

Tab 1 | **SB 1094** by **Simmons**; (Identical to H 00523) Trespass on Airport Property

Tab 2 | **SB 1178** by **Bracy**; (Similar to H 00653) Public Records/Photographs or Video or Audio Recordings that Depict or Record Killing of a Person

Tab 3 | **SB 1420** by **Gainer**; (Similar to H 00917) Probationary or Supervision Services

Tab 4 | **SB 1678** by **Stargel**; (Similar to CS/H 00547) Reports Concerning Seized or Forfeited Property

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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

CRIMINAL JUSTICE
Senator Bracy, Chair
Senator Baxley, Vice Chair

MEETING DATE: Monday, February 12, 2018
TIME: 3:30—5:30 p.m.
PLACE: Mallory Horne Committee Room, 37 Senate Office Building

MEMBERS: Senator Bracy, Chair; Senator Baxley, Vice Chair; Senators Bean, Bradley, Brandes, Grimsley, and Rouson

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 1094 Simmons (Identical H 523)	Trespass on Airport Property; Providing enhanced criminal penalties for a trespass upon the operational area of an airport with specified intent if specified signage is posted, etc. CJ 02/12/2018 Favorable CA RC	Favorable Yeas 6 Nays 0
2	SB 1178 Bracy (Similar H 653)	Public Records/Photographs or Video or Audio Recordings that Depict or Record Killing of a Person; Expanding an exemption from public records requirements for a photograph or video or audio recording held by an agency which depicts or records the killing of a law enforcement officer to include a photograph or video or audio recording held by an agency which depicts or records the killing of a person; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc. CJ 01/29/2018 Temporarily Postponed CJ 02/12/2018 Temporarily Postponed GO RC	Temporarily Postponed
3	SB 1420 Gainer (Similar H 917)	Probationary or Supervision Services; Deleting a prohibition on private entities providing probationary or supervision services to certain misdemeanor offenders, etc. CJ 02/12/2018 Temporarily Postponed ACJ AP	Temporarily Postponed
4	SB 1678 Stargel (Similar CS/H 547)	Reports Concerning Seized or Forfeited Property; Revising the deadline for submitting an annual report by law enforcement agencies concerning property seized or forfeited under the Florida Contraband Forfeiture Act, etc. CJ 02/12/2018 Fav/CS JU RC	Fav/CS Yeas 5 Nays 1

COMMITTEE MEETING EXPANDED AGENDA

Criminal Justice

Monday, February 12, 2018, 3:30—5:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
	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 Committee on Criminal Justice

BILL: SB 1094

INTRODUCER: Senator Simmons

SUBJECT: Trespass on Airport Property

DATE: February 9, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Jones</u>	<u>CJ</u>	<u>Favorable</u>
2.	_____	_____	<u>CA</u>	_____
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 1094 provides that it is third degree felony to trespass with the intent to injure another person, damage property, or impede the operation or use of an aircraft, runway, taxiway, ramp, or apron area, and the property trespassed upon is the operational area of an airport that is legally posted and identified as specified in the bill. The bill defines the term “operational area.”

The bill may financially benefit airports if it reduces instances of trespassing on airport property and if there are currently costs to airports associated with responding to such trespassing. The Criminal Justice Impact Conference has determined that the bill will have a “positive insignificant” prison bed impact (an increase of 10 or fewer prison beds). See Section V. Fiscal Impact Statement.

II. Present Situation:

Trespass upon the Operational Area of an Airport

Four incidents reported in the media provide examples of trespassing upon the operational area of an airport. In 2014, a man reportedly breached a fence at the Orlando International Airport and tried to crawl into the wheel well of a parked airplane.¹ That same year, a man reportedly scaled a fence at Tampa International Airport and went onto an active runway.² In March of 2015, a woman reportedly scaled a fence on the perimeter of the Miami-Dade International Airport.³ In

¹ “Arrest at Orlando International Airport” (September 18, 2014), cityoforlando.net, available at <http://www.cityoforlando.net/police/arrest-at-orlando-international-airport/> (last visited on Feb. 7, 2018).

² Mike M. Ahlers, “Man Jumps Tampa airport fence, taken into custody” (May 19, 2014), CNN, available at <http://www.cnn.com/2014/05/19/us/florida-airport-fence-jumper/index.html> (last visited on Feb. 7, 2018).

³ Peter D’Oench, “Police: Woman Arrested for Scaling Miami Airport Fence” (March 2, 2015), CBS Miami, available at <http://miami.cbslocal.com/2015/03/02/police-woman-arrested-for-scaling-miami-airport-fence/> (last viewed on Feb. 7, 2018).

June of 2017, a man reportedly entered an airfield owned by the City of Lakeland and jumped onto the wing of an airplane that was preparing to taxi down the runway.⁴

Florida Trespassing Law

Florida law does not specifically punish trespassing upon the operational area of an airport,⁵ though such trespassing could be charged and punished under s. 810.09, F.S., relating to trespass on property other than a structure or conveyance. Further, s. 901.15(14), F.S., authorizes a law enforcement officer to make a warrantless arrest when there is probable cause to believe that the person has committed trespass in a secure area of an airport when signs are posted in conspicuous areas of the airport which notify that unauthorized entry into such areas constitutes a trespass and specify the methods for gaining authorized access to such areas. An arrest under this subsection may be made on or off airport premises.

Section 810.09(1)(a) and (2)(a), F.S., provides that a person commits the offense of trespass on property other than a structure or conveyance, a first degree misdemeanor,⁶ if the person, without being authorized, licensed, or invited, willfully enters upon or remains in any property other than a structure or conveyance:

- As to which notice against entering or remaining is given, either by actual communication to the offender or by posting, fencing, or cultivation;⁷ or
- If the property is the unenclosed curtilage⁸ of a dwelling⁹ and the offender enters or remains with the intent to commit an offense thereon, other than the offense of trespass.

Section 810.09(2)(b), F.S., provides that it is a first degree misdemeanor if a person defies an order to leave, personally communicated to the offender by the owner of the premises or by an authorized person, or if the offender willfully opens any door, fence, or gate or does any act that exposes animals, crops, or other property to waste, destruction, or freedom; unlawfully dumps litter on property; or trespasses on property other than a structure or conveyance.

⁴ “Florida man steals van, tries to board airplane in Lakeland” (June 23, 2017), WFTS Tampa Bay, available at <https://www.abcactionnews.com/news/region-polk/lakeland/florida-man-steals-van-tries-to-board-airplane-on-runway-in-lakeland> (last visited on Feb. 7, 2018).

⁵ Federal law prohibits a person from knowingly and willfully entering, in violation of specified federal security requirements, an aircraft or an airport area that serves an air carrier or foreign air carrier. 49 U.S.C. s. 46314(a). A violation is punishable by fine and imprisonment of not more than one year. 49 U.S.C. s. 46314(b)1. However, a person committing this violation with intent to evade security procedures or restrictions or with intent to commit, in the aircraft or airport area, a federal or state felony, is subject to a fine, imprisonment for not more than 10 years, or both. 42 U.S.C s. 46314(b)(2).

⁶ A first degree misdemeanor is punishable by up to a year in jail, a fine of up to \$1,000, or both. Sections 775.082 and 775.083, F.S.

⁷ “Cultivated land” means land which has been cleared of its natural vegetation and is presently planted with a crop, orchard, grove, pasture, or trees or is fallow land as part of a crop rotation. Section 810.011(6), F.S.

⁸ “Unenclosed curtilage” means the unenclosed land or grounds, and any outbuildings, that are directly and intimately adjacent to and connected with the dwelling and necessary, convenient, and habitually used in connection with that dwelling. Section 810.09(1)(b), F.S.

⁹ “Dwelling” means a building or conveyance of any kind, including any attached porch, whether such building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it and is designed to be occupied by people lodging therein at night, together with the curtilage thereof. Section 810.011(2), F.S.

