system. The evaluation must provide recommendations as to
163 whether and how the program should be expanded, the projected
164 costs of such expansion, and projected savings to the state
165 resulting from the program.

166 (c) The institute shall submit the results of the
167 evaluation to the Governor, the President of the Senate, and the
168 Speaker of the House of Representatives, by October 1, 2021.

169 (6) ANNUAL REPORTS.—By December 1, 2019 and 2020, the
170 Florida Institute for Child Welfare shall provide reports on the
171 status of the program to the Governor, the President of the
172 Senate, and the Speaker of the House of Representatives.

173 Section 2. This act shall take effect July 1, 2018.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Subcommittee on the
Environment and Natural Resources, *Chair*
Appropriations
Appropriations Subcommittee on Health and
Human Services
Education
Environmental Preservation and
Conservation
Health Policy
Rules

SENATOR LAUREN BOOK

Democratic Leader Pro Tempore
32nd District

February 1, 2018

Chair Jeff Brandes
Appropriations Subcommittee on Criminal and Civil Justice
201 The Capitol
404 S. Monroe Street
Tallahassee, FL 32399-1100

Chair Brandes,

I respectfully request that you place SB 1442, relating to Early Childhood Court Programs, on the agenda of the Appropriations Subcommittee on Criminal and Civil Justice at your earliest convenience.

Should you have any questions or concerns, please feel free to contact my office or me. Thank you in advance for your consideration.

Thank you,

A handwritten signature in cursive script that reads "Lauren Book".

Senator Lauren Book
Senate District 32

cc: Tim Sadberry, Staff Director
Lisa Roberts, Administrative Assistant

REPLY TO:

- 967 Nob Hill Road, Plantation, Florida 33324 (954) 424-6674
- 202 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5032

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/21/18

Meeting Date

1442

Bill Number (if applicable)

Topic Early Childhood Court Programs

Amendment Barcode (if applicable)

Name Judge Jill Walker

Job Title County Judge, Second Judicial Circuit

Address 3056 Crawfordville Highway

Phone 850-926-0943

Crawfordville FL

City

State

Zip

Email

Speaking: [X] For [] Against [] Information

Waive Speaking: [] In Support [] Against (The Chair will read this information into the record.)

Representing

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [] Yes [X] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

✓

THE FLORIDA SENATE
APPEARANCE RECORD

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2.21.18

Meeting Date

1442

Bill Number (if applicable)

Topic Early Childhood Court Program

Amendment Barcode (if applicable)

Name Barney Bishop

Job Title CEO

Address 204 South Monroe Street

Phone 510-9922

Street

Tallahassee

FL

32301

Email Barney@BarneyBishop.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Smart Justice Alliance

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

✓

THE FLORIDA SENATE
APPEARANCE RECORD

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2/21/18

Meeting Date

CS/SB 1442

Bill Number (if applicable)

Topic Early Childhood Court Programs

Amendment Barcode (if applicable)

Name Alan Abramowitz

Job Title Executive Director

Address 600 S. Calhoun Street

Street

Tallahassee

City

FL

State

32399

Zip

Phone 8509227213

Email alan.abramowitz@gal.fl.gov

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Statewide Guardian ad Litem Program

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

2/21/18
Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1442
Bill Number (if applicable)

Topic ECC

Amendment Barcode (if applicable)

Name Ashlee Tising

Job Title Capital Alliance

Address Tall

Phone 850 419 2949

Street
City State Zip

Email

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Capital Alliance

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

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2/21/18

Meeting Date

1442

Bill Number (if applicable)

Topic ECC

Amendment Barcode (if applicable)

Name Dr Miriam Grackham

Job Title Director, FSU Center for Prevention

Address _____

Phone 850 510-7770

Street Tall

State FL

Email mgd@fsu.edu

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Early Childhood Council Initiative

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

CourtSmart Tag Report

Room: LL 37

Case No.:

Type:

Caption: Senate Appropriations Subcommittee on Criminal and Civil Justice

Judge:

