Tab 1  CS/SB 1970 by CJ, Pizzo (CO-INTRODUCERS) Rodriguez; (Similar to H 01513) Law Enforcement Reform

Tab 2  CS/SB 748 by JU, Brandes; (Similar to CS/H 01197) Courts

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### COMMITTEE MEETING EXPANDED AGENDA
#### APPROPRIATIONS SUBCOMMITTEE ON CRIMINAL AND CIVIL JUSTICE

**Senator Perry, Chair**

**Senator Brandes, Vice Chair**

**MEETING DATE:** Wednesday, March 24, 2021

**TIME:** 4:30—6:00 p.m.

**PLACE:** Mallory Home Committee Room, 37 Senate Building

**MEMBERS:** Senator Perry, Chair; Senator Brandes, Vice Chair; Senators Baxley, Bracy, Gainer, Pizzo, Rodriguez, and Torres

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**PUBLIC TESTIMONY WILL BE RECEIVED FROM ROOM A2 AT THE DONALD L. TUCKER CIVIC CENTER, 505 W PENSACOLA STREET, TALLAHASSEE, FL 32301**

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<td>1</td>
<td>CS/SB 1970</td>
<td>Law Enforcement Reform; Requiring the Criminal Justice Standards and Training Commission to adopt rules prohibiting law enforcement officers, correctional officers, or correctional probation officers from using specified techniques; providing an exception; requiring the commission to provide specified data regarding final commission orders to the National Decertification Index; requiring the commission to establish and maintain standards for the instruction of officers in specified subjects in order to build upon and improve police-community relations; revising the minimum aspects of law enforcement that the law enforcement accreditation program must address, etc.</td>
<td>Favorable Yeas 7 Nays 0</td>
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CJ 03/16/2021 Fav/CS
ACJ 03/24/2021 Favorable
AP

| 2   | CS/SB 748               | Courts; Deleting the requirement that the Clerk of the Supreme Court physically keep books, records, and other materials in the clerk’s office; requiring the clerks of the circuit courts, with specified entities, to prepare a plan to procure or develop a statewide electronic solution to accurately identify all assessments mandated by statute; providing for the periodic inflationary adjustment of the monetary jurisdictional limit applicable to all actions at law in county courts filed on or after a specified date, beginning in 2030; requiring the clerk of a district court of appeal to have an office at the headquarters of the court, etc. | Fav/CS Yeas 8 Nays 0 |

JU 03/02/2021 Fav/CS
ACJ 03/24/2021 Fav/CS
AP
### Review and Discussion of Fiscal Year 2021-2022 Budget Issues Relating to:
- Department of Corrections
- Department of Juvenile Justice
- Department of Law Enforcement
- Department of Legal Affairs/Attorney General
- Florida Commission on Offender Review
- State Courts
- Public Defenders
- State Attorneys
- Regional Conflict Counsels
- Statewide Guardian ad Litem
- Capital Collateral Regional Counsels
- Justice Administrative Commission

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<td>3</td>
<td>Review and Discussion of Fiscal Year 2021-2022 Budget Issues Relating to:</td>
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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: CS/SB 1970
INTRODUCER: Criminal Justice Committee and Senator Pizzo and others
SUBJECT: Law Enforcement Reform
DATE: March 23, 2021

ANALYST STAFF DIRECTOR REFERENCE ACTION
1. Erickson Jones CJ Favorable
2. Dale Harkness ACJ Recommend: Favorable
3. AP

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1970 makes the following changes to training and practices:

- Includes a declaration of an important state interest.
- Limits use of restraint techniques that require the application of pressure to the neck, throat, esophagus, trachea, or carotid arteries alongside the trachea to those situations in which deadly force is authorized.
- Requires the Criminal Justice Standards and Training Commission (CJSTC) to:
  - Provide data to the National Decertification Index on final commission orders regarding revocation or relinquishment of certification of law enforcement officers, correctional officers, and correctional probation officers;
  - Establish and maintain standards for instruction of officers in the subjects of de-escalation techniques, procedural justice training, implicit bias training, and the duty to intervene if another officer uses excessive or unnecessary force;
  - Specify what must be included in the minimum standards for de-escalation training;
  - Provide written guidance to law enforcement agencies on compliance with minimum standards relating to de-escalation training;
  - Create a model written policy on de-escalation training; and
  - Collect data regarding the implementation of training programs and annually report such data to the Legislature (as specified in bill).
- Requires that law enforcement agencies adopt a written policy stating that each of the law enforcement officers in its employ has an affirmative duty to use de-escalation techniques in his or her interactions with citizens whenever possible.
• Requires that de-escalation techniques and other specified aspects of law enforcement be addressed in the state law enforcement accreditation program.
• Requires de-escalation training in basic recruit training and continued employment training.

The bill contains numerous training requirements and other requirements that may impact local law enforcement agencies. These requirements may cause county and municipal governments to spend funds. The impact of the bill on local governments is indeterminate.

The Florida Department of Law Enforcement (FDLE) states that development of the training curricula will cost approximately $12,648 and the bill will require technological modifications totaling approximately $37,000. See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2022.

II. Present Situation:

“The killing of George Floyd in Minneapolis has prompted police departments around Florida to review their policies, procedures and training.”¹ A 2017 workgroup of the CJSTC noted that “[o]ne of the biggest challenges in law enforcement today involves strengthening the bonds of trust between law enforcement officers and the communities they serve.”² “The relationship between communities and their law enforcement agencies are often characterized by varying degrees of suspicion and mistrust. Over time, that contributes to cynicism in both groups and creates barriers to good faith cooperation.”³

There are numerous measures that police agencies are taking to improve law enforcement-community relations and enhance the effectiveness of policing, including, but not limited to, standards and training on limiting the use of chokeholds and neck restraints, a duty of an officer to intervene when the officer witnesses another officer using excessive force, de-escalation techniques, mental health issues, procedural justice, and implicit bias.

Training Requirements for Florida Law Enforcement Officers

In compliance with s. 943.13, F.S., applicants must complete the 770-hour law enforcement basic recruit training program to meet the qualifications for becoming a certified law enforcement officer. The FDLE provided the following information regarding basic recruit training on subjects addressed in the bill:

The law enforcement basic recruit training curriculum incorporates training on implicit bias, de-escalation, procedural justice, crisis intervention with individuals suffering from

³ As Volusia County Sheriff Mike Chitwood noted, “[w]e’re not the Marines. We’re not at war with our community. The overwhelming majority of the people we come into contact with are law-abiding citizens[,]” See footnote 1, supra.
physical or mental disabilities and recognition of individuals with physical and mental disabilities, mental health issues, and substance abuse issues. The training may be threaded through the curriculum as opposed to a specific course within the curriculum.

Currently, most of the training required in the bill is included in the basic recruit training programs (BRTPs), especially law enforcement BRTP. For instance, use of force, de-escalation, diversity and mental health/crisis intervention are covered, but duty to intervene is not. Additionally, the law enforcement BRTP is not broken down by lesson hours. Therefore, it’s not possible to pinpoint how many hours are devoted to specific topics, as they are threaded throughout the BRTP and within the scenario-based role play and communication exercises.4

According to the FDLE, CJSTC staff surveyed the state’s training centers and was provided the following range/breakdown of hours included in the law enforcement BRTP for use of force, de-escalation, diversity and mental health/crisis intervention:

- Use of Force: 26-152 hours.
- De-escalation: 22-90 hours.
- Diversity: 15-101 hours.
- Mental Health/Crisis Intervention: 6-78 hours.5

The FDLE also provided the following information on continued employment training:

In addition, in order to maintain their certification, law enforcement officers must satisfy the continuing training and education requirements of s. 943.135, F.S. This statute requires officers, as a condition of continued employment or appointment, to receive continuing training or education at the rate of 40 hours every four years. The employing agency must document continuing training or education is job-related and consistent with the needs of the employing agency and report completion to CJSTC through the Automated Training Management System (ATMS).6

Additional information on training is provided in the discussion below of subject matter addressed by the bill.

**Chokeholds and Neck Restraints**

The case of George Floyd focused national attention on the use of chokeholds and neck restraints and the duty on an officer to intervene when the officer witnesses another officer using excessive force. Mr. Floyd, a resident of Minneapolis, was arrested and restrained by a Minneapolis police officer named Derek Chauvin. According to news reports, for nearly nine minutes and despite Mr. Floyd repeatedly complaining that he could not breathe, Officer Chauvin pinned Mr. Floyd’s head to the ground by pressing his knee to the side of Mr. Floyd’s neck. It was also reported that three other Minneapolis police officers at the scene who witnessed the neck restraint did not

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4 2021 FDLE Legislative Bill Analysis (SB 1970) (March 8, 2021), Florida Department of Law Enforcement (on file with the Senate Committee on Criminal Justice). This analysis is further cited as “2021 FDLE Legislative Bill Analysis (SB 1970).”
5 Id. “This information is based on the current 2020 law enforcement BRTP. The 2021 law enforcement BRTP, effective July 1, 2021, includes additional training on these topics.” Id.
6 Id.
intervene to stop it. Mr. Floyd’s death was assessed to be a homicide and Officer Chauvin and the witnessing officers were charged.\textsuperscript{7}

There is a dispute over whether Minneapolis police officers were trained in the knee-to-neck technique used on Mr. Floyd,\textsuperscript{8} but some law enforcement experts consider the technique to be dangerous and unnecessary” and some police departments have banned its use.\textsuperscript{9}

The FDLE states that “CJSTC considers excessive use of force as a moral character violation and can discipline an officer’s certification for a sustained violation, including the use of any technique if the use of that technique is deemed to be excessive by the officer’s employing agency.”\textsuperscript{10}

Use of Force

Section 776.05, F.S., provides that a law enforcement officer need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. The officer is justified in the use of any force:

- Which he or she reasonably believes to be necessary to defend himself or herself or another from bodily harm while making the arrest;
- When necessarily committed in retaking felons who have escaped;\textsuperscript{11} or
- When necessarily committed in arresting felons fleeing from justice. However, this does not constitute a defense in any civil action for damages brought for the wrongful use of deadly force unless the use of deadly force\textsuperscript{12} was necessary to prevent the arrest from being defeated by such flight and, when feasible, some warning had been given, and:

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\textsuperscript{10} 2021 FDLE Legislative Bill Analysis (SB 1970), supra.

\textsuperscript{11} See s. 776.07, F.S., which provides that a law enforcement officer or other person who has an arrested person in his or her custody is justified in the use of any force which he or she reasonably believes to be necessary to prevent the escape of the arrested person from custody. The statute further provides that a correctional officer or other law enforcement officer is justified in the use of force, including deadly force, which he or she reasonably believes to be necessary to prevent the escape from a penal institution of a person whom the officer reasonably believes to be lawfully detained in such institution under sentence for an offense or awaiting trial or commitment for an offense.