Generally, trespass on property other than a structure or conveyance is a misdemeanor. However, such trespass is a third degree felony¹⁰ if a person is armed with a firearm or other dangerous weapon during the commission of such trespass¹¹ or if such trespass is upon specified types of property. For example, it is a third degree felony to trespass on a designated construction site, commercial horticulture property, and agricultural chemical manufacturing facility.¹² The protected property must have a posted sign that contains specific language identifying the property and indicating that trespass on the property is a felony.¹³

III. Effect of Proposed Changes:

The bill amends s. 810.09, F.S., relating to trespass on property other than a structure or conveyance, to provide that it is a third degree felony¹⁴ to trespass with the intent to injure another person, damage property, or impede the operation or use of an aircraft, runway,¹⁵ taxiway,¹⁶ ramp, or apron area,¹⁷ and the property trespassed upon is the operational area of an airport that is legally posted and identified in substantially the following manner:

THIS AREA IS A DESIGNATED OPERATIONAL AREA OF AN AIRPORT AND
ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY.

The bill defines the term “operational area of an airport” as any portion of an airport to which access by the public is prohibited by fences or appropriate signs, and includes runways, taxiways, ramps, apron areas, aircraft parking and storage areas, fuel storage areas, maintenance areas, and any other area of an airport used or intended to be used for landing, takeoff, or surface maneuvering of aircraft.

The bill takes effect October 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

¹⁰ A third degree felony is punishable by up to five years in prison, a fine of up to \$5,000, or both. Sections 775.082 and 775.083, F.S.

¹¹ Section 810.09(2)(c), F.S.

¹² Section 810.09(2)(d), (e), and (i), F.S.

¹³ *Id.*

¹⁴ *Supra*, n. 10.

¹⁵ A “runway” is “[a] defined rectangular area on a land aerodrome prepared for the landing and take-off of aircraft.” *Runway Safety Team Handbook*, Second Ed. (unedited version) (June 2015), p. 5, International Civil Aviation Organization, available at

<https://www.icao.int/safety/RunwaySafety/Documents%20and%20Toolkits/ICAO%20RST%20Handbook%202nd%20Edition%202015%20REV2.pdf> (last visited on Feb. 7, 2018).

¹⁶ A “taxiway” is “any surface area of an airport used for taxiing airplanes to and from a runway, parking apron, terminal, etc.” Definition of “taxiway,” Dictionary.com, available at <http://www.dictionary.com/browse/taxiway> (last visited on Feb. 7, 2018).

¹⁷ An “apron” or “ramp” is “[a] defined area on an airport intended to accommodate aircraft for purposes of loading or unloading passengers or cargo, refueling, parking, and maintenance.” Advisory Circular, No: 120-57A (Dec. 19, 1996), p. 2, Federal Aviation Administration, available at: https://www.faa.gov/documentLibrary/media/Advisory_Circular/AC%20120-57A.pdf (last visited on Feb. 7, 2018).

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The bill may financially benefit airports if it reduces instances of trespassing on airport property and if there are currently costs to airports associated with responding to such trespassing.

C. Government Sector Impact:

The Criminal Justice Impact Conference has determined that the bill will have a “positive insignificant” prison bed impact (an increase of 10 or fewer prison beds).¹⁸

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 810.09 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

¹⁸ Email from staff of the Legislature’s Office of Economic and Demographic Research, dated Feb. 6, 2018 (on file with the Senate Committee on Criminal Justice).

B. Amendments:

None.

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

By Senator Simmons

9-00857-18

20181094__

A bill to be entitled

An act relating to trespass on airport property; amending s. 810.09, F.S.; providing enhanced criminal penalties for a trespass upon the operational area of an airport with specified intent if specified signage is posted; defining the term "operational area of an airport"; providing an effective date.

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

Section 1. Paragraph (j) is added to subsection (2) of section 810.09, Florida Statutes, and paragraph (a) of subsection (1) of that section is republished, to read:

810.09 Trespass on property other than structure or conveyance.—

(1) (a) A person who, without being authorized, licensed, or invited, willfully enters upon or remains in any property other than a structure or conveyance:

1. As to which notice against entering or remaining is given, either by actual communication to the offender or by posting, fencing, or cultivation as described in s. 810.011; or

2. If the property is the unenclosed curtilage of a dwelling and the offender enters or remains with the intent to commit an offense thereon, other than the offense of trespass,

commits the offense of trespass on property other than a structure or conveyance.

(2)

(j)1. The offender commits a felony of the third degree,

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9-00857-18

20181094__

punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the offender trespasses with the intent to injure another person, damage property, or impede the operation or use of an aircraft, runway, taxiway, ramp, or apron area, and the property trespassed upon is the operational area of an airport that is legally posted and identified in substantially the following manner: "THIS AREA IS A DESIGNATED OPERATIONAL AREA OF AN AIRPORT AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY."

2. For purposes of this paragraph, the term "operational area of an airport" means any portion of an airport to which access by the public is prohibited by fences or appropriate signs, and includes runways, taxiways, ramps, apron areas, aircraft parking and storage areas, fuel storage areas, maintenance areas, and any other area of an airport used or intended to be used for landing, takeoff, or surface maneuvering of aircraft.

Section 2. This act shall take effect October 1, 2018.

Page 2 of 2

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)

2/12/18
Meeting Date

1094
Bill Number (if applicable)

Topic Trespass on Airport Property

Amendment Barcode (if applicable)

Name Eric Prutsman

Job Title Florida Airports Council

Address P.O. Box 10448
Street

Phone 850-894-6601

Tallahassee FL 32302
City State Zip

Email eric@prutsmanlaw.com

Speaking: For Against Information

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

Representing Florida Airports Council

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.

APPEARANCE RECORD

2-12-18

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

1094

Meeting Date

Bill Number (if applicable)

Topic TRESPASS ON AIRPORT PROPERTY

Amendment Barcode (if applicable)

Name OSCAR ANDERSON

Job Title _____

Address 28 W. CENTRAL BLVD.

Phone _____

Street

ORLANDO

FL

City

State

Zip

Email _____

Speaking: For Against Information

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

Representing SANFORD AVIATION AUTHORITY

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/12/18
Meeting Date

SB 1094
Bill Number (if applicable)

Topic Trespass on Airport Property

Amendment Barcode (if applicable)

Name Justin Day

Job Title Director

Address 701 S Howard Ave St 100-320 Phone 850 222 8900
Street

Tampa FL 33606
City State Zip

Email jd@cardenespartners.com

Speaking: For Against Information

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

Representing Hillsborough County Aviation Authority

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.

APPEARANCE RECORD

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

1094

Meeting Date _____

Bill Number (if applicable) _____

Topic Trespass on Airport Property

Amendment Barcode (if applicable) _____

Name JERRY PAUL

Job Title _____

Address 310 W. College Ave.
Street

Phone 850-386-5267

Tallahassee _____
City State Zip

Email _____

Speaking: For Against Information

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

Representing PUNTA GORDA AIRPORT

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

Committee Agenda Request

To: Senator Randolph Bracy, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: December 19, 2017

I respectfully request that **Senate Bill 1094**, relating to Trespass on Airport Property, be placed on the:

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

A handwritten signature in black ink, appearing to read "David Simmons".

Senator David Simmons
Florida Senate, District 9

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 Committee on Criminal Justice

BILL: SB 1178

INTRODUCER: Senator Bracy

SUBJECT: Public Records/Photographs or Video or Audio Recordings that Depict or Record Killing of a Person

DATE: January 26, 2018 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Jones</u>	<u>CJ</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>GO</u>	_____
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 1178 amends s. 406.136, F.S., and expands an existing public records exemption to make confidential and exempt photographs and video and audio recordings that depict or record the killing of *a person*. Currently, this statute makes confidential and exempt the photographs and video and audio recordings that depict or record the killing of *a law enforcement officer who was acting in accordance with his or her official duties*. The current exemption and the exemption created by the bill only apply to such photographs or recordings held by an agency.