Started: 2/21/2018 1:42:27 PM

Ends: 2/21/2018 2:38:49 PM

Length: 00:56:23

1:42:44 PM Sen. Brandes (Chair)
1:42:59 PM S 1442
1:43:08 PM Sen. Book
1:45:51 PM Sen. Brandes
1:45:57 PM Sen. Bracy
1:46:04 PM Judge Jill Walker, County Judge, Second Judicial Circuit
1:51:53 PM Sen. Baxley
1:52:13 PM J. Walker
1:55:35 PM Sen. Baxley
1:55:40 PM J. Walker
1:57:14 PM Sen. Baxley
1:57:59 PM J. Walker
1:58:09 PM Sen. Bracy
1:58:14 PM Barney Bishop, Chief Executive Officer, Florida Smart Justice Alliance (waives in support)
1:58:18 PM Alan Abramowitz, Executive Director, Statewide Guardian ad Litem Program (waives in support)
1:58:28 PM Ashley Tising, Capital Alliance (waives in support)
1:58:36 PM Dr. Mimi Graham, Director, FSU Center for Prevention, Early Childhood Council Initiative
1:59:55 PM Sen. Bracy
1:59:59 PM Sen. Book
2:00:17 PM Sen. Bracy
2:00:47 PM S 1218
2:00:55 PM Sen. Brandes
2:01:17 PM Am. 504974
2:03:56 PM Am. 431678
2:04:18 PM Sen. Bracy
2:04:23 PM Sen. Baxley
2:04:54 PM Sen. Brandes
2:05:02 PM Sen. Bracy
2:05:13 PM Nicole Fogarty, Legislative Affairs Director, St. Lucie County (waives in support)
2:05:19 PM Edward G. Labrador, Legislative Counsel, Broward County, Broward County Board of County Commissioners (waives in support)
2:05:24 PM Brian Sullivan, Chief Legal Counsel, Florida Association of Counties (waives in support)
2:05:30 PM Rebecca DeLaRosa, Legislative Affairs Director, Palm Beach County (waives in support)
2:05:44 PM Sen. Bracy
2:05:50 PM Am. 504974 (cont.)
2:06:05 PM Sen. Brandes
2:06:13 PM Sen. Baxley
2:06:33 PM Sen. Brandes
2:07:25 PM Sen. Rodriguez
2:08:13 PM Sen. Brandes
2:09:45 PM Sen. Bracy
2:09:58 PM Agnes Fury
2:11:47 PM Sal Nuzzo, Vice President of Policy, The James Madison Institute (waives in support)
2:11:51 PM Skylar Zander, Deputy State Director, Americans for Prosperity (waives in support)
2:11:57 PM Chelsea Murphy, State Director, Right on Crime (waives in support)
2:12:06 PM Diego Echeverri, Director of Coalitions, Concerned Veterans for America (waives in support)
2:12:12 PM Jorge Chamizo, Attorney, Florida Association of Criminal Defense Lawyers (waives in support)
2:12:14 PM Demetrius Minor, Director of Coalitions, Generation Opportunity (waives in support)
2:12:18 PM Sen. Bracy
2:12:30 PM Sen. Baxley
2:13:22 PM Sen. Brandes
2:13:48 PM S 1218 (cont.)

2:13:49 PM Sal Nuzzo, Vice President of Policy, The James Madison Institute (waives in support)
2:13:51 PM Barney Bishop, Chief Executive Officer, Florida Smart Justice Alliance
2:18:14 PM Matthew Jones, President, Florida Bail Agents Association
2:23:35 PM Chelsea Murphy, State Director, Right on Crime (waives in support)
2:23:38 PM Diego Echeverri, Director of Coalitions, Concerned Veterans for America (waives in support)
2:23:43 PM Curtis Lee, Retired Attorney
2:28:58 PM Sen. Bean
2:29:16 PM C. Lee
2:30:04 PM Cesar Grajales, Coalitions Director, The Libre Initiative (waives in support)
2:30:08 PM Robert Trammell, General Counsel, Florida Public Defenders
2:30:16 PM Doreszell D. Cohen, Co-founder and Executive Director, Citizens for Criminal Justice Reform (waives in support)
2:33:36 PM Kaneshia Ellis, Hair Stylist, Criminal Justice Reform, American Civil Liberties Union
2:35:03 PM Jorge Chamizo, Attorney, Florida Association of Criminal Defense Lawyers (waives in support)
2:35:11 PM Sen. Bracy
2:35:20 PM Sen. Brandes
2:36:05 PM Sen. Bracy
2:36:36 PM Sen. Brandes
2:37:37 PM Sen. Baxley
2:38:31 PM Sen. Bracy