\textsuperscript{12} As applied to a law enforcement officer or correctional officer acting in the performance of his or her official duties, the term “deadly force” means force that is likely to cause death or great bodily harm and includes, but is not limited to: the firing of a firearm in the direction of the person to be arrested, even though no intent exists to kill or inflict great bodily harm; and the firing of a firearm at a vehicle in which the person to be arrested is riding. Section 776.06(1), F.S. “Deadly force” does not include the discharge of a firearm by a law enforcement officer or correctional officer during and within the scope of his or her official duties which is loaded with a “less-lethal munition” (a projectile that is designed to stun, temporarily incapacitate, or cause temporary discomfort to a person without penetrating the person’s body). Section 776.06(2)(a), F.S. A
• The officer reasonably believes that the fleeing felon poses a threat of death or serious physical harm to the officer or others; or
• The officer reasonably believes that the fleeing felon has committed a crime involving the infliction or threatened infliction of serious physical harm to another person.\textsuperscript{13}

An excessive force claim under 42 U.S.C. s. 1983\textsuperscript{14} which “arises in the context of an arrest or investigatory stop of a free citizen … is most properly characterized as one invoking the protections of the Fourth Amendment.”\textsuperscript{15} An “objective reasonableness” standard is used, the “proper application” of which “requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight.”\textsuperscript{16} “The ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.”\textsuperscript{17} “The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation.”\textsuperscript{18}

According to the FDLE, training on use of force is interwoven into the following curricula:

**Basic Recruit Training**

- Legal (64-hour course)
  - Contains all of the legal terminology related to use of force;
  - Firearms (80-hour course);
  - Contains a section on making use-of-force decisions;
  - Defensive tactics (80-hour course); and
  - Contains a section on making use-of-force decisions.
- Conducted Electrical Weapon/Dart-Firing Stun Gun (8-hour course)
  - Contains a section on making use-of-force decisions.
- Traffic Stops (30-hour course)
  - Discusses discriminatory profiling and how to interact with drivers.

\textsuperscript{13} Section 776.05, F.S. Law enforcement officers are also “eligible to assert Stand Your Ground immunity, even when the use of force occurred in the course of making a lawful arrest.” See State v. Peraza, 259 So.3d 728, 733 (Fla. 2018), discussing ss. 776.012 and 776.032(1), F.S.

\textsuperscript{14} “Section 1983 provides an individual the right to sue state government employees and others acting ‘under color of state law’ for civil rights violations. Section 1983 does not provide civil rights; it is a means to enforce civil rights that already exist.” Civil Rights in the United States, Law Library, Univ. of Minn. Law School, available at https://libguides.law.umn.edu/c.php?g=125765&p=2893387#:~:text=Section%201983%20provides%20an%20individual%20right%20to%20sue%20state%20government%20employees%20and%20others%20acting%20under%20color%20of%20state%20law%20for%20civil%20rights%20violations.%20Section%201983%20does%20not%20provide%20civil%20rights%20it%20is%20a%20means%20to%20enforce%20civil%20rights%20that%20already%20exist.” (last visited March 10, 2021).


\textsuperscript{16} Id. at 396 (citation omitted).

\textsuperscript{17} Id.

\textsuperscript{18} Id. at 396-397.
Post-Basic Training

- Defensive Tactics Instructor Course (Instructor course #802) (80-hour course). This course is divided into 6 units:
  - The role of the instructor in teaching use of force;
  - Decision-making;
  - Levels of resistance;
  - De-escalation;
  - Use-of-force guidelines; and
  - Legal issues around use of force.

- Advanced Defensive Tactics Course (Advanced course #1405). This course contains information regarding:
  - The use of reasonable and necessary force when taking a suspect into custody, when working in a correctional environment, or when defending self or others;
  - Objective reasonableness;
  - Authority to use force;
  - Structure of the force guidelines;
  - Subject resistance levels;
  - Officer response options;
  - Factors for deciding to use deadly force; and
  - Totality of circumstances.

- Advanced Report Writing and Review (Advanced course #068). It is estimated that 3 hours of this 40-hour course covers the use of force. This course contains:
  - Writing a use-of-force report;
  - Factors of the Graham v. Connor case related to the use of force;
  - Factors that help an officer articulate a reasonable response to resistance;
  - The difference between the use of specific facts and vague conclusions when articulating force;
  - The importance of an accurate use-of-force report; and
  - Writing an accurate and complete use-of-force report.

- Line Supervision (Advanced course #006). It is estimated that 2 hours of this 80-hour course cover the use of force. This course discusses:
  - Officers must follow their department’s use-of-force policy;
  - The potential liability associated with use-of-force incidents;
  - An officer’s response should be objectively reasonable and necessary based upon the subject’s resistance and the totality of the circumstances;
  - Section 776.05, F.S.—Law enforcement officers; use of force in making an arrest;
  - Section 944.35, F.S.—Authorized use of force (corrections); and
  - A review of the CJSTC force guidelines.

- Discipline and Special Confinement Techniques (Advanced course #057). It is estimated that 4 hours of this 40-hour course covers the use-of-force topic. The course discusses:
  - Use of force as legal guidelines regarding the use of force to apprehend a suspect, make an arrest, or defend self or others;
  - Statutes, rules, and policies and procedures which relate to the use of force within county and state correctional facilities;
  - Guidelines for handling violent inmates as per s. 944.35, F.S.; and
Procedures for reporting use of physical force in state, county, and municipal correctional facilities.\textsuperscript{19}

**Duty to Intervene**

Florida law does not specify that a law enforcement officer has a duty to intervene when the officer witnesses another officer using excessive force. However, “an officer who is present at the scene and who fails to take reasonable steps to protect the victim of another officer’s use of excessive force, can be held liable [under 42 U.S.C. s. 1983] for his nonfeasance.”\textsuperscript{20}

According to the FDLE, the duty to intervene is not taught at the basic recruit training level, since the duty is dictated at the agency level by agency policy. At the post-basic training level, a course titled Line Supervision (Advanced course #006):

- Describes federal and state laws that impact supervisory practices and methods for successful interventions. The most common area of liability against a supervisor over the last decade is “failure to intervene,” which applies to any supervisor who fails to stop or intercede in an unconstitutional act;
- Instructs that a supervisor may be held criminally liable if he or she knows that their officers are violating peoples’ constitutional rights and chooses not to intervene; and
- Instructs that if a supervisor knows his or her officers are involved in misconduct and fails to take corrective action, the supervisor may be held liable.\textsuperscript{21}

**De-escalation Techniques**

“The term de-escalation generally refers to the act of moving from a state of high tension to a state of reduced tension[. ] In law enforcement, minimizing danger and tension in potentially volatile situations is a daily responsibility.”\textsuperscript{22} As one commentary notes, “[o]ne of the enduring myths about policing involves the idea that police officers are primarily crime fighters.”\textsuperscript{23} The majority of a patrol officer’s duties “are focused on service activities, maintaining peace and order, and problem-solving[.]”\textsuperscript{24}

In an ideal situation, the officer may evaluate the nature of the call by, for example (1) allowing people to give their side of the story; (2) explaining what the officer is doing, what the person can do, and what is going to happen; (3) telling the person why the officer is taking action; and (4) acting with dignity and leaving the person with their dignity. Knowing that even in the most reasonable circumstance, people will not always

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\textsuperscript{19} Senate CJ Committee Questions, 7-24-2020, Florida Department of Law Enforcement (on file with the Senate Committee on Criminal Justice). This document is further cited as “Senate CJ Committee Questions, 7-24-2020.”

\textsuperscript{20} Fundiller v. City of Cooper City, 777 F.2d 1436, 1442 (11th Cir. 1995).

\textsuperscript{21} Senate CJ Committee Questions, 7-24-2020, supra.


\textsuperscript{23} Id. at 15.

\textsuperscript{24} Id.
comply, an officer maintains a set of strategies that consider officer and public safety, and what actions are in the best interest of the public.\textsuperscript{25}

“When police officers de-escalate a crisis, they conduct an intervention that will assist the individual in crisis in regaining control emotionally and resolve or reduce the crisis to a manageable state. This response is similar to other law enforcement strategies that require communication and negotiation skills, knowledge, tactics, and officer-safety techniques.”\textsuperscript{26} Intervention techniques have often focused on the traditional, linear use of force continuum:

- Officer presence (officer at the scene as deterrence);
- Verbalization (e.g., calm, nonthreatening commands);
- Empty-hand control (e.g., soft restraint techniques like grabbing, holding, and joint locks, and hard restraint techniques like hitting, kicking, or other physical action);
- Less-than-lethal methods of physical force (e.g., chemicals sprays, Tasers, batons, or nonlethal projectiles); and
- Lethal force.\textsuperscript{27}

Some have criticized the use of force continuum as being over simplistic and suggesting that the only response to a conflict is escalating force until the conflict is resolved.\textsuperscript{28} For example, the Police Executive Research Forum (PERF) has recommended the Critical Decision-Making Model (CDM).\textsuperscript{29} PERF explains:

The CDM teaches officers to start asking themselves the following types of questions as soon as they get a call:

“What do I know about what is happening at the scene of this call? Is there a history of previous calls at this location? What do we know about the person who made the call? Is there any indication of a mental health issue at this call? Is there a person with a weapon at the scene?”

And then, after arriving at the scene, officers are taught to keep asking questions as they work through a 5-step process:

1. Collect information.
2. Assess the situation, threats, and risks.
3. Consider police powers and agency policy.
4. Identify options and determine best course of action.
5. Act, review, and re-assess.\textsuperscript{30}

According to the FDLE, training on de-escalation is interwoven into the following curricula:

\textsuperscript{25} CJSTC report (May 11, 2017), \textit{supra}, at p. 11.
\textsuperscript{26} Oliva, Morgan, and Romano (2010), \textit{supra}, at p. 18.
\textsuperscript{29} Id.
\textsuperscript{30} Id.
### Basic Recruit Training

- Defensive Tactics (80-hour course)
  - De-escalation is taught in Defensive Tactics from a different standpoint than deescalating through communication. De-escalation in Defensive Tactics teaches the officer to immediately reduce their use of force during an already established use-of-force situation once they gain the subject’s compliance.

- Interactions in a Diverse Community (40-hour course)
  - De-escalation of a situation through communication is taught as a part of professional communication and resolving conflicts.

### Post-Basic Training

- Defensive Tactics Instructor Course (Instructor course #802). This course is divided into 6 units:
  - The role of the instructor in teaching use of force;
  - Decision-making;
  - Levels of resistance;
  - De-escalation;
  - Use-of-force guidelines; and
  - Legal issues around the use of force.

- Advanced Defensive Tactics Course (course #1405). This course contains a unit on the use of force, including a discussion of escalation, de-escalation, and disengagement.

- Field Training Officer Course (Advanced course #809). This course contains:
  - Use-of-force evaluation: Maintains control without excessive force; applies appropriate force by policy; deescalates force when resistance is overcome; and precedes to apply force with appropriate warnings; and
  - Role-play exercise assesses if the new officer knows how to use interpersonal skills to de-escalate a volatile situation.