The bill specifies that the term “killing of a person” does not include the killing of a person in the care and custody of a state agency.

The exemption is retroactive and applies to all such photographs or recordings, regardless of whether the killing of the person occurred before, on, or after July 1, 2015. However, the exemption does not overturn or abrogate or alter any existing orders duly entered into by any court of this state, as of the effective date of the act, which restrict or limit access to any such photographs or recordings.

The bill provides a public necessity statement as required by the Florida Constitution.

The bill provides for repeal of the exemption on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

The Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record exemption. Because the bill expands a public record exemption, it requires a two-thirds vote for final passage.

II. Present Situation:

Public Records Law

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ This applies to the official business of any public body, officer or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.²

In addition to the Florida Constitution, the Florida Statutes provide that the public may access legislative and executive branch records.³ Chapter 119, F.S., constitutes the main body of public records laws, and is known as the Public Records Act.⁴ The Public Records Act states that:

[i]t is the policy of this state that all state, county and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁵

According to the Public Records Act, a public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.⁶ The Florida Supreme Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate or formalize knowledge of some type.”⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

The Legislature may create an exemption to public records requirements.⁹ An exemption must pass by a two-thirds vote of the House and the Senate.¹⁰ In addition, an exemption must explicitly lay out the public necessity justifying the exemption, and the exemption must be no broader than necessary to accomplish the stated purpose of the exemption.¹¹ A statutory

¹ FLA. CONST., art. I, s. 24(a).

² *Id.*

³ The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995). The Legislature’s records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are primarily located in s. 11.0431(2)-(3), F.S.

⁴ Public records laws are found throughout the Florida Statutes.

⁵ Section 119.01(1), F.S.

⁶ Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” to mean “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

⁷ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁸ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

⁹ FLA. CONST., art. I, s. 24(c).

¹⁰ *Id.*

¹¹ *Id.*

exemption which does not meet these criteria may be unconstitutional and may not be judicially saved.¹²

When creating a public records exemption, the Legislature may provide that a record is “confidential and exempt” or “exempt.”¹³ Records designated as “confidential and exempt” may be released by the records custodian only under the circumstances defined by the Legislature. Records designated as “exempt” are not required to be made available for public inspection, but may be released at the discretion of the records custodian under certain circumstances.¹⁴

Open Government Sunset Review Act

The Open Government Sunset Review Act (referred to hereafter as the “OGSR”) prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions.¹⁵ The OGSR provides that an exemption automatically repeals on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption.¹⁶

The OGSR provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.¹⁷ An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;¹⁸
- Releasing sensitive personal information would be defamatory or would jeopardize an individual’s safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;¹⁹ or
- It protects trade or business secrets.²⁰

The OGSR also requires specified questions to be considered during the review process:

- What specific records or meetings are affected by the exemption?

¹² *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So. 2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004), the court found that the intent of a statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

¹³ If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

¹⁴ *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

¹⁵ Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it is expanded to include more information or to include meetings. The OGSR does not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System pursuant to s. 119.15(2), F.S.

¹⁶ Section 119.15(3), F.S.

¹⁷ Section 119.15(6)(b), F.S.

¹⁸ Section 119.15(6)(b)1., F.S.

¹⁹ Section 119.15(6)(b)2., F.S.

²⁰ Section 119.15(6)(b)3., F.S.

- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?²¹

If, in reenacting an exemption, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.²² If the exemption is reenacted without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless provided for by law.²³

Prior Exemption for Photographs and Recordings Depicting the Killing of a Law Enforcement Officer

In 2011, the Legislature created s. 406.136, F.S., which provided a public record exemption for photographs and video and audio recordings that depict or record the killing of *a person*.²⁴ The exemption provided that such photographs and recordings were confidential and exempt. Most of the provisions relevant to that exemption are mirrored in current law (see discussion, *infra*).

The exemption was subject to the Open Government Sunset Review Act and as such, was to be repealed on October 2, 2016, unless reviewed and reenacted by the Legislature.²⁵

Based upon the Open Government Sunset Review of the exemption, staff of the Senate Criminal Justice Committee recommended that the Legislature retain the public records exemption as originally enacted.²⁶ Staff noted that this recommendation was made:

in light of information gathered for the Open Government Sunset Review, indicating that there was a public necessity to continue protecting photographs and video and audio recordings that depict or record the killing of any person when held by an agency because they are highly sensitive and personal representations of the deceased. As such, widespread and continuous display of these photographs or recordings subjects the surviving family members to unwarranted trauma and emotional distress and harms the memory of the deceased.²⁷

²¹ Section 119.15(6)(a), F.S.

²² FLA. CONST. art. I, s. 24(c).

²³ Section 119.15(7), F.S.

²⁴ Chapter 2011-115, L.O.F. (creating s. 406.136, F.S., effective July 1, 2011). “Killing of a person” was defined to mean “all acts or events that cause or otherwise relate to the death of any human being, including any related acts or events immediately preceding or subsequent to the acts or events that were the proximate cause of death.” Section 406.136(1), F.S. (2015).

²⁵ Section 406.136(9), F.S. (2015).

²⁶ *Bill Analysis and Fiscal Impact Statement (SB 7022)* (February 23, 2016), p. 6, The Florida Senate, available at <http://www.flsenate.gov/Session/Bill/2016/7022/Analyses/2016s7022.rc.PDF> (last visited on Jan. 24, 2018).

²⁷ *Id.* The majority of responses to a staff-prepared Open Government Sunset Review survey recommended reenactment of the exemption to protect information that is personal and highly sensitive, the release of which subjects the surviving family members to further trauma and emotional distress. Survey respondents included state agencies, state universities and colleges,

Current Exemption for Photographs and Recordings Depicting the Killing of a Law Enforcement Officer

During the 2016 Regular Session, the Legislature elected not to reenact the exemption as originally enacted but rather to narrow the exemption so that it applies only to photographs and video and audio recordings that depict the killing of *a law enforcement officer who was acting in accordance with his or her official duties*.²⁸ These photographs and video and audio recordings are confidential and exempt from public record requirements, except that the exemption permits a surviving spouse to view or copy any such photograph or video recording and listen to or copy any such audio recording.²⁹ If there is no surviving spouse, the deceased's surviving parents may access the records, and if there are no surviving parents, an adult child of the deceased may access the records.³⁰ The surviving relative who has the authority to access the records may designate in writing an agent to obtain them.³¹

In addition, a local governmental entity or a state or federal agency, in furtherance of its official duties and pursuant to a written request, may view or copy any such photograph or video recording and listen to or copy any such audio recording. Unless otherwise required in the performance of the entity's or agency's duties, the identity of the deceased must remain confidential and exempt.³²

Persons other than those covered by these exceptions may only have access to such photographs and recordings if they obtain a court order. Upon a showing of good cause, a court may issue an order authorizing any person to view or copy any such photograph or video recording and listen to or copy any such audio recording. The court may prescribe any restrictions or stipulations that the court deems appropriate. In determining good cause, the court must consider:

- Whether such disclosure is necessary for the public evaluation of governmental performance;
- The seriousness of the intrusion into the family's right to privacy and whether such disclosure is the least intrusive means available; and
- The availability of similar information in other public records, regardless of form.³³

municipalities, and local law enforcement agencies that receive or maintain such records. "Reenactment was generally recommended to continue protecting the surviving family members from emotional distress and trauma and protecting the memory of the deceased." *Bill Analysis and Fiscal Impact Statement (SB 7022)* (February 23, 2016), p. 6, n. 37, The Florida Senate, available at <http://www.flsenate.gov/Session/Bill/2016/7022/Analyses/2016s7022.rc.PDF> (last visited on Jan. 24, 2018).

²⁸ Chapter 2016-214, L.O.F. The term "killing of a law enforcement officer who was acting in accordance with his or her official duties" is defined to mean all acts or events that cause or otherwise relate to the death of a law enforcement officer who was acting in accordance with his or her official duties, including any related acts or events immediately preceding or subsequent to the acts or events that were the proximate cause of death. Section 406.136(1), F.S.

²⁹ Section 406.136(2), F.S.

³⁰ *Id.*

³¹ Section 406.136(3)(a), F.S.

³² Section 406.136(3)(b), F.S.

³³ Section 406.136(4), F.S.

In all cases, the viewing, copying, listening to, or other handling of any such photograph or recording must be under the direct supervision of the custodian of the record or the custodian's designee.³⁴

If a petition is filed with the court to view, listen to, or copy such photograph or recording, a surviving spouse must be given reasonable notice that the petition has been filed, a copy of the petition, and reasonable notice of the opportunity to be present and heard at any hearing on the matter. If there is no surviving spouse, notice must be given to the parents of the deceased and, if the deceased has no living parent, then to the adult children of the deceased.³⁵

It is a third degree felony for any custodian of such photograph or recording to willfully and knowingly violate these provisions.³⁶ The same penalty applies to anyone who willfully and knowingly violates a court order issued under these provisions.³⁷

The exemption does not apply to photographs or video or audio recordings submitted as part of a criminal or administrative proceeding; however, nothing prohibits a court in such proceedings, upon good cause shown, from restricting or otherwise controlling the disclosure of a killing, crime scene, or similar photograph or video or audio recording in the same manner as previously described.³⁸

The exemption is retroactive and applies to all such photographs or recordings, regardless of whether the killing of the person occurred before, on, or after July 1, 2011. However, the exemption does not overturn or abrogate or alter any existing orders duly entered into by any court of this state, as of the effective date of the act, which restrict or limit access to any such photographs or recordings.³⁹

III. Effect of Proposed Changes:

The bill amends s. 406.136, F.S., and expands an existing public records exemption to make confidential and exempt photographs and video and audio recordings that depict or record the killing of *a person*.⁴⁰ Currently, this statute makes confidential and exempt the photographs and video and audio recordings that depict or record the killing of *a law enforcement officer who was acting in accordance with his or her official duties*. The current exemption and the exemption created by the bill only apply to such photographs or recordings held by an agency.

The bill specifies that the term “killing of a person” does not include the killing of a person in the care and custody of a state agency. The term “care and custody of a state agency” includes, but is

³⁴ Section 406.136(4)(c), F.S.

³⁵ Section 406.136(5), F.S.

³⁶ Section 406.136(6)(a), F.S. A third degree felony is punishable by a term of imprisonment up to 5 years, a fine up to \$5,000, or both. Sections 775.082 and 775.083, F.S.

³⁷ Section 406.136(6)(b), F.S.

³⁸ Section 406.136(6)(c), F.S. In *State v. Schenecker*, No. 11-CF-001376A (Fla. 13th Cir.Ct. August 3, 2011), *cert. denied sub nom.*, *Media General Operations v. State*, 71 So. 3d 124 (Fla. 2d DCA 2011), the circuit court applied the exemption to crime scene photographs of homicide victims.

³⁹ Section 406.136(7), F.S.

⁴⁰ This change not only expands the existing exemption but reverts the exemption back to the exemption that was in place from 2011 until the Legislature narrowed the exemption in 2016.

not limited to: a protective investigation, protective supervision, or foster care as those terms are defined in s. 39.01, F.S.; a protective investigation or protective supervision of a vulnerable adult as those terms are defined in s. 415.102, F.S.; or an inmate in custody of the Department of Corrections.

The bill also retains provisions relevant to the current exemption, such as who may access the records and in what manner, but substitutes the term “person” for “a law enforcement officer who was acting in accordance with his or her official duties.”

The exemption is retroactive and applies to all such photographs or recordings, regardless of whether the killing of the person occurred before, on, or after July 1, 2015. However, the exemption does not overturn or abrogate or alter any existing orders duly entered into by any court of this state, as of the effective date of this act, which restrict or limit access to such photographs or recordings.

The bill provides a public necessity statement as required by the Florida Constitution. The statement includes legislative findings that indicate:

- Photographs and video and audio recordings are highly sensitive representations of the deceased that, if heard, viewed, copied, or publicized, could result in trauma, sorrow, humiliation, or emotional injury to the immediate family of the deceased and detract from the memory of the deceased;
- Dissemination of the photographs and video and audio recordings may be used by terrorists to attract followers, inspire others to kill, or educe violent acts;
- There are other types of available information, such as crime scene reports, which are less intrusive and injurious to the immediate family of the deceased and which continue to provide for public oversight; and
- The exemption should be given retroactive application because it is remedial in nature.

The bill provides for repeal of the exemption on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill takes effect October 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Voting Requirement

Article I, s. 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record exemption. Because the bill expands a public record exemption, it requires a two-thirds vote for final passage.

Public Necessity Statement

Article I, s. 24(c) of the Florida Constitution requires a public necessity statement for a newly created or expanded public records or public meetings exemption. The bill expands a public record exemption, and includes a public necessity statement.

Breadth of Exemption

Article I, s. 24(c) of the Florida Constitution requires a newly created public records exemption to be no broader than necessary to accomplish the stated purpose of the law. Based on the legislative findings in the statement of public necessity, the public records exemption in this bill appears to be no broader than necessary to accomplish its stated purpose.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may have an indeterminate fiscal impact on agencies relating to training and redaction of exempt information. However, costs may be minimal and would be absorbed by the agencies because training and redaction of exempt information are part of the day-to-day responsibilities of agencies.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 406.136 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

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

By Senator Bracy

11-01201-18

20181178__

1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 406.136, F.S.; defining the terms "killing of a
 4 person" and "care and custody of a state agency";
 5 expanding an exemption from public records
 6 requirements for a photograph or video or audio
 7 recording held by an agency which depicts or records
 8 the killing of a law enforcement officer to include a
 9 photograph or video or audio recording held by an
 10 agency which depicts or records the killing of a
 11 person; specifying that the exemption from public
 12 records requirements does not apply to the killing of
 13 a person in the care and custody of a state agency;
 14 providing for future legislative review and repeal of
 15 the exemption; providing a statement of public
 16 necessity; providing an effective date.
 17
 18 Be It Enacted by the Legislature of the State of Florida:
 19
 20 Section 1. Section 406.136, Florida Statutes, is amended to
 21 read:
 22 406.136 A photograph or video or audio recording that
 23 depicts or records the killing of a person ~~law enforcement~~
 24 ~~officer who was acting in accordance with his or her official~~
 25 ~~duties.~~
 26 (1) As used in this section, the term "killing of a person"
 27 ~~"killing of a law enforcement officer who was acting in~~
 28 ~~accordance with his or her official duties"~~ means all acts or
 29 events that cause or otherwise relate to the death of any human

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30 ~~being a law enforcement officer who was acting in accordance~~
 31 ~~with his or her official duties~~, including any related acts or
 32 events immediately preceding or subsequent to the acts or events
 33 that were the proximate cause of death. The term does not
 34 include the killing of a person in the care and custody of a
 35 state agency. For purposes of this subsection, the term "care
 36 and custody of a state agency" includes, but is not limited to,
 37 a protective investigation, protective supervision, or foster
 38 care as those terms are defined in s. 39.01; a protective
 39 investigation or protective supervision of a vulnerable adult as
 40 those terms are defined in s. 415.102; or an inmate in custody
 41 of the Department of Corrections.
 42 (2) A photograph or video or audio recording that depicts
 43 or records the killing of a person ~~law enforcement officer who~~
 44 ~~was acting in accordance with his or her official duties~~ is
 45 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
 46 of the State Constitution, except that a surviving spouse of the
 47 ~~deceased decedent~~ may view and copy any such photograph or video
 48 recording or listen to or copy any such audio recording. If
 49 there is no surviving spouse, ~~then~~ the surviving parents shall
 50 have access to such records. If there is no surviving spouse or
 51 parent, ~~the then an adult~~ children ~~child~~ shall have access to
 52 such records.
 53 (3) (a) The deceased's surviving relative, with whom
 54 authority rests to obtain such records, may designate in writing
 55 an agent to obtain such records.
 56 (b) A local governmental entity, or a state or federal
 57 agency, in furtherance of its official duties, pursuant to a
 58 written request, may view or copy a photograph or video

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59 recording or may listen to or copy an audio recording of the
60 killing of a person law enforcement officer who was acting in
61 ~~accordance with his or her official duties~~ and, unless otherwise
62 required in the performance of its ~~their~~ duties, the identity of
63 the deceased shall remain confidential and exempt.