- Crisis Intervention for School Resource Officers (Specialized course #1401)
  - De-escalation is one of the primary skills incorporated throughout the course, including:
    - Deescalating students with mental health challenges (e.g., anxiety, autism, aggressive behaviors); and
    - De-escalation techniques to calm students and respond to crisis situations.\(^{31}\)

### Crisis Intervention and Mental Health Issues

According to the National Alliance on Mental Illness (NAMI), “[t]he lack of mental health crisis services across the U.S. has resulted in law enforcement officers serving as first responders to most crises.”\(^ {32}\)

> While the causes [of a crisis] can vary greatly, anyone can be susceptible to experiencing a crisis. Individuals with serious mental illnesses like psychotic disorders (e.g.,

\(^{31}\) *Senate CJ Committee Questions, 7-24-2020, supra.*

\(^{32}\) *Crisis Intervention Team (CIT) Programs, National Alliance on Mental Illness, available at [https://www.nami.org/Advocacy/Crisis-Intervention/Crisis-Intervention-Team-(CIT)-Programs](https://www.nami.org/Advocacy/Crisis-Intervention/Crisis-Intervention-Team-(CIT)-Programs) (last visited March 10, 2021).*
schizophrenia) who are in crisis may have trouble with reality testing, experiencing delusions (fixed false beliefs) or hallucinations (a misperception commonly experienced as hearing voices). These individuals may also be experiencing fear, insecurity, difficulty concentrating, agitation, over-stimulation, and poor judgment. They may become preoccupied, withdrawn, or argumentative. Other crisis events may involve family altercations, intoxicated or chemically dependent individuals, suicide attempts, victims of accidents, physical or sexual assaults, or other taxing situations.[33]

“Many agencies have determined that because all their officers respond to mental health calls, they need to have the specialized training, knowledge, and skills to respond appropriately.”[34]

“The task of crisis intervention is that of communicating with people[.] The purpose of crisis intervention is to help individuals in crisis achieve -with assistance of the crisis intervener- equilibrium within themselves so they resume their normal activities[.]”[35] To enhance such communication, the officer might learn active listening skills and behaviors to avoid and also engage in role-playing.[36]

Some law enforcement agencies have addressed crisis intervention by engaging in Crisis Intervention Team (CIT) Training, which is a training curriculum that “emphasizes understanding of mental illness and incorporates the development of communication skills, practical experience and role-playing. Officers are introduced to mental health professionals, consumers and family members both in the classroom and through site visits.”[37]

Mental illness training may also occur during recruit academy training, in-service training, and roll-call training. The U.S. Department of Justice (DOJ) asserts that “[r]ecruit academy training is not sufficient by itself to prepare a police force to respond appropriately to individuals experiencing a mental health crisis. Recruit academy training must exist alongside a more comprehensive and robust program to be effective.”[38] Further, DOJ states that “[i]n-service and roll-call training provide law enforcement agencies with the opportunities to convey new policies and tactics to officers, to refresh knowledge, and to reinforce skills learned in previous recruit or specialized training courses.”[39]

The FDLE states that “[c]urrently, post-basic mental illness training is covered by a “Crisis Intervention for School Resource Officers (SROs) course. However, because this course is primarily taken by SROs, many officers do not receive this training.”[40] Additionally, according to the FDLE, accreditation standards for those law enforcement agencies that are accredited require annual mental illness training.

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[33] Oliva, Morgan, and Romano (2010), supra, at p. 16.
[36] Id.
[37] Id.
[38] Id.
[39] Id. However, the DOJ also asserts that roll-call training, like recruit academy training, “is not sufficient by itself to prepare a police force to respond appropriately to individuals experiencing a mental health crisis.” Id.
[40] 2021 FDLE Legislative Bill Analysis (SB 1192) (Feb. 25, 2021), Florida Department of Law Enforcement (on file with Senate Committee on Criminal Justice).
Law enforcement agencies accredited through the Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA) must comply with an accreditation standard that requires agencies to have annual training for their law enforcement officers and other agency personnel who may come into contact with the public in dealing with individuals who suffer from mental illness (CALEA standard 41.2.7). The standard further directs that the training should be developed in collaboration with mental health professionals and should include access to the court system and applicable case law. The standard indicates that alternatives to arrest, such as citations, summonses, referrals, informal resolutions and warnings, should be considered to ensure the best treatment options are used and to keep those with mental health issues out of the criminal justice system. The training is to be reviewed and updated annually. Currently, 43 states and local law enforcement agencies in Florida are accredited through CALEA.\(^{41}\)

### Procedural Justice Training

In the context of law enforcement, “procedural justice” has been described as a “practical concept that promotes healthy and reciprocal relations with the community to enhance safety for both officers and the community.”\(^ {42}\) The CJSTC workgroup noted that in many police encounters that garnered national attention over the last several years, “the officer actions during the encounter had just as much of an effect on public perception as the outcome of the encounter.”\(^ {43}\)

The CJSTC workgroup explained that procedural justice amounts to four basic actions for police officers: treating people with respect; listening to what they have to say; making fair decisions; and explaining your actions.\(^ {44}\)

### Implicit Bias Training

“Implicit bias describes the automatic association people make between groups of people and stereotypes about those groups. Under certain conditions, those automatic associations can influence behavior—making people respond in biased ways even when they are not explicitly prejudiced.”\(^ {45}\) The 2017 CJSTC workgroup explained the “purpose of providing training on fair, unbiased policing (also known as fair and impartial policing) is to help individuals to be aware of their own biases and learn how to manage them effectively.” This is important because “being self-aware” of these biases aids in communication between law enforcement and the public “whether it is a town hall meeting, traffic stop, or some other interaction.”\(^ {46}\)

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\(^{41}\) *Id.*

\(^{42}\) CJSTC report (May 11, 2017), *supra*, at p. 10.

\(^{43}\) *Id.*

\(^{44}\) *Id.* at 11.

\(^{45}\) *Implicit Bias*, The National Initiative for Building Community Trust and Justice, available at https://trustandjustice.org/resources/intervention/implicit-bias (last visited March 10, 2021). “Discussions of implicit bias in policing tend to focus on implicit racial biases; however, implicit bias can be expressed in relation to non-racial factors, including gender, age, religion, or sexual orientation. As with all types of bias, implicit bias can distort one’s perception and subsequent treatment either in favor of or against a given person or group. In policing, this has resulted in widespread practices that focus undeserved suspicion on some groups and presume other groups innocent.” *Id.*

\(^{46}\) CJSTC report (May 11, 2017), *supra*, at p. 10. “Studies find that bias, both implicit and explicit, exists in all people. This does not necessarily lead citizens and officers to treat others unfairly, but it makes that more likely.” *Id.* at 7.
According to the FDLE, training on “diversity” is interwoven into the following curricula at the basic recruit training level:

- Introduction to Law Enforcement (10-hour course)
- Interactions in a Diverse Community (40-hour course)
- Calls for Service (36-hour course)
- Traffic Stops (30-hour course)
  - Professional communication, conflict resolution, avoiding bias, and working with diverse groups are woven throughout the basic recruit program. In addition to the textbook content describing these topics, recruits get hands-on practice through communication exercises and role-play scenarios.

**Peer Support Programs**

Peer support programs are a means to help law enforcement officers and other first responders deal with work-related and family stress. Some law enforcement agencies offer peer support programs during crisis events or through full-time staff. According to the National Sheriffs Association,

> [h]aving a Peer Support program in place not only helps to decrease day-to-day stress, but it can also countercheck the emotional strain of critical incidents and prevent the accumulation of emotions that can lead to alcohol abuse, depression, domestic violence, and suicide.

Benefits of developing a Peer Support program include the ability to provide peers with immediate assistance, provide additional support, allow for ventilation and sharing to take place, and works in tandem with the services provided by chaplains and mental health professionals. A successful Peer Support program reduces long-term critical incident stress, turn-over and health insurance costs, worker’s compensation claims, fitness-for-duty evaluations and supports supervisor referrals.  

In 2020, legislation was enacted into Florida law to provide confidentiality for peer support communications between a first responder and a first responder peer. A “first responder” includes a law enforcement officer and a “first responder peer” includes a person who:

- Is not a health care practitioner;
- Has experience working as or with a first responder regarding any physical or emotional conditions or issues associated with the first responder’s employment; and
- Has been designated by the first responder’s employing agency to provide peer support (as provided in the bill) and has received training for this purpose.

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48 Chapter 2020-104 L.O.F (effective July 1, 2020).
49 *Id.* The bill provided four exceptions to such confidentiality: (1) the first responder peer is a defendant in a civil, criminal, administrative, or disciplinary proceeding arising from a complaint filed by the first responder who was a party to the peer support communication, in which case such information may be divulged but is limited to the scope of the proceeding; (2) the first responder who was a party to the peer support communication agrees, in writing, to allow the first responder peer to testify about or divulge information related to the peer support communications; (3) based on the peer support...
National Decertification Index

“In July 1999, the International Association of Directors of Law Enforcement Standards and Training (IADLEST) established a database, with funding from the DOJ’s Bureau of Justice Administration (BJA), to track decertified officers across the United States.”50 The National Decertification Index (NDI) is intended “to serve as a national registry of certificate or license revocation actions relating to officer misconduct. The records contained in the NDI are provided by participating state government agencies and should be verified with the contributing authority. Inclusion in the database does not necessarily preclude any individual from appointment as an officer.”51 “The NDI is a pointer system only. There are no records contained in the NDI. Records are housed in participating state government agency databases…..”52

The NDI “contains no information about what the officer did to be decertified; it merely refers the person seeking information about a particular officer to the state POST53 that decertified him or her. POST agencies are permitted to query the NDI, as are hiring departments as long as the POST has granted access for the agency’s pre-hire screening process.” As of March 10, 2020, the NDI contained 29,882 actions reported by 45 certifying agencies.54

The FDLE states that “[o]fficer disciplinary actions resulting in revocation or relinquishment of an officer’s certification are currently reported to NDI.”55

Accreditation

Section 943.125, F.S., addresses voluntary accreditation of state and local law enforcement agencies, correctional facilities, public agency offices of inspectors general, and certain pretrial diversion programs. Accreditation standards relating to law enforcement and inspectors general used by the accreditation programs established in s. 943.125, F.S., are determined by the Commission for Florida Law Enforcement Accreditation, Inc. (CFA). Accreditation standards communications, the first responder peer suspects that the first responder who was a party to the peer support communications has committed a criminal act or intends to commit a criminal act; and (4) there are articulable facts or circumstances that would lead a reasonable, prudent person to fear for the safety of the first responder who was a party to the peer support communication, another person, or society, and the first responder peer communicates the information only to a potential victim and law enforcement or other appropriate authorities. Id.
52 Do you really know who you are hiring? (Become better informed through the National Decertification Index (NDI)), International Association of Directors of Law Enforcement Standards and Training, available at https://www.iadlest.org/Portals/0/NDI%20brochure%20July%202020.pdf (last visited March 10, 2021).
53 “POST” is an acronym for Peace Officer Standards and Training Commission.
54 About NDI, supra.
55 Section 943.125(6), F.S.
related to corrections functions and pretrial diversion programs are determined by the Florida Corrections Accreditation Commission, Inc. (FCAC).\textsuperscript{56}

Section 943.125, F.S., requires that the law enforcement accreditation program address, at a minimum, the following aspects of law enforcement:

- Vehicle pursuits;
- Seizure and forfeiture of contraband articles;
- Recording and processing citizens’ complaints;
- Use of force;
- Traffic stops;
- Handling natural and manmade disasters.
- Special operations;
- Prisoner transfer;
- Collection and preservation of evidence;
- Recruitment and selection;
- Officer training;
- Performance evaluations;
- Law enforcement disciplinary procedures and rights; and
- Use of criminal investigative funds.\textsuperscript{57}

III. Effect of Proposed Changes:

Providing a Declaration of an Important State Interest

The bill provides the following declaration of an important state interest:

The Legislature finds that effective policing requires that the use of chokeholds and neck restraints be limited; that law enforcement basic recruit training and retraining include deescalation training; that minimum standards of instruction be developed relating to deescalation techniques, procedural justice, implicit bias, and the duty of an officer to intervene if another officer uses excessive or unnecessary force; that the state law enforcement accreditation program address these matters as well as mental health and wellness resources and support available for law enforcement officers; and that written policies incorporate an affirmative duty to use deescalation techniques whenever possible. The Legislature further finds and declares that this act fulfills an important state interest in protecting the safety of both law enforcement officers and the public by ensuring law enforcement officers receive sufficient and similar training to prevent unnecessary or excessive use of force and to develop skills to enhance understanding of and communication with the communities they serve.