64 (c) The custodian of the record, or his or her designee,
65 may not permit any other person to view or copy such photograph
66 or video recording or listen to or copy such audio recording
67 without a court order.

68 (4) (a) The court, upon a showing of good cause, may issue
69 an order authorizing any person to view or copy a photograph or
70 video recording that depicts or records the killing of a person
71 ~~law enforcement officer who was acting in accordance with his or~~
72 ~~her official duties~~ or to listen to or copy an audio recording
73 that depicts or records the killing of a person law enforcement
74 ~~officer who was acting in accordance with his or her official~~
75 ~~duties~~ and may prescribe any restrictions or stipulations that
76 the court deems appropriate.

77 (b) In determining good cause, the court shall consider:

- 78 1. Whether such disclosure is necessary for the public
- 79 evaluation of governmental performance;
- 80 2. The seriousness of the intrusion into the family's right
- 81 to privacy and whether such disclosure is the least intrusive
- 82 means available; and
- 83 3. The availability of similar information in other public
- 84 records, regardless of form.

85 (c) In all cases, the viewing, copying, listening to, or
86 other handling of a photograph or video or audio recording that
87 depicts or records the killing of a person law enforcement

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88 ~~officer who was acting in accordance with his or her official~~
89 ~~duties~~ must be under the direct supervision of the custodian of
90 the record or his or her designee.

91 (5) A surviving spouse shall be given reasonable notice of
92 a petition filed with the court to view or copy a photograph or
93 video recording that depicts or records the killing of a person
94 ~~law enforcement officer who was acting in accordance with his or~~
95 ~~her official duties~~ or to listen to or copy any such audio
96 recording, a copy of such petition, and reasonable notice of the
97 opportunity to be present and heard at any hearing on the
98 matter. If there is no surviving spouse, ~~then~~ such notice must
99 be given to the parents of the deceased and, if the deceased has
100 no surviving living parent, ~~then~~ to the adult children of the
101 deceased.

102 (6) (a) Any custodian of a photograph or video or audio
103 recording that depicts or records the killing of a person law
104 ~~enforcement officer who was acting in accordance with his or her~~
105 ~~official duties~~ who willfully and knowingly violates this
106 section commits a felony of the third degree, punishable as
107 provided in s. 775.082, s. 775.083, or s. 775.084.

108 (b) Any person who willfully and knowingly violates a court
109 order issued pursuant to this section commits a felony of the
110 third degree, punishable as provided in s. 775.082, s. 775.083,
111 or s. 775.084.

112 (c) A criminal or administrative proceeding is exempt from
113 this section but, unless otherwise exempted, is subject to all
114 other provisions of chapter 119, 7 provided, however, ~~that~~ this
115 section does not prohibit a court in a criminal or
116 administrative proceeding upon good cause shown from restricting

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117 or otherwise controlling the disclosure of a killing, crime
118 scene, or similar photograph or video or audio recording
119 ~~recordings~~ in the manner prescribed in this section herein.

120 (7) ~~The~~ This exemption in this section shall be given
121 retroactive application and shall apply to all photographs or
122 video or audio recordings that depict or record the killing of a
123 person law enforcement officer who was acting in accordance with
124 his or her official duties, regardless of whether the killing of
125 the person occurred before, on, or after July 1, 2015 2011.
126 However, ~~nothing~~ this section herein is not intended to, and ~~nor~~
127 may not be construed to, overturn or abrogate or alter any
128 existing orders duly entered into by any court of this state, as
129 of the effective date of this act, which restrict or limit
130 access to any photographs or video or audio recordings that
131 depict or record the killing of a person law enforcement officer
132 who was acting in accordance with his or her official duties.

133 (8) This section only applies to such photographs and video
134 and audio recordings held by an agency as defined in s. 119.011.

135 (9) This section is subject to the Open Government Sunset
136 Review Act in accordance with s. 119.15 and shall stand repealed
137 on October 2, 2023, unless reviewed and saved from repeal
138 through reenactment by the Legislature.

139 Section 2. (1) The Legislature finds that it is a public
140 necessity that photographs and video and audio recordings that
141 depict or record the killing of a person be made confidential
142 and exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
143 Art. I of the State Constitution. The Legislature finds that
144 photographs and video and audio recordings that depict or record
145 the killing of a person render a graphic and often disturbing

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146 visual or aural representation of the deceased. Such photographs
147 and video and audio recordings provide a view of the deceased in
148 the final moments of life, often bruised, bloodied, broken, with
149 bullet wounds or other wounds, cut open, dismembered, or
150 decapitated. As such, photographs and video and audio recordings
151 that depict or record the killing of a person are highly
152 sensitive representations of the deceased which, if heard,
153 viewed, copied, or publicized, could result in trauma, sorrow,
154 humiliation, or emotional injury to the immediate family of the
155 deceased and detract from the memory of the deceased. The
156 Legislature recognizes that the existence of the Internet and
157 the proliferation of personal computers and cellular telephones
158 throughout the world encourage and promote the wide
159 dissemination of such photographs and video and audio recordings
160 and that widespread unauthorized dissemination of such
161 photographs and video and audio recordings would subject the
162 immediate family of the deceased to continuous injury.

163 (2) In addition to the emotional and mental injury that
164 these photographs and recordings may cause family members, the
165 Legislature is also concerned that dissemination of photographs
166 and video and audio recordings that depict or record the killing
167 of a person is harmful to the public. The Legislature is gravely
168 concerned and saddened by the horrific mass killings perpetrated
169 at the Pulse nightclub in Orlando and the Fort Lauderdale-
170 Hollywood International Airport. The Legislature is concerned
171 that, if these photographs and recordings are released,
172 terrorists will use them to attract followers, bring attention
173 to their causes, and inspire others to kill. The Legislature
174 also finds that dissemination of these photographs and

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175 recordings may also educe violent acts by the mentally ill or
176 morally corrupt.

177 (3) The Legislature further recognizes that there continues
178 to be other types of available information, such as crime scene
179 reports, which are less intrusive and injurious to the immediate
180 family of the deceased and which continue to provide for public
181 oversight. The Legislature further finds that the exemption
182 provided in this act should be given retroactive application
183 because it is remedial in nature.

184 Section 3. This act shall take effect October 1, 2018.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2.12.18

Meeting Date

1178

Bill Number (if applicable)

Topic Public Records Exemption of Photo/Video/Audio of Killing a Person

Amendment Barcode (if applicable)

Name Barney Bishop

Job Title CEO

Address 204 South Monroe Street

Phone 510-9922

Street

Tallahassee

FL

32301

Email Barney@BarneyBishop.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida Smart Justice Alliance

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: SB 1420

INTRODUCER: Senator Gainer

SUBJECT: Probationary or Supervision Services

DATE: February 9, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Jones</u>	<u>CJ</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>ACJ</u>	_____
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 1420 removes a current prohibition on a private entity providing probationary or supervision services to misdemeanor offenders sentenced or placed on probation or other supervision by circuit courts. The bill retains the current prohibition on a private entity providing probationary or supervision services to felony offenders sentenced or placed on probation or other supervision by circuit courts.

Private entities would financially benefit from whatever compensation they receive for supervising misdemeanor offenders sentenced in circuit court. The Department of Corrections states that the fiscal impact of the bill is indeterminate. However, to the extent the bill reduces the department's supervision workload, there would presumably be a cost savings to the department. See Section V. Fiscal Impact Statement.