\textsuperscript{56} Some agencies are accredited through national accreditation organizations, such as the Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA) or the Commission on Accreditation for Corrections (ACA), rather than through the state accrediting body.

\textsuperscript{57} Section 943.125(4), F.S.
Limiting Certain Restraint Techniques

The bill amends s. 943.12, F.S., relating to the powers, duties, and functions of the CJSTC, to require the CJSTC to adopt rules prohibiting any law enforcement officer, correctional officer, or correctional probation officer from using any technique that requires the application of pressure to the neck, throat, esophagus, trachea, or carotid arteries alongside the trachea. The use of such a technique by any such officer is prohibited unless deadly force is authorized under the law. The CJSTC must adopt rules requiring employing agencies to report to the CJSTC any use of such technique by such officer employed by that agency. The CJSTC must also cause to be investigated any law enforcement officer, correctional officer, or correctional probation officer who uses such technique in violation of this statute, and set disciplinary guidelines and penalties prescribed in rules applicable to such violation.

Providing Data to the National Decertification Index

The bill further amends s. 943.12, F.S., to require the CJSTC to provide data to the National Decertification Index on final commission orders regarding revocation or relinquishment of certification of law enforcement officers, correctional officers, and correctional probation officers.

Requiring Minimum Standards for De-escalation Training and Other Training Subjects

The bill creates s. 943.121, F.S., to require the CJSTC to establish and maintain standards for instruction of officers in the subjects of de-escalation techniques,\(^{58}\) procedural justice training,\(^{59}\) implicit bias training,\(^{60}\) and the duty to intervene\(^{61}\) if another officer uses excessive or unnecessary force in order to build upon and improve police community relations.

The bill provides that the following minimum standards for de-escalation training must include all of the following:

- Training on verbal and physical tactics that would help avoid a physical response to resistance with an emphasis on communication, negotiation, de-escalation techniques,

\(^{58}\) The bill amends s. 943.10, F.S., relating to definitions in ch. 943, F.S., to define “de-escalation technique” as a method or methods for assessing and managing a situation in order to resolve it with the least response to resistance which is safe and practicable by a law enforcement officer.

\(^{59}\) The bill amends s. 943.10, F.S., relating to definitions in ch. 943, F.S., to define “procedural justice training” as a system of law enforcement that prioritizes obtaining citizen compliance with law enforcement direction through fair and respectful two-way communication and, where possible and safe, provides explanation of the rationale behind directions given by law enforcement officers to build trust. This training allows for both community and police to be treated with respect and dignity, thereby cultivating stronger police-community relations.

\(^{60}\) The bill amends s. 943.10, F.S., relating to definitions in ch. 943, F.S., to define “implicit bias training” as a program designed to go beyond producing fair and impartial enforcement of the law by bringing awareness to or increasing awareness of, and improving response strategies to, unconscious bias towards diverse communities. Such training should allow law enforcement to serve the community with a deeper understanding of the diversities within the community, thereby mitigating community tension and improving police-community relations.

\(^{61}\) The bill amends s. 943.10, F.S., relating to definitions in ch. 943, F.S., to define “intervene” as stopping the use of excessive or unnecessary force.
creating and maintaining a reaction gap,\(^\text{62}\) and obtaining the time needed to resolve the incident safely for each individual involved;

- Training officers simultaneously and in teams on de-escalation and appropriate responses to resistance to improve group dynamics and diminish excessive responses to resistance while managing critical incidents;
- Training that intentional chokeholds must never be used, except in deadly force situations;
- Training on the principles of using distance, cover, and time when approaching and managing critical incidents, and the elimination of other techniques in favor of using distance and cover to create and sustain a reaction gap;
- Training on the use of the lowest response to resistance which is a possible and safe response to an identified threat;
- Training on the reevaluation of an identified threat as the management of the critical incident progresses;
- Training on procedural justice training;
- Training on crisis intervention strategies to appropriately identify and respond to individuals suffering from physical or mental disabilities, mental health issues, or substance abuse issues with an emphasis on de-escalation techniques and promoting effective communication with such individuals;
- Training on techniques that provide all officers with awareness and recognition of an individual’s physical and mental disabilities, mental health issues, and substance abuse issues with an emphasis on communication strategies;
- Training on other evidence-based approaches found to be appropriate by the CJSTC which enhance deescalation techniques and skills; and
- Training on implicit bias.

The bill also requires the CJSTC to:

- Not later than November 30, 2022, provide written guidance to law enforcement agencies in this state which employ law enforcement officers with regard to compliance with minimum standards relating to de-escalation training;
- Create and publish on its website a model written policy on de-escalation training, which a law enforcement agency may adopt to fulfill written policy requirements under the statute; and
- Collect data regarding the implementation of training programs under the statute and provide by July 1 of each year an annual report to the President of the Senate, the Senate Minority Leader, the Speaker of the House of Representatives, and the House Minority Leader describing that data.

The bill also requires each law enforcement agency in this state to adopt, not later than January 1, 2023, a written policy stating that each of the law enforcement officers in its employ has an affirmative duty to use de-escalation techniques in his or her interactions with citizens wherever possible.

\(^{62}\)The bill amends s. 943.10, F.S., relating to definitions in ch. 943, F.S., to define “reaction gap” as the minimum amount of distance necessary to ensure that a law enforcement officer will have time to be able to react appropriately to a potential threat.
Requiring that De-escalation Techniques and other Specified Aspects of Law Enforcement be Addressed in Law Enforcement Agency Accreditation

The bill amends s. 943.125, F.S., relating, in part, to accreditation of state and local law enforcement agencies, to expand the list of aspects of law enforcement that a law enforcement accreditation program must, at a minimum, address. The bill adds the following aspects of law enforcement:

- Response to resistance (replacing the current to “use of force”),\(^{63}\)
- Deescalation techniques;
- Implicit bias training;
- Procedural justice training;
- Mental health and wellness resources and support available for law enforcement officers, including any peer-support teams and sworn or unsworn chaplaincy programs; and
- The duty to intervene if another officer uses excessive or unnecessary force.

Requiring Deescalation Training in Basic Recruit Training and Continued Employment Training.

The bill amends s. 943.1715, F.S., relating to law enforcement training in diverse populations, to mandate that the CJSTC require that every basic skills course include in the curriculum at least 40 hours of de-escalation training.

According to the FDLE, “the current BRTP has a lot of de-escalation training” but “it’s impossible to pinpoint the current number of hours due to the topic being threaded throughout the training. In addition, this topic is covered within role-play and communication exercises. Therefore, it is very difficult to determine the number of hours contributed solely to de-escalation.”\(^{64}\)

The bill also amends s. 943.1716, F.S., relating to continued employment training in diverse populations, to mandate that the CJSTC require by rule that each officer receive at least 16 hours of de-escalation training, in addition to the 40 hours of required instruction for continued employment or appointment as an officer.

Effective Date

The bill takes effect July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18(a) of the State Constitution provides that: “No county or municipality shall be bound by any general law requiring such county or municipality to spend funds...unless the legislature has determined that such law fulfills an important state mandate.”

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\(^{63}\) The CJSTC uses the term “use of force” throughout all training documents. \(2021\) \textit{FDLE Legislative Bill Analysis (SB 1970), supra.}

\(^{64}\) \textit{Id.}
interest and unless: ...the law requiring such expenditure is approved by two-thirds of the membership in each house of the legislature….”

The bill contains numerous training requirements and other requirements that may impact local law enforcement agencies. These requirements may cause county and municipal governments to spend funds.

Article VII, section 18(d) of the State Constitution, provides eight exemptions, which, if any single one is met, exempts the law from the limitations on mandates. If the bill does qualify as a mandate, and no exemption applies, in order to be binding on the counties, the bill must include a finding of important state interest and final passage must be approved by two-thirds of the membership of each house of the Legislature.

The bill includes a declaration of an important state interest supporting the requirements of the bill (see “Effect of Proposed Changes” section of this analysis).

B. Public Records/Open Meetings Issues:
None.

C. Trust Funds Restrictions:
None.

D. State Tax or Fee Increases:
None.

E. Other Constitutional Issues:
None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:
None.

B. Private Sector Impact:
None.

C. Government Sector Impact:

The bill contains numerous training requirements and other requirements that may impact local law enforcement agencies. These requirements may cause county and municipal governments to spend funds. The impact of the bill on local governments is indeterminate.
The FDLE asserts that the bill’s provisions will increase training and IT costs. The department’s fiscal analysis states that development of the training curricula will cost approximately $12,648, which includes the design and development of course material, revision costs, and course implementation. The department also states that the bill will require modifications to the Automated Training Management System (ATMS) (analysis, design, programming and testing) totaling approximately $37,000. The FDLE estimates these modifications will take three months to complete. The total cost to FDLE is estimated to be $49,648 in nonrecurring funds.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Michigan Senate Bill on Law Enforcement Standards and Training

On June 4, 2020, the Michigan Senate passed a bill on law enforcement standards. The bill “would amend the Michigan Commission on Law Enforcement Standards Act to require individuals who are licensed or seeking licensure as law enforcement officers to complete training that includes de-escalation techniques, implicit bias training, procedural justice training, and mental health resources and support for law enforcement officers.”

This bill is similar to the previously-described Michigan Senate bill.

The bill also amends s. 943.1716, F.S., to mandate that the CJSTC require by rule that each officer receive at least 16 hours of de-escalation training, in addition to the 40 hours of required instruction for continued employment or appointment as an officer.

FDLE Comments on Impact of Continued Employment Deescalation Training Requirement

The FDLE states that the requirement relating to continued employment training in de-escalation “will raise the number of continuing training or education required of law enforcement officers from the rate of 40 hours every four years to 56 hours every four years. Staff will also have to amend ATMS and follow up with agencies to document completions.” Further “[A] specialized post-basic 16-hour de-escalation course will be presented for CJSTC approval in May 2021. This

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65 Id.
66 Id.
70 Id.
course will meet the de-escalation training specified in the bill, with the exception of the mandatory requirement.”

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 943.10, 943.12, 943.125, 943.1715, and 943.1716.