II. Present Situation:

Presently, private entities are not allowed to supervise offenders who are placed on supervision for felony or misdemeanor offenses when sentenced in circuit court.¹ Private entities are allowed to supervise offenders who are placed on supervision for misdemeanor offenses when sentenced in county court.²

Section 948.01(1), F.S., provides that any state court having original jurisdiction of criminal actions may at a time to be determined by the court, with or without an adjudication of the guilt of the defendant, hear and determine the question of the probation of a defendant in a criminal case, except for an offense punishable by death, who has been found guilty by the verdict of a

¹ Section 948.01(1)(a) and (5), F.S.

² Section 948.15(1)-(3), F.S.

jury, has entered a plea of guilty or a plea of nolo contendere, or has been found guilty by the court trying the case without a jury.

If the court places the defendant on probation or into community control for a felony, the Department of Corrections (DOC) must provide immediate supervision by an officer employed in compliance with the minimum qualifications for officers as provided in s. 943.13, F.S.³ The imposition of sentence may not be suspended and the defendant thereupon placed on probation or into community control unless the defendant is placed under the custody of the DOC or another public or private entity.⁴ A private entity may not provide probationary or supervision services to felony or misdemeanor offenders sentenced or placed on probation or other supervision by the circuit court.⁵

Section 948.15(1), F.S., provides that a defendant found guilty of a misdemeanor who is placed on probation must be under supervision not to exceed six months unless otherwise specified by the court. Probation supervision services for a defendant found guilty of a misdemeanor for possession of a controlled substance or drug paraphernalia under ch. 893, F.S., may be provided by a licensed substance abuse education and intervention program, which may provide substance abuse education and intervention as well as any other terms and conditions of probation. In relation to any offense other than a felony in which the use of alcohol is a significant factor, the period of probation may be up to one year.

A private entity or public entity, including a licensed substance abuse education and intervention program, under the supervision of the board of county commissioners or the court may provide probation services and licensed substance abuse education and treatment intervention programs for offenders sentenced by the county court.⁶

Any private entity, including a licensed substance abuse education and intervention program, providing services for the supervision of misdemeanor probationers must contract with the county in which the services are to be rendered. In a county having a population of fewer than 70,000, the county court judge, or the administrative judge of the county court in a county that has more than one county court judge, must approve the contract.⁷

III. Effect of Proposed Changes:

The bill removes a current prohibition on a private entity providing probationary or supervision services to misdemeanor offenders sentenced or placed on probation or other supervision by circuit courts. The bill retains the current prohibition on a private entity providing probationary or supervision services to felony offenders sentenced or placed on probation or other supervision by circuit courts.

The bill takes effect July 1, 2018.

³ Section 948.01(1)(a), F.S.

⁴ Section 948.01(5), F.S.

⁵ Section 948.01(1)(a) and (5), F.S.

⁶ Section 948.15(2), F.S.

⁷ Section 948.15(3), F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Private entities would financially benefit from whatever compensation they receive for supervising misdemeanor offenders sentenced in circuit court.

C. Government Sector Impact:

The DOC states:

Over the past three years, there has been an average of 4,724 probation admissions where the primary offense was a misdemeanor. Courts will now be allowed to order that these cases be supervised by private entities; however, the actual number of cases that will be effected by this bill are unknown. Therefore the impact to the ... [DOC] is indeterminate.⁸

While the fiscal impact on the DOC may be indeterminate, to the extent the bill reduces the DOC's supervision workload, there would presumably be a cost savings to the DOC.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

⁸ 2018 Agency Legislative Bill Analysis (SB 1420) (Feb. 7, 2018), Department of Corrections (on file with the Senate Committee on Criminal Justice).

VIII. Statutes Affected:

This bill substantially amends section 948.01 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

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

By Senator Gainer

2-01413-18

20181420__

1 A bill to be entitled
2 An act relating to probationary or supervision
3 services; amending s. 948.01, F.S.; deleting a
4 prohibition on private entities providing probationary
5 or supervision services to certain misdemeanor
6 offenders; providing an effective date.

7
8 Be It Enacted by the Legislature of the State of Florida:

9
10 Section 1. Paragraph (a) of subsection (1) and subsection
11 (5) of section 948.01, Florida Statutes, are amended to read:
12 948.01 When court may place defendant on probation or into
13 community control.—

14 (1) Any state court having original jurisdiction of
15 criminal actions may at a time to be determined by the court,
16 with or without an adjudication of the guilt of the defendant,
17 hear and determine the question of the probation of a defendant
18 in a criminal case, except for an offense punishable by death,
19 who has been found guilty by the verdict of a jury, has entered
20 a plea of guilty or a plea of nolo contendere, or has been found
21 guilty by the court trying the case without a jury.

22 (a) If the court places the defendant on probation or into
23 community control for a felony, the department shall provide
24 immediate supervision by an officer employed in compliance with
25 the minimum qualifications for officers as provided in s.
26 943.13. A private entity may not provide probationary or
27 supervision services to felony ~~or misdemeanor~~ offenders
28 sentenced or placed on probation or other supervision ~~by the~~
29 ~~circuit court~~.

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30 (5) The imposition of sentence may not be suspended and the
31 defendant thereupon placed on probation or into community
32 control unless the defendant is placed under the custody of the
33 department or another public or private entity. A private entity
34 may not provide probationary or supervision services to felony
35 ~~or misdemeanor~~ offenders sentenced or placed on probation or
36 other supervision ~~by the circuit court~~.

37 Section 2. This act shall take effect July 1, 2018.

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THE FLORIDA SENATE
APPEARANCE RECORD

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

2/12/2018

Meeting Date

1420

Bill Number (if applicable)

Topic Probationary or Supervision Services

Amendment Barcode (if applicable)

Name Scott D. McCoy

Job Title Senior Policy Counsel

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State

Zip

Speaking: For Against Information

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

Representing Southern Poverty Law Center

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

Tallahassee, Florida 32399-1100

COMMITTEES:

Transportation, *Chair*
Commerce and Tourism, *Vice Chair*
Appropriations
Appropriations Subcommittee on General Government
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Banking and Insurance
Military and Veterans Affairs, Space, and
Domestic Security

JOINT COMMITTEE:

Joint Administrative Procedures Committee

SENATOR GEORGE B. GAINER
2nd District

January 15, 2018

Re: SB 1420

Dear Chair Bracy,

I am respectfully requesting Senate Bill 1420, related to Probationary or Supervision Services, be placed on the agenda for the next meeting of the Criminal Justice Committee.

I appreciate your consideration of this bill. If there are any questions or concerns, please do not hesitate to call my office at (850) 487-5002.

Thank you,

A handwritten signature in cursive script that reads "George B. Gainer".

Senator George Gainer
District 2

Cc. Laura Jones, Sue Arnold, Aisha Bien-Aime, Charlean Gatlin, Travaris McCurdy

REPLY TO:

- 840 West 11th Street, Panama City, Florida 32401 (850) 747-5454
- Northwest Florida State College, 100 East College Boulevard, Building 330, Room 105 and 112, Niceville, Florida 32578 (850) 803-8395
- 302 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5002

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

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 Committee on Criminal Justice

BILL: CS/SB 1678

INTRODUCER: Criminal Justice Committee and Senator Stargel

SUBJECT: Criminal Justice

DATE: February 14, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Storch	Jones	CJ	Fav/CS
2.			JU	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1678 changes the deadline for the annual submission of reports by law enforcement agencies pursuant to the Florida Contraband Forfeiture Act from October 10 to December 1.