This bill creates section 943.121 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 Criminal Justice on March 16, 2021:
   The committee substitute:
   - Includes a declaration of an important state interest;
   - Requires the CJSTC to provide data to the National Decertification Index on final commission orders regarding revocation or relinquishment of certification of law enforcement officers, correctional officers, and correctional probation officers;
   - Requires the CJSTC (rather than the Office of the Attorney General) to:
     o Provide written guidance to law enforcement agencies on compliance with minimum standards relating to de-escalation training; and
     o Collect data regarding the implementation of training programs and annually report such data to the Legislature (as specified in bill);
   - Moves requirements relating to written guidance and policy on de-escalation training and data collection on training programs from s. 943.125, F.S., to s. 943.121, F.S. (created by the bill); and
   - Changes the effective date of the bill from July 1, 2021 to July 1, 2022, and makes conforming changes to other dates relevant to requirements in the bill so that those other dates occur after the bill’s effective date.

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

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71 2021 FDLE Legislative Bill Analysis (SB 1970), supra.
A bill to be entitled An act relating to law enforcement reform; providing a declaration of important state interest; amending s. 943.10, F.S.; defining terms; amending s. 943.12, F.S.; requiring the Criminal Justice Standards and Training Commission to adopt rules prohibiting law enforcement officers, correctional officers, or correctional probation officers from using specified techniques; providing an exception; requiring the commission to adopt rules requiring employing agencies to report information related to the use of such techniques; requiring that the commission cause to be investigated certain officers who use the prohibited techniques; requiring the commission to provide specified data regarding final commission orders to the National Decertification Index; creating s. 943.121, F.S.; requiring the commission to establish and maintain standards for the instruction of officers in specified subjects in order to build upon and improve police-community relations; providing minimum required standards for deescalation training; requiring that by a specified date the commission provide certain guidance to law enforcement agencies; requiring the commission to create and publish on its website a model written policy; requiring that by a specified date each law enforcement agency adopt a certain written policy; requiring the commission to collect certain data and annually, by a specified date, submit a report to the Legislature; amending s. 943.1715, F.S.; requiring the commission to develop and require the retraining of all law enforcement officers, correctional officers, or correctional probation officers from using such prohibited techniques; requiring that the commission require the retraining include deescalation training; that minimum standards of instruction be developed relating to deescalation techniques, procedural justice, implicit bias, and the duty of an officer to intervene if another officer uses excessive or unnecessary force; that the state law enforcement accreditation program address these matters as well as mental health and wellness resources and support available for law enforcement officers; and that written policies incorporate an affirmative duty to use deescalation techniques whenever possible. The Legislature further finds and declares that this act fulfills an important state interest in protecting the safety of both law enforcement officers and the public by ensuring law enforcement officers receive sufficient and similar training to prevent unnecessary force.

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

Section 1. The Legislature finds that effective policing requires that the use of chokeholds and neck restraints be limited; that law enforcement basic recruit training and retraining include deescalation training; that minimum standards of instruction be developed relating to deescalation techniques, procedural justice, implicit bias, and the duty of an officer to intervene if another officer uses excessive or unnecessary force; that the state law enforcement accreditation program address these matters as well as mental health and wellness resources and support available for law enforcement officers; and that written policies incorporate an affirmative duty to use deescalation techniques whenever possible. The Legislature further finds and declares that this act fulfills an important state interest in protecting the safety of both law enforcement officers and the public by ensuring law enforcement officers receive sufficient and similar training to prevent unnecessary force.
Section 2. Subsections (23) through (27) are added to section 943.10, Florida Statutes, to read:

943.10 Definitions; ss. 943.085-943.255.—The following words and phrases as used in ss. 943.085-943.255 are defined as follows:

(23) "Deescaletation technique" means a method or methods for assessing and managing a situation in order to resolve it with the least response to resistance which is safe and practicable by a law enforcement officer.

(24) "Implicit bias training" means a program designed to go beyond producing fair and impartial enforcement of the law by bringing awareness to or increasing awareness of, and improving response strategies to, unconscious bias towards diverse communities. Such training should allow law enforcement to serve the community with a deeper understanding of the diversities within the community, thereby mitigating community tension and improving police-community relations.

(25) "Intervene" means to stop the use of excessive or unnecessary force.

(26) "Procedural justice training" means a system of law enforcement that prioritizes obtaining citizen compliance with law enforcement direction through fair and respectful two-way communication and, where possible and safe, provides explanation of the rationale behind directions given by law enforcement officers to build trust. This training allows for both community and police to be treated with respect and dignity, thereby allowing for both community and police to be treated with respect and dignity, thereby building trust.

Section 3. Present subsection (17) of section 943.12, Florida Statutes, is redesignated as subsection (18), and a new subsection (17) and subsection (19) are added to that section, to read:

943.12 Powers, duties, and functions of the commission.—The commission shall:

(17) Adopt rules prohibiting any law enforcement officer, correctional officer, or correctional probation officer from using any technique that requires the application of pressure to the neck, throat, esophagus, trachea, or carotid arteries alongside the trachea. The use of such a technique by a law enforcement officer, correctional officer, or correctional probation officer is prohibited unless deadly force is authorized under the law. The commission shall adopt rules requiring employing agencies to report to the commission any use of such technique by a law enforcement officer, correctional officer, or correctional probation officer employed by that agency. The commission shall cause to be investigated any law enforcement officer, correctional officer, or correctional probation officer who uses such a technique in violation of this subsection, and shall set disciplinary guidelines and penalties prescribed in rules applicable to such violation.

(19) Provide data to the National Decertification Index on final commission orders regarding revocation or relinquishment of certification of law enforcement officers, correctional officers, or correctional probation officers who have violated this section or evidences fraud in obtaining such certification.
(e) Training on the use of the lowest response to
and cover to create and sustain a reaction gap.

(f) Training on the reevaluation of an identified threat as
the management of the critical incident progresses.

(g) Training on procedural justice training.

(h) Training on crisis intervention strategies to
appropriately identify and respond to individuals suffering from
physical or mental disabilities, mental health issues, or
substance abuse issues with an emphasis on deescalation
techniques and promoting effective communication with such
individuals.

(i) Training on techniques that provide all officers with
awareness and recognition of an individual’s physical and mental
disabilities, mental health issues, and substance abuse issues
with an emphasis on communication strategies.

(j) Training on other evidence-based approaches found to be
appropriate by the commission which enhance deescalation
techniques and skills.

(k) Training on implicit bias.

(3) Not later than November 30, 2022, the commission shall
provide written guidance to law enforcement agencies in this
state that employ law enforcement officers with regard to
compliance with minimum standards under subsection (2).

(4) The commission shall create and publish on its website
a model written policy in accordance with subsection (2).

(5) Not later than January 1, 2023, each law enforcement
agency in this state shall adopt a written policy stating that
each of the law enforcement officers in its employ has an
affirmative duty to use deescalation techniques in his or her

interactions with citizens wherever possible. A law enforcement agency may fulfill its duty under this subsection by adopting the commission’s model written policy.

(6) The commission shall collect data regarding the implementation of training programs under this section and shall provide by July 1 of each year an annual report to the President of the Senate, the Senate Minority Leader, the Speaker of the House of Representatives, and the House Minority Leader describing that data.

Section 5. Section 943.125, Florida Statutes, is amended to read:

943.125 Accreditation of state and local law enforcement agencies, correctional facilities, public agency offices of inspectors general, and certain pretrial diversion programs;

intent.—

(1) It is the intent of the Legislature that law enforcement agencies, correctional facilities, public agency offices of inspectors general, and those agencies offering pretrial diversion programs within offices of the state attorneys, county government, or sheriff’s offices in the state be upgraded and strengthened through the adoption of meaningful standards of operation for those agencies and their functions.

(2) It is the further intent of the Legislature that these agencies voluntarily adopt standards designed to promote enhanced professionalism:

(a) For law enforcement, to maximize the capability of law enforcement agencies to enforce the law and prevent and control criminal activities.

(b) For correctional facilities, to maintain best practices and prevent and control criminal activities.

(c) Within public agency offices of inspector general, to promote more effective scrutiny of public agency operations and greater accountability of those serving in those agencies.

(d) In the operation and management of pretrial diversion programs offered by and through the state attorney’s offices, county government, or sheriff’s offices.

(3) The Legislature also intends to encourage the continuation of a voluntary state accreditation program to facilitate the enhanced professionalism identified in subsection (2). Other than the staff support by the department as authorized in subsection (5), the accreditation program must be independent of any law enforcement agency, the Department of Corrections, the Florida Sheriffs Association, or the Florida Police Chiefs Association.

(4) The law enforcement accreditation program must address, at a minimum, all of the following aspects of law enforcement:

(a) Vehicle pursuits.

(b) Seizure and forfeiture of contraband articles.

(c) Recording and processing citizens’ complaints.

(d) Response to resistance use of force.

(e) Traffic stops.

(f) Handling natural and manmade disasters.

(g) Special operations.

(h) Prisoner transfer.

(i) Collection and preservation of evidence.

(j) Recruitment and selection.

(k) Officer training.

(l) Performance evaluations.
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(m) Law enforcement disciplinary procedures and rights.
(n) Use of criminal investigative funds.
(o) Deescalation techniques.
(p) Implicit bias training.
(q) Procedural justice training.
(r) Mental health and wellness resources and support available for law enforcement officers, including any peer-support teams and sworn or unsworn chaplaincy programs.
(s) The duty to intervene if another officer uses excessive or unnecessary force.

Subject to available funding, the department shall employ and assign adequate support staff to the Commission for Florida Law Enforcement Accreditation, Inc., and the Florida Corrections Accreditation Commission, Inc., in support of the accreditation programs established in this section.

Accreditation standards related to law enforcement and inspectors general used by the accreditation programs established in this section shall be determined by the Commission for Florida Law Enforcement Accreditation, Inc.

Accreditation standards related to corrections functions and pretrial diversion programs shall be determined by the Florida Corrections Accreditation Commission, Inc.

Section 6. Section 943.1715, Florida Statutes, is amended to read:

943.1715 Basic skills training relating to diverse populations and deescalation training.—The commission shall establish and maintain standards for instruction of officers in the subject of interpersonal skills relating to diverse populations, with an emphasis on the awareness of cultural differences. The commission shall also require by rule that every officer receive at least 16 hours of deescalation training, in addition to the 40 hours of required instruction for continued employment or appointment as an officer.

Section 8. This act shall take effect July 1, 2022.

CODING: Words stricken are deletions; words underlined are additions.
THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date: 3/24/21

Bill Number (if applicable): SB1970

Amendment Barcode (if applicable): 332.533.7202

Topic: LAW ENFORCEMENT REFORM

Name: LAURETTA PHILLIPSEN

Job Title: 

Address: 7240 WESTWIND DR

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Email: Advocate.phillipson@smail.com

Speaking: [ ] For [ ] Against [ ] Information

Waive Speaking: [ ] In Support [ ] Against

(The Chair will read this information into the record.)

Representing: [X] MYSELF

Appearing at request of Chair: [ ] Yes [X] 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)
YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

Meeting Date 03/24/21

Bill Number (if applicable) 1970

Amendment Barcode (if applicable)

Topic Law Enforcement Reform

Name Ingrid Delgado

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Speaking: □ For □ Against □ Information

Waive Speaking: □ In Support □ Against
(The Chair will read this information into the record.)

Representing Florida Conference of Catholic Bishops

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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3/24/2021
Meeting Date

THE FLORIDA SENATE
APPEARANCE RECORD

1970
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Law Enforcement Reform

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Speaking: □ For □ Against □ Information

Waive Speaking: ☑ In Support □ Against
(The Chair will read this information into the record.)

Representing NAACP Florida State Conference

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

3/24/21
Meeting Date

Topic Law enforcement reform

Name Christine Koester

Job Title

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Speaking: ❏ For ❏ Against ❏ Information

Waive Speaking: ❏ In Support ❏ Against
(The Chair will read this information into the record.)

Representing Self

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)
To: Senator Keith Perry, Chair
   Appropriations Subcommittee on Criminal and Civil Justice

Subject: Committee Agenda Request

Date: March 16, 2021

I respectfully request that CS/SB 1970, relating to Law Enforcement Reform, be placed on the:

☐ committee agenda at your earliest possible convenience.
☐ next committee agenda.

Senator Jason W. B. Pizzo
Florida Senate, District 38
I. Summary:

PCS/CS/SB 748 revises a broad range of statutes that govern the operation of the court system. Some of the diverse changes are made to accommodate developments in technology, some reflect the impact COVID-19 has had on the court system, and one change recognizes the effect of inflation on the monetary jurisdictional thresholds in the county courts.

- The bill updates provisions controlling the maintenance of appellate court records to allow the electronic storage of court records at a remote location. These provisions are updated to keep pace with electronic technology rather than require the court clerk to keep manual control of the records.

- The clerks of court, working with the Florida Courts Technology Commission, must prepare a plan to procure or develop a statewide electronic solution that identifies all civil and criminal mandatory financial assessments required by statute.

- The jurisdictional amount of county courts will be adjusted beginning in 2030, and every 10 years afterwards, to account for inflation based on changes in the Consumer Price Index.

- The jurisdictional limit must be rounded to the nearest $5,000, but no lower than $50,000. The Office of Economic and Demographic Research (EDR) must calculate the adjusted
jurisdictional limit and certify it to the Chief Justice of the Supreme Court beginning January 31, 2030 and every 10 years thereafter.

- The EDR and the Office of the State Courts Administrator (OSCA) must publish the adjusted jurisdictional limit to their websites.

- The bill authorizes a person to postpone for jury service for up to 1 year when a public health emergency or a state of emergency is declared.

- Finally, the bill revises three criminal statutes to authorize the taking and certification of fingerprints when a guilty judgment is entered in a proceeding that is conducted remotely. The fingerprints no longer must be taken in open court and in the judge’s presence.

The bill takes effect July 1, 2021.

II. Present Situation:

Responsibilities of the Clerk of the Florida Supreme Court

Chapter 25, F.S., is devoted to the organization and operation of the Florida Supreme Court. Among the provisions in the chapter are two statutes detailing the responsibilities of the Clerk of the Supreme Court. The clerk must keep all books, papers, records, files, and the seal of the Court in the clerk’s office in the Supreme Court Building and in his or her custody.¹

Additionally, any decisions and opinions delivered by the Court or any justice must be filed and remain in the clerk’s office. These decisions and opinions may not be removed unless ordered by the Court. The clerk is required to furnish certified copies of the decisions and opinions to any person who requests them and pays the necessary fees.² These statutes do not accommodate the developments in technology which allow for digital storage in a remote location.

Mandatory Monetary Assessments

The clerks of the circuit courts were required, by October 1, 2012, to develop a uniform form for the identification and imposition of all assessments mandated by statute. The clerks were required to work with their association and in consultation with the Office of the State Courts Administrator to develop the form. An assessment includes, but is not limited to, a fine or other monetary penalty, fee, service charge, or cost. The clerks are currently required to submit that form by October 1 of each year to the Supreme Court for approval. The form must contain updates to reflect recent changes made in the law. Once a form is approved by the Court, all circuit and county courts must use the form.³

According to information supplied in the Judicial Branch 2021 Legislative Agenda, the clerks’ association, the Florida Court Clerks and Comptrollers, submitted the initial form matrix as required on October 1, 2012, and updated the form annually. The matrix is a catalogue of

¹ Section 25.221, F.S.
² Section 25.301, F.S.
³ Section 28.2457(1), (2), and (3), F.S.
mandatory and discretionary fines, fees, charges, and costs in many areas, both civil and criminal. It provides the necessary statutory authority for each item with a brief description, states whether the item is mandatory or discretionary, provides the minimum and maximum amounts authorized, and often contains brief comments on the assessment. The Judicial Branch 2021 Legislative Agenda further states that the Supreme Court has never approved the form matrix because of “concerns that it is not a form within the meaning of the statute.” However, the chief justice has provided the document each year to the chief judges of the trial courts for their use as a possible resource.

The Judicial Management Council’s Workgroup on Court Costs and Fines was established on December 31, 2018, within the Judicial Management Council. Its purpose is to review monetary assessments and identify methods that will reduce the disproportionate impact the assessments have on low income individuals. In June 2020, the Workgroup finalized its report, Court Costs and Fines in Florida, and the report was approved by the Judicial Management Council on August 31, 2020. The Workgroup recommended:

- Removing from statute the requirement for a uniform form for identifying and imposing assessments that the clerks produce; and
- Working in cooperation with the clerks of court to develop reforms, using an electronic system, to standardize the ability to identify and impose assessments and payments.

The Supreme Court approved these recommendations on November 4, 2020, at the Court Conference for consideration by the Legislature.

Jurisdictional Amount of County Courts

A county court is a trial court that has jurisdiction over the following types of cases within its jurisdictional or monetary limits:

- All criminal misdemeanor cases not cognizable by the circuit courts.
- All violations of municipal and county ordinances.
- Disputes occurring in homeowner associations, but this jurisdiction is concurrent with the jurisdiction of the circuit courts.

Notes:

4 Office of Legislative Affairs, Office of the State Courts Administrator, Judicial Branch 2021 Legislative Agenda, (January 21, 2021) (on file with the Senate Committee on Judiciary).
5 Id., at 13.
6 The Judicial Management Councils are described as “high-level management consultants” to the Florida Supreme Court. The first Judicial Management Council was established in 2012 and the current council is the Court’s fifth council. Each council is composed of 15 voting members including the Chief Justice and one other justice, members of each level of the court system, and members from the public. The council meets at least quarterly and is tasked with identifying potential crisis situations for the judiciary and developing strategies to meet those concerns; evaluating information that will improve the effectiveness and performance of the judicial branch; developing and monitoring the judiciary’s long-range planning work; reviewing the charges of the courts and Florida Bar commissions and committees, making revisions and proposing ways to coordinate the work of these groups; and addressing issues that the Supreme Court brings before the council. https://www.flcourts.org/Administration-Funding/Judicial-Management-Council
8 Judicial Branch Legislative Agenda, supra note 4, at 15.
9 Section 34.01(1), F.S.
The statute governing the jurisdiction of county courts was amended in 2018 to increase the maximum jurisdictional amount of county courts in a three-step process. For all actions, except those within the exclusive jurisdiction of the circuit courts, in which the matter in controversy does not exceed, exclusive of interest, costs, and attorney fees, the jurisdictional amount is:

- $15,000 if filed on or before December 31, 2019.
- $30,000 if filed on or after January 1, 2020.
- $50,000 if filed on or after January 1, 2023.\(^{10}\)

When the statute was amended in 2018, an additional provision was included requiring the Office of the State Courts Administrator to submit a report to the Governor, President of the Senate, and Speaker of the House of Representatives by February 1, 2021. The report was to include recommendations regarding the adjustment of county court jurisdiction that considered the claim value of filings in both county and circuit courts, case events, the timeliness in processing cases, as well as any fiscal impact to the state resulting from the adjusted jurisdictional limits. The clerks of the county and circuit courts were tasked with providing data to assist in developing the report. The report was to include a review of fees to ensure that the court system is adequately funded and a review of the appellate jurisdiction of the district and circuit courts, including the use of appellate panels by circuit courts.

The Office of the State Courts Administrator issued its report entitled “Recommendations Regarding the Adjustment of County Court Jurisdiction” on February 1, 2021.\(^{11}\)

**Maintenance of Appellate Court Records in the District Courts of Appeal**

The statutes contain a number of provisions directing how court records are to be stored. Unfortunately, many of these provisions have become outdated and have not kept pace with changes in electronic technology and storage. Section 35.15, F.S., states that all decisions and opinions delivered by the district courts of appeal or one of its judges must be filed and remain in the office of the clerk. The decisions and opinions may not be taken from the clerk’s office except by court order. However, the clerk must furnish to anyone who desires certified copies of the opinions and decision upon payment of the appropriate fees.

Section 35.24, F.S., requires each clerk for a district court of appeal to physically keep his or her records at the headquarters of the court. This provision does not envision advancements in technology and electronic storage that would permit a clerk to store records electronically at a remote location.

In a similar manner, s. 35.24, F.S., requires that all books, papers, records, files, and the court seal be kept in the clerk’s office. This also precludes electronic storage of these items at a remote location.

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\(^{10}\) *Id.*; Ch. 2019–58, s. 9, Laws of Fla.

\(^{11}\) Office of the State Courts Administrator, *Recommendations Regarding the Adjustment of County Court Jurisdiction*, (February 1, 2021) (on file with the Senate Committee on Judiciary).


**Jury Duty Postponement**

The clerks of the court are responsible for summoning prospective jurors at least 14 days before they are to appear in court for jury selection.\(^\text{12}\) If a person is summoned to attend as a juror and fails to attend without providing a sufficient excuse, he or she may be required to pay a fine that does not exceed $100 and may be held in contempt of court.\(^\text{13}\)

If someone has been summoned for jury duty, jury service may be postponed for up to 6 months once a written or oral request is made. The request may specify a date or time period to which the service is to be postponed, and if that is stated, he or she will be given consideration for service once the assignment of the postponed date of jury service is made.\(^\text{14}\)

According to the *Judicial Branch 2021 Legislative Agenda*, jury service in Florida has been postponed since March 2020 because of the COVID-19 pandemic. Once jury service resumes, some people who are summoned may not be able to attend on a particular date due to complications created by the pandemic. The examples are given that the person summoned might recently have returned to work after being unemployed during the pandemic or might be responsible for the care of someone who is at greater risk of health complications if he or she is exposed to COVID-19.\(^\text{15}\)

**Fingerprinting a Defendant upon Conviction**

The criminal law statutes detail procedures that must be followed when a judgment is entered in certain misdemeanor and all felony offenses. A judgment of guilty or not guilty for a misdemeanor petit theft offense\(^\text{16}\) or a felony offense\(^\text{17}\) must contain:

- A written record, signed by the judge, and recorded by the clerk of the circuit court; or
- An electronic record that contains the judge’s electronic signature and is recorded by the clerk of the circuit court.

To enter a written or electronic judgment of guilt involving petit theft and all felonies, the judge must, in open court, and in the judge’s presence, have the defendant’s fingerprints taken either manually or electronically, sign a certificate certifying that the fingerprints on the judgment are the defendant’s fingerprints and that they were placed on the certificate in the judge’s presence, and for a felony judgment, cause the defendant’s social security number to be recorded. It is the opinion of some practitioners that these statutes do not appear to allow for a proceeding to be conducted remotely.