Additionally, the bill creates a model of uniform criminal justice data collection. Specifically, the bill:

- Defines terms used in the bill as they relate to data collection;
- Requires the clerks of the circuit court, state attorneys, public defenders, county jail operators, and the Department of Corrections (DOC) to collect certain data and transmit it to the Florida Department of Law Enforcement (FDLE) on a weekly basis;
- Requires the FDLE to publish data on the FDLE's website and make it searchable and accessible to the public;
- Digitizes the Criminal Punishment Code sentencing scoresheet;
- Requires additional information to be reported in the annual report for pretrial release programs;
- Authorizes a pilot project in the Sixth Judicial Circuit for the purposes of implementing the bill; and
- Appropriates \$1,750,000 in nonrecurring funds to the FDLE for the hiring of nine full-time employees for purposes of implementing the requirements of the bill and to assist in the transition to incident-based crime reporting to meet the requirements of the Federal Bureau of Investigation (FBI) under the National Incident-Based Reporting System.

The bill will have a significant, and largely indeterminate, fiscal impact on the clerks of the circuit courts, state attorneys, public defenders, the DOC, and the FDLE. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2018.

II. Present Situation:

Florida Contraband Forfeiture Act

The Florida Contraband Forfeiture Act (act), ss. 932.701-932.7062, F.S., provides for the seizure and civil forfeiture of property related to criminal and non-criminal violations of law.¹ Contraband and other property may be seized when utilized during a violation of, or for the purpose of violating, the act. Property constituting a “contraband article” includes, but is not limited to, a controlled substance as defined in ch. 893, F.S., any gambling paraphernalia being used or attempted to be used in violation of the state’s gambling laws, and any motor fuel upon which the motor fuel tax has not been paid as required by law.²

Currently, any contraband article, vessel, motor vehicle, aircraft, other personal property, or real property used in violation of any provision of the act, or in, upon, or by means of which any violation of the act has taken or is taking place, may be seized and forfeited subject to the act.³ If the court finds that the seizure occurred lawfully⁴ and that probable cause exists for the seizure, the forfeiture may proceed as set forth in the act.⁵

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

- Retain the property for the agency’s use;
- Sell the property at public auction or by sealed bid to the highest bidder;⁶ or
- Salvage, trade, or transfer the property to any public or nonprofit organization.⁷

Reports Concerning Seized or Forfeited Property

Section 932.7061, F.S., requires every law enforcement agency to submit an annual report by October 10 indicating whether the agency has seized or forfeited property under the act.⁸ In the event that a law enforcement agency received or expended forfeited property or proceeds from the sale of forfeited property in accordance with the act, the annual report must document such receipts and expenditures.

¹ Section 932.701(1), F.S.

² See s. 932.701(2)(a)1.-12., F.S.

³ Section 932.703(1)(a), F.S.

⁴ Section 932.703(1)(a), F.S., sets forth the circumstances that permit for a lawful seizure of property.

⁵ Section 932.703(2)(c), F.S.

⁶ Real property should be listed on the market and sold in a commercially reasonable manner after appraisal. Section 932.7055(1)(b), F.S.

⁷ Section 932.7055(1)(a)-(c), F.S.

⁸ Section 932.7061(1), F.S.

The report must be submitted in electronic form to the FDLE and the entity that has budgetary authority over the law enforcement agency. The report must specify, at a minimum, the type, approximate value, court case number, type of offense, disposition of property received, and amount of any proceeds received or expended. The report must be maintained by the FDLE in consultation with the Office of Program Policy Analysis and Government Accountability (OPPAGA).⁹

The FDLE must submit an annual report to the OPPAGA that compiles the information and data in the annual reports. The FDLE must also include a list of law enforcement agencies that failed to meet the reporting requirements and a summary of any action taken against such noncomplying agency by the office of Chief Financial Officer (CFO).¹⁰

Penalty for Noncompliance with Reporting Requirements

An agency that is in noncompliance with the reporting requirements in s. 932.7061, F.S., must be notified by the FDLE. Such agency has 60 days within receipt of the notification of noncompliance to comply with the reporting requirements. An agency that fails to comply within 60 days is subject to a civil fine of \$5,000. The fine is determined by the CFO and payable to the General Revenue Fund.¹¹

The FDLE must submit any substantial noncompliance to the office of the CFO, which will then be responsible for the enforcement of the fine.¹²

The fiscal year for sheriff departments runs from October 1-September 30, making it difficult to gather all required information and submit it by October 10 to comply with the statutory mandate. An agency that does not meet the deadline for submission of the annual report is subject to negative implications associated with a noncompliance status.¹³

Data Collection by Florida's Criminal Justice Agencies

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

Clerks of the Circuit Courts

The clerks of the circuit courts use a secured single point-of-search database portal for statewide court case information, the Comprehensive Case Information System (CCIS).¹⁴ Section 28.2405,

⁹ *Id.*

¹⁰ Section 932.7061(2), F.S.

¹¹ Section 932.7062, F.S.

¹² *Id.*

¹³ Polk County Sheriff's Office, *Proposal for the 2018 FSA Legislative Summit*, (on file with the Senate Criminal Justice Committee).

¹⁴ See s. 28.2405, F.S. The Comprehensive Case Information System access site, available at <https://www.flccis.com/ocrs/login.xhtml> (last visited February 13, 2018).

F.S., requires all clerks to participate in the CCIS and submit data for criminal, civil, juvenile, probate, and traffic cases.¹⁵ The CCIS provides controlled access to court records for governmental agencies.¹⁶ Currently, 19 governmental organizations use the CCIS and may use it to search information related to call court cases maintained by the clerks.¹⁷

The CCIS has more than 45,000 active users. The clerks assign each user or organization a security level that allows them to view certain data on the CCIS. Not all data elements are available to all users and CCIS is not available to the public.¹⁸

County Detention Facilities

A county detention facility is a county jail, county stockade, county work camp, county residential probation center, or any other place, except a municipal detention facility, used by a county or county officer for the detention of persons charged with or convicted of a crime.¹⁹ Data collection and storage by jail facilities varies greatly from county to county. Larger jails have data systems allowing for direct data input and report generation, while smaller jails have databases using Microsoft Access or other commercially available templates²⁰

Section 951.23(2), F.S., requires administrators of county detention facilities to collect and report certain information to the DOC. The DOC then uses such data to analyze and evaluate county detention facilities.²¹ Many jails also collect data relating to jail capacity, per diems, demographic data, criminal charges, custody levels, and medical information.²² Jail administrators use this data to manage daily operations, verify total jail costs and budgets, and ensure proper staffing and training.²³

State Attorneys and Public Defenders

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

Department of Corrections

The data system the DOC uses is the Offender Based Information System (OBIS).²⁴ Data collected within the OBIS includes sentencing information and scoresheets from the clerks of the circuit courts, criminal history information from the FDLE, and background information self-

¹⁵ See also Florida Court Clerks & Comptrollers, *Criminal Court Case Data Collection*, p. 7, November 14, 2017, (PowerPoint presentation on file with the Senate Criminal Justice Committee).

¹⁶ *Id.* at 2.

¹⁷ *Id.* at 3 and 6.

¹⁸ *Id.* at 11.

¹⁹ Section 951.23(1)(a), F.S.

²⁰ Florida Sheriffs Association, *Criminal Justice Data Collection*, p. 5, November 14, 2017, (PowerPoint presentation on file with the Senate Criminal Justice Committee).

²¹ Section 951.23(3), F.S.

²² *Supra*, n. 20 at 3.

²³ *Id.* at 6.

²⁴ Section 20.315(10), F.S., and Florida Department of Corrections, *Overview of FDC Criminal Justice Data*, p. 3, November 14, 2017. (PowerPoint presentation on file with the Senate Criminal Justice Committee).

reported by inmates.²⁵ The DOC uses this information for a variety of operational functions including determining an inmate's custody level, and an inmate's release date.²⁶ The DOC shares the OBIS information with law enforcement and other state and federal agencies pursuant to relevant statutory authority, federal law, or other directives.²⁷

The Bureau of Research and Data Analysis (Bureau) within the DOC analyzes the OBIS data to generate information for the DOC, the Governor, the Legislature, and other state agencies.²⁸ The Bureau publishes an annual report that includes information regarding inmate population, statistics, and other information relating to the DOC.²⁹ While annual reports are accessible to the public, users are not permitted to search the data that the DOC collected to create such reports.