\(^\text{12}\) Section 40.23(1), F.S.  
\(^\text{13}\) Section 40.23(3), F.S.  
\(^\text{14}\) Section 40.23(2), F.S.  
\(^\text{15}\) Office of Legislative Affairs, Office of the State Courts Administrator, *Judicial Branch 2021 Legislative Agenda*, 9 (January 21, 2021) (on file with the Senate Committee on Judiciary.)  
\(^\text{16}\) Section 812.014(3)(d), F.S.  
\(^\text{17}\) Section 921.241, F.S.
III. Effect of Proposed Changes:

Responsibilities of the Clerk of the Florida Supreme Court (Sections 1 and 2)

The requirement that the clerk keep all books, papers, records, files, and the seal in his or her office and custody is amended. The revised language reflects developments in technology and electronic storage and requires that those items be “maintained” by the clerk and in the clerk’s “control” as prescribed by the Supreme Court. The clerk is no longer required to physically keep them in the clerk’s office and custody but is permitted to electronically store records at a remote location.

Mandatory Monetary Assessments (Section 3)

Section 28.2457(2), F.S., is amended to delete the requirements that the uniform form developed by the circuit court clerks be updated and submitted annually to the Supreme Court for approval and later distribution. Under the bill, the clerks of the circuit courts must collaborate with the state courts through the Florida Courts Technology Commission\(^{18}\) to prepare a plan to procure or develop a statewide electronic solution that will accurately identify all civil and criminal assessments required by statute. At a minimum, the plan must address operational, technological, and fiscal considerations involved in implementing the electronic solution. The clerks must submit the plan to the President of the Senate and the Speaker of the House of Representatives by January 1, 2022.

Jurisdiction Amount of County Courts (Section 4)

The statute defining the jurisdiction of the county courts is amended to delete the now obsolete provision requiring the Office of the State Courts Administrator to publish a report by February 1, 2021.

A new provision is added requiring the $50,000 jurisdictional amount for cases that will be filed on or after January 1, 2023, to be adjusted in accordance with changes in the Consumer Price Index. Effective January 1, 2030, and every 10 years after, the $50,000 limit will be adjusted by The Office of Economic and Demographic Research (EDR), and certified to the Chief Justice of the Supreme Court. The percentage change must be adjusted and increased by the Consumer Price Index for all Urban Consumers, U.S. Average, All Items 1982-84=100, or successor reports, as initially reported by the United States Department of Labor, Bureau of Labor Statistics. The jurisdictional limit must be rounded to the nearest $5,000, but may not be lower than $50,000. The EDR and the Office of the State Courts Administrator (OSCA) must publish the adjusted jurisdictional limit to their websites.

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\(^{18}\) The Florida Courts Technology Commission was created by the Florida Supreme Court in 2010. The Commission is composed of 25 members who are tasked with the responsibility of “overseeing, managing, and directing the development and use of technology within the judicial branch under the direction of the Court.” The Commission must submit an annual report by April 1 each year.

Maintenance of Appellate Court Records in the District Courts of Appeal (Sections 5, 6, and 7)

Section 35.15, F.S., as amended, no longer requires that decisions and opinions be kept in the physical office of the clerks, but requires them to be kept under the clerk’s “maintenance or control.” The decisions and opinions, however, may be taken from the clerk’s maintenance or control when ordered by the court. These revisions permit the electronic storage of records at a remote location and reflects an adaptation to advancements in technology.

Section 35.23, F.S., is amended to provide that a clerk must no longer “keep his or her records” at the headquarters of the district court of appeal, but rather to “have an office” at the headquarters of the court. This revision permits the use of electronic technology to store records at a remote location in accordance with the revision to s. 35.24, F.S., which no longer requires the clerk to keep the books, papers, records, files, and the seal of the court in his or her office. As amended, these items must be maintained by, and in the control of, the clerk.

Jury Duty Postponement (Section 8)

The bill creates an additional postponement period of up to 12 months for someone who has been summoned for jury service. If the State Health Officer declares a public health emergency pursuant to s. 381.00315, F.S., or the Governor declares a state of emergency pursuant to s. 252.36(2), F.S., a person who has been summoned may have his or her service postponed from for up to 12 months upon a written or oral request. As with the existing 6 month postponement in statute, the request may specify a date or time period to which the service is to be postponed and may be given consideration when an assignment of jury service is made.

Fingerprinting a Defendant upon Conviction (Sections 9, 10, and 11)

The pandemic has significantly limited the number of in-person criminal court proceedings which is creating a backlog of pending cases. The Florida Supreme Court’s COVID-19 workgroup has studied options for resolving criminal cases remotely without the requirement of proceedings conducted in court. The Workgroup determined that the Florida Rules of Criminal Procedure could be adopted to authorize a criminal defendant to expressly request and be given approval by the court to either enter a plea of guilty or nolo contendere in a remote proceeding using audio-visual technology. To make this possible, the Workgroup has recommended that several statutes be amended.

Because current law requires that a defendant be fingerprinted in open court in the judge’s presence, it appears that current laws must be amended to establish a court’s authority to take fingerprints at the time a judgment is entered in a remotely conducted proceeding.

Section 812.014, F.S., relating to petit theft, s. 921.241, F.S., relating to felony judgments, and s. 921.242, F.S., relating to prostitution offenses, are amended to:

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19 Office of Legislative Affairs, Office of the State Courts Administrator, Judicial Branch 2021 Legislative Agenda, 10-12 (January 21, 2021) (on file with the Senate Committee on Judiciary).
20 Id. at 11.
• Authorize the fingerprinting of a defendant, either manually or electronically, when a guilty judgment is entered in a proceeding that is conducted outside of court or outside of the judge’s presence.

• Delete the requirement that a judge must certify that a defendant’s fingerprints were taken in open court and in the judge’s presence.

• Require that the certification be entered by a court officer, employee of the court, or the employee of a criminal justice agency who captured the fingerprints. If taken manually, the person who took the fingerprints must place his or her written signature on the certification. If taken electronically, he or she must place a written or electronic signature on the certification. The fingerprints and certification must be filed in the case.

• Delete the requirement that a defendant’s social security number be taken when his or her fingerprints are taken.

The bill takes effect July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:
   None.

B. Public Records/Open Meetings Issues:
   None.

C. Trust Funds Restrictions:
   None.

D. State Tax or Fee Increases:
   None.

E. Other Constitutional Issues:
   None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:
   None.

B. Private Sector Impact:
   None.
C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 25.221, 25.301, 28.2457, 34.01, 35.15, 35.23, 35.24, 40.23, 812.014, 921.241, and 921.242.

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 March 24, 2021:**

The committee substitute: Requires the jurisdictional limit be rounded to the nearest $5,000, but no lower than $50,000. The Office of Economic and Demographic Research (EDR) must calculate the adjusted jurisdictional limit and certify it to the Chief Justice of the Supreme Court beginning January 31, 2030 and every 10 years thereafter. EDR and the Office of the State Courts Administrator (OSCA) must publish the adjusted jurisdictional limit to their respective websites.

**CS by Judiciary Committee on March 2, 2021:**

The committee substitute makes changes to the underlying bill in two areas: mandatory monetary assessments and fingerprinting defendants. The clerks of court must work with the Florida Courts Technology Commission to develop a plan for a technology solution that tracks all civil and criminal monetary assessments. The plan must be submitted to legislative leaders by January 1, 2022. The fingerprinting section now permits fingerprints to be taken manually or electronically, regardless of whether the judgment is a written judgment or electronic judgment. The defendant’s fingerprints and the certification of the person who took the fingerprints must be filed in the case in which the judgment is entered.

B. Amendments:

None.
Appropriations Subcommittee on Criminal and Civil Justice (Brandes) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 130 - 137

and insert:

Effective July 1, 2030, and every 10 years thereafter, the $50,000 jurisdictional limit in subparagraph 3. must be adjusted and increased by the percentage change in the Consumer Price Index for All Urban Consumers, U.S. City Average, All Items 1982-84=100, or successor reports, for the preceding 10 calendar years as initially reported by the United States Department of
Labor, Bureau of Labor Statistics. The adjusted jurisdictional limit must be rounded to the nearest $5,000. However, the jurisdictional limit may not be lower than $50,000. The Office of Economic and Demographic Research must calculate the adjusted jurisdictional limit and certify the adjusted jurisdictional limit to the Chief Justice of the Supreme Court beginning January 31, 2030, and every 10 years thereafter. The Office of Economic and Demographic Research and the Office of the State Courts Administrator must publish the adjusted jurisdictional limit on their websites.

And the title is amended as follows:
Delete line 23 and insert:
beginning in 2030; requiring the Office of Economic and Demographic Research to periodically calculate and certify such jurisdictional limit to the Chief Justice of the Supreme Court by a specified date; requiring specified entities to publish on their websites such adjusted jurisdictional limit; deleting obsolete language;
By the Committee on Judiciary; and Senator Brandes

A bill to be entitled An act relating to courts; amending s. 25.221, F.S.; deleting the requirement that the Clerk of the Supreme Court physically keep books, records, and other materials in the clerk's office; amending s. 25.301, F.S.; deleting the requirement that Supreme Court decisions and orders remain in the clerk's office; amending s. 28.2457, F.S.; requiring the clerks of the circuit courts, with specified entities, to prepare a plan to procure or develop a statewide electronic solution to accurately identify all assessments mandated by statute; requiring the plan to address certain considerations relating to the implementation of the electronic solution; requiring the clerks to submit the plan to the legislature by a specified date; deleting a provision requiring the clerks to annually submit a uniform form for identification and imposition of mandated assessments to the Supreme Court; amending s. 34.01, F.S.; providing for the periodic inflationary adjustment of the monetary jurisdictional limit applicable to all actions at law in county courts filed on or after a specified date, beginning in 2030; deleting obsolete language; amending s. 35.15, F.S.; deleting the requirement that decisions and orders of district courts of appeal remain in the office of the clerk of any such court; amending s. 35.23, F.S.; requiring the clerk of a district court of appeal to have an office at the headquarters of the court; deleting a requirement that the clerk keep records at the headquarters office; amending s. 35.34, F.S.; deleting the requirement that the clerk of a district court of appeal physically keep books, records, and other materials in the clerk's office; amending s. 40.23, F.S.; authorizing any person who has been summoned for jury service to postpone such service for an additional timeframe in the event of a declared public health emergency or a state of emergency; specifying requirements for any such request; amending s. 812.014, F.S.; removing the requirement that fingerprints be taken in open court and in the judge's presence upon a judgment of guilt of petit theft; authorizing the electronic capture of fingerprints; requiring the court officer, the employee of the court, or the employee of a criminal justice agency who captures fingerprints to sign a specified certification; amending s. 921.241, F.S.; removing the requirement that fingerprints be taken in open court and in the judge’s presence upon a judgment of guilt for a felony; authorizing the electronic capture of fingerprints; requiring the court officer, the employee of the court, or the employee of a criminal justice agency who captures fingerprints to sign a specified certification; conforming a provision to changes made by the act; removing the requirement that a judge obtain a defendant's social security number at the time of fingerprinting; amending s. 921.242, F.S.; removing the requirement that fingerprints be taken in open court and in the judge’s presence upon a judgment of guilt for a felony; authorizing the electronic capture of fingerprints; requiring the court officer, the employee of the court, or the employee of a criminal justice agency who captures fingerprints to sign a specified certification; conforming a provision to changes made by the act; removing the requirement
Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 25.221, Florida Statutes, is amended to read:

25.221 Maintenance Custody of books, records, and other materials etc.—All books, papers, records, files, and the seal of the Supreme Court must be maintained by shall be kept in the office of the clerk of said court and be in the clerk's control, as prescribed by the Supreme Court custody.

Section 2. Section 25.301, Florida Statutes, is amended to read:

25.301 Decisions to be filed; copies to be furnished.—All decisions and opinions delivered by the Supreme Court, or any justice thereof, relating in relation to any action or proceeding pending in the said court must shall be filed and remain in the office of the clerk and maintained by the clerk in the manner prescribed by the Supreme Court. Such decisions or opinions may may and shall not be taken out of the clerk's maintenance or control except by order of the court; however, the clerk must shall at all times be required to furnish certified copies of such opinions and decisions to any person who makes such a request may desire the same certified copies of such opinions and decisions, upon receiving any required fees his or her fees therefor.

Section 3. Subsection (2) of section 28.2457, Florida Statutes, is amended to read:

28.2457 Mandatory monetary assessments.-(2) The clerks of the circuit courts shall collaborate with the state courts through the Florida Courts Technology Commission to prepare a plan to procure or develop a statewide electronic solution that will accurately identify all assessments mandated by statute. The plan must, at a minimum, address operational, technological, and fiscal considerations related to the implementation of the electronic solution. The clerks shall submit the plan to the President of the Senate and the Speaker of the House of Representatives no later than January 1, 2022. The clerks of court, through their association and in consultation with the Office of the State Courts Administrator, shall develop by October 1, 2012, a uniform form for the identification and imposition of all assessments mandated by statute. The clerks shall submit the form by that date, and by October 1 every year thereafter if necessary to reflect changes in the law, to the Supreme Court for approval. Upon approval of the form by the Supreme Court, all circuit and county courts shall use the form.

Section 4. Subsection (1) of section 34.01, Florida Statutes, is amended to read:

34.01 Jurisdiction of county court.—(1) County courts shall have original jurisdiction:

(a) In all misdemeanor cases not cognizable by the circuit
Section 6. Section 35.23, Florida Statutes, is amended to read:

35.23 Decisions to be filed; copies to be furnished.—All decisions and opinions delivered by the district courts of appeal, or any judge thereof, relating to any action or proceeding pending in such court, shall be filed and remain in the office of the clerk and maintained in the control of the clerk. Such decisions and opinions may, and shall not be taken from the clerk’s maintenance or control, except by order of the court; however, the said clerk must at all times be required to furnish certified copies of such opinions and decisions to any person who makes such a request.

Section 6. Section 35.23, Florida Statutes, is amended to read:
(d)1. A judgment of guilty or not guilty of a petit theft must be in:

.......

3. A written or an electronic judgment of guilty of a petit theft must be issued as provided in s. 921.241(3)(b).
of guilty is entered. Beneath such fingerprints shall
be appended a certification certificate to the following effect:

"I hereby certify that the above and foregoing fingerprints
on this judgment are the fingerprints of the defendant, ....,
and that they were placed thereon by said defendant in my
presence, in open court, this the .... day of ...., 
...(year)....”

The court officer, the employee of the court, or the employee of
a criminal justice agency who manually took the fingerprints
shall place his or her written signature on the certification.
Such certificate shall be signed by the judge, whose signature
thereon shall be followed by the word "Judge.

(b) For an electronic judgment of guilty, the fingerprints
of the defendant shall be Electronically captured, and the
following certification must certificate shall be filed in the
case in which included in the electronic judgment of guilty is
entered:

"I hereby certify that the digital fingerprint record
associated with Transaction Control Number .... contains the
fingerprints of the defendant, ...., which were electronically
captured from the defendant in my presence, in open court, this
the .... day of ...., (year)....”

The court officer, the employee of the court, or the employee of
a criminal justice agency who electronically captured the
fingerprints judge shall place his or her written or electronic
signature, which shall be followed by the word "Judge" on the
Section 921.242, Florida Statutes, is amended to read:

921.242 Subsequent offenses under chapter 796; method of proof applicable.—

(1) A judgment of guilty with respect to any offense governed by the provisions of chapter 796 must be in:

(a) A written record that is signed by the judge and recorded by the clerk of the circuit court; or

(b) An electronic record that contains the judge’s electronic signature as defined in s. 933.40 and is recorded by the clerk of the circuit court.

(2) At the time a defendant is found guilty, the judge shall cause the following to occur in open court and in the judge’s presence:

(a) For a written judgment of guilty, the fingerprints of the defendant who is found guilty of any offense governed by chapter 796 to which such judgment is rendered shall be manually taken or electronically captured, and affixed beneath the judge’s signature on the judgment. Beneath such fingerprints must be certified and filed in the case in which the judgment of guilty is entered as provided in s. 921.241(3)(b).

I hereby certify that the above and foregoing fingerprints are of the defendant, ... (name) ..., and that they were placed thereon by said defendant in my presence, in open court, this the ... day of ... (year)...

Such certificate shall be signed by the judge, whose signature thereto shall be followed by the word “Judge.”

(b) For an electronic judgment of guilty, the fingerprints of the defendant must be electronically captured, and a certificate must be issued as provided in s. 921.241(3)(b).

(c) At the time the defendant’s fingerprints are manually taken or electronically captured, the judge shall also cause the defendant’s social security number to be taken. The defendant’s social security number shall be specified in each written or electronic judgment of guilty of a felony, in open court, in the presence of such judge, and at the time the judgment is rendered. If the defendant is unable or unwilling to provide his or her social security number, the reason for its absence shall be specified in the written or electronic judgment.

Section 11. Section 921.242, Florida Statutes, is amended to read:

921.242 Subsequent offenses under chapter 796; method of proof applicable.—
(3) A written or an electronic judgment of guilty, or a certified copy thereof, shall be admissible in evidence in the several courts of this state as provided in s. 921.241(4).

Section 12. This act shall take effect July 1, 2021.
YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

3-24-21
Meeting Date

THE FLORIDA SENATE
APPEARANCE RECORD

SB 748
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Courts

Name Eric Maclure

Job Title Deputy State Courts Administrator

Address 500 South Duval Street
Street
Tallahassee Florida 32399
City State Zip

Phone (850) 414-1048

Email macluree@flcourts.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ✓ In Support ☐ Against
(The Chair will read this information into the record.)

Representing State Courts System

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.
To: Senator Keith Perry, Chair  
Appropriations Subcommittee on Criminal Justice and Civil Justice  

Subject: Committee Agenda Request  

Date: March 17, 2021 

I respectfully request that Senate Bill # 748, relating to Courts, be placed on the: 

☑ committee agenda at your earliest possible convenience.  

☐ next committee agenda. 

Senator Jeff Brandes  
Florida Senate, District 24
Senate Appropriations Subcommittee on Criminal and Civil Justice

FY 2021-2022 Subcommittee Budget Proposal

Budget Spreadsheet

Senator Perry, Chair
Senator Brandes, Vice Chair
March 24, 2021
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### Appropriations Subcommittee on Criminal and Civil Justice

**AGENCY / DEPARTMENT**

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**SUBCOMMITTEE RECOMMENDATIONS**

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</tbody>
</table>

Page 8
3/24/21
Meeting Date

Topic Budget

Name Jason L. Welty

Job Title Budget and Communications Director

Address 2560 Barrington Circle
Street
Tallahassee FL 32308
City State Zip

Phone 850-386-2223
Email jwelty@fcccoc.org

Speaking: □ For □ Against □ Information
Waive Speaking: □ In Support □ Against
(The Chair will read this information into the record.)

Representing Florida Clerks of Court Operations Corporation

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)

03/24/21
Meeting Date

Department of Corrections Budget
Topic

Christine Koester
Name

Job Title

3313 SE 3rd Street
Address

Pompano Beach, FL 33062
City State Zip

954 708 4168
Phone

Christine_koester@yahoo.com
Email

Speaking: ☐ For ☑ Against ☐ Information
Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing: Self

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)
THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date: 3/24/21

Bill Number (if applicable): 

Amendment Barcode (if applicable): 

Topic: Department of Corrections Budget

Name: LAUREN PHILIPSEN

Job Title: 

Address: 2240 Westwind Dr

PO Box 14044

Port Richey, FL 34668

City State Zip: 

Phone: 352-533-7202

Email: Advocate.Philipsen@gmail.com

Speaking: [ ] For [X] Against [ ] Information

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing: [X] myself

Appearing at request of Chair: [ ] Yes [X] 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.
CourtSmart Tag Report

Room: SB 37  Case No.:  Type:  
Caption: Senate Appropriations Subcommittee on Criminal and Civil Justice  Judge:  

Started:  3/24/2021 4:31:16 PM  
Ends:  3/24/2021 5:27:37 PM  Length: 00:56:22  

4:32:07 PM  S 748
4:32:11 PM  Sen. Brandes
4:33:20 PM  Am. 478484
4:33:36 PM  Sen. Brandes
4:34:27 PM  Eric Maclure, Deputy State Courts Administrator, State Courts System (waives in support)
4:34:51 PM  Sen. Brandes
4:35:59 PM  S 1970
4:36:11 PM  Sen. Pizzo
4:37:01 PM  Sen. Torres
4:37:16 PM  Sen. Pizzo
4:39:42 PM  Sen. Torres
4:40:01 PM  Sen. Pizzo
4:42:43 PM  Pamela Burch Fort, NAACP Florida State Conference (waives in support)
4:42:50 PM  Ingrid Delgado, Associate Director for Social Concerns & Respect Life, Florida Conference of Catholic Bishops (waives in support)
4:43:03 PM  Laurette Philipsen, Citizen
4:43:28 PM  Christine Koester, Citizen
4:44:04 PM  Sen. Torres
4:44:51 PM  Sen. Pizzo
4:45:29 PM  Tab 3 Review and Discussion of Fiscal Year 2021-2022 Budget Issues
4:45:50 PM  Marti Harkness, Staff Director, Appropriations Subcommittee on Criminal and Civil Justice
4:49:57 PM  Sen. Brandes
4:50:06 PM  M. Harkness
4:50:16 PM  Sen. Brandes
4:50:29 PM  Sen. Perry
4:51:33 PM  Sen. Brandes
4:51:47 PM  Sen. Perry
4:52:06 PM  Sen. Brandes
4:52:16 PM  Sen. Perry
4:52:26 PM  Sen. Brandes
4:54:56 PM  Sen. Perry
4:56:20 PM  Sen. Pizzo
4:58:53 PM  M. Harkness
4:59:41 PM  Sen. Pizzo
5:01:12 PM  Sen. Perry
5:01:52 PM  Sen. Pizzo
5:01:55 PM  Sen. Perry
5:02:05 PM  Sen. Pizzo
5:02:11 PM  Sen. Perry
5:02:41 PM  Sen. Baxley
5:08:59 PM  Laurette Philipsen, Citizen
5:11:44 PM  Jason L. Welty, Budget and Communications Director, Florida Clerks of Court Operations Corporation
5:12:39 PM  Christine Koester, Citizen
5:15:08 PM  Sen. Brandes
5:17:11 PM  Sen. Pizzo
5:17:35 PM  Sen. Perry
5:17:50 PM  Sen. Pizzo
5:24:04 PM  Sen. Rodriguez
5:24:22 PM  Sen. Gainer
5:25:05 PM  Sen. Baxley