III. Effect of Proposed Changes:

Reports Concerning Seized or Forfeited Property (Section 5, amending s. 932.7061, F.S.)

Current law requires agencies with seized or forfeited property pursuant to the act to submit an annual report by October 10 documenting the receipts and expenditures of forfeited property or proceeds from the sale of forfeited property pursuant to the act. The bill changes the deadline for the submission of such report to December 1.

Criminal Justice Data Collection (Section 2, creating s. 900.05, F.S.)

The bill specifies that it is the intent of the Legislature to create a model of uniform criminal justice data collection by requiring local and state criminal justice agencies to report complete, accurate, and timely data, and make such data available to the public.

The bill defines the following terms:

- “Admission date” is the date a defendant was admitted to the DOC;
- “Admission type” is the underlying reason for which a defendant is admitted to the DOC, including a new conviction, probation violation, probation violation based on a new offense, parole violation, or parole violation based on a new offense;
- “Annual felony caseload” is the yearly adult criminal felony caseload of each full-time state attorney and assistant state attorney or public defender and assistant public defender, based on the number of felony cases reported to the Florida Supreme Court pursuant to s. 25.075, F.S.;³⁰
- “Annual misdemeanor caseload” is the yearly adult criminal misdemeanor caseload of each full-time state attorney and assistant state attorney or public defender and assistant public defender, based on the number of misdemeanor cases reported to the Florida Supreme Court pursuant to s. 25.075, F.S.;³¹

²⁵ *Id.* at 4.

²⁶ *Id.* at 5.

²⁷ *Id.* at 6.

²⁸ Florida Department of Corrections, *Bureau of Research and Data Analysis*, available at <http://www.dc.state.fl.us/orginfo/research.html> (last visited February 13, 2018).

²⁹ Florida Department of Corrections, *Annual Report Fiscal Year 2015-2016*, available at http://www.dc.state.fl.us/pub/annual/1516/FDC_AR2015-16.pdf (last visited February 13, 2018).

³⁰ The term does not include the appellate caseload of a public defender or assistant public defender.

³¹ The term does not include the appellate caseload of a public defender or assistant public defender.

- “Arraignment date or initial appearance” is the date a defendant first appears before a judge to enter a plea;
- “Arrest date” is the date a defendant is taken into physical custody by a law enforcement agency on a criminal charge, issued a notice to appear or a charging document is filed by the state attorney’s office.
- “Attorney assignment date” is the date a court-appointed attorney is assigned to the case or, if privately retained, the date an attorney files a notice of appearance with the clerk of court;
- “Attorney withdrawal date” is the date the court removes court-appointed counsel from a case or, for a privately retained attorney, the date a motion to withdraw is granted by the court;
- “Bail or bond hearing date” is the date a defendant appears in court for bail or bond determination;
- “Bail or bond modification date” is the date a hearing is held to consider a defendant’s bail or bond conditions and the conditions are modified;
- “Bail or bond posting date” is the date a defendant posts bail or bond;
- “Bail or bond revocation” is the date a court revokes a defendant’s bail or bond;
- “Bail or bond setting date” is the date a court confirms or orders bail or bond in a criminal case;
- “Booking date and reason” is the date a defendant is booked into a jail facility on a new charge or for a probation violation pursuant to a bench warrant for a pretrial release violation or pursuant to a warrant from another jurisdiction;
- “Case number” is the identification number assigned by the clerk of court to a criminal case;
- “Case status” means whether a case is open, closed, reopened due to a probation violation, or inactive;
- “Cash bail or bond amount” is the monetary amount of bail or bond imposed by a court;
- “Cash bail or bond payment” means whether or not a defendant posted bail or bond;
- “Charge class severity” means the degree of the misdemeanor or felony for each charged offense;
- “Charge description” is the statement of the charge matched to the statutory section establishing the conduct as criminal;
- “Charge disposition date” is the date of final judgment, adjudication, adjudication withheld, dismissal, or nolle prosequi of each charge;
- “Charge modifier” is an aggravating circumstance of an alleged crime that enhances or modifies a charge to a more serious offense level;
- “Charge sequence number” is the unique numerical identifier for each charge in a case with multiple charges;
- “Charge statute” is the statute for each charge which establishes the conduct as criminal;
- “Charge type” indicates whether the charge is a misdemeanor or felony;
- “Committing county” is the county from which the defendant was transported to the DOC;
- “Concurrent or consecutive sentence flag” indicates that a defendant is serving another sentence concurrently or consecutively in addition to the current sentence;
- “Court fees amount” is the amount of fees owed to the clerk of court at disposition of the case;
- “Court fees amount balance or payment to date” is the amount a defendant paid towards outstanding court fees and the remaining balance owed;

- “Current institution and institution security level” is the name of the institution where a defendant is currently incarcerated and the institution’s security level;
- “Daily cost of a jail bed” is the per diem cost, based on all sources of funding and costs associated with operations, for each inmate in a jail facility;
- “Daily cost of a prison bed” is the per diem cost, based on all sources of funding and costs associated with operations, for each inmate in a state correctional institution;
- “Daily cost per probationer” is the per diem cost for each individual serving probation with the DOC;
- “Daily jail population” is the number of inmates incarcerated within a jail facility on each day;
- “Daily jail postsentence population” is the number of inmates incarcerated within a jail facility on each day who have been sentenced and are either serving the sentence in jail or awaiting transportation to the DOC;
- “Daily jail presentence population” is the number of inmates incarcerated within a jail facility on each day who entered a plea to charges or were found guilty at trial and are awaiting sentencing;
- “Daily jail pretrial population” is the number of inmates incarcerated within a jail facility on each day awaiting case disposition;
- “Daily number of correctional officers” is the number of full-time, part-time, and auxiliary correctional officers who are actively providing supervision, protection care, custody, and control of inmates in a state correctional institution or jail facility each day;
- “Daily number of federal and state inmates held in jail” is the number of inmates who are temporarily incarcerated within a jail facility each day;
- “Daily prison population” is the number of inmates incarcerated in a state correctional institution on each day;
- “Date of court appearance” is the date a criminal case is considered by a court;
- “Date of failure to appear in court” is the date a criminal case was set to be heard by a court with required appearance by a defendant and he or she failed to appear;
- “Defense attorney type” means whether the attorney is court-appointed to or privately retained by a defendant, or that the defendant is represented pro se;
- “Deferred prosecution or pretrial diversion hearing date or agreement date” is the date a hearing is held or a contract is signed by the parties regarding a defendant’s admission into a deferred prosecution or pretrial diversion program;
- “Disciplinary violation and action” means any inmate disciplinary conduct and the consequences of such conduct;
- “Discovery motion date” is the date a defendant files a notice to participate in discovery;
- “Dismissal motion date” is the date a defendant files a motion to dismiss charges;
- “Dismissal motion hearing date” is the date a court considers a defendant’s motion to dismiss charges;
- “Disposition date” is the date on which all case activity is final;
- “Domestic violence flag” indicates that a charge involves domestic violence as defined in s. 741.28, F.S.;
- “Drug type for drug charge” indicates the type of drug specified in each drug charge against a defendant;

- “Ethnicity” is a person’s identification as Hispanic or Latino, not Hispanic or Latino, or Haitian;
- “Filing date” is the date a formal charge is filed against a defendant;
- “Fine amount” is the total fines imposed at case disposition;
- “Fine amount balance or payment to date” is the amount a defendant paid towards outstanding fines and the remaining balance owed;
- “Gang affiliation flag” indicates that a defendant is involved in or associated with a criminal gang as defined in s. 874.03, F.S.;
- “Good conduct credit earned” is time an inmate earned for good behavior in a jail facility or state correctional institution and credited toward his or her sentence;
- “Habitual offender flag” indicates that a defendant is a habitual felony offender as defined in s. 775.084, F.S., or a habitual misdemeanor offender as defined in s. 775.0837, F.S.;
- “Jail capacity” is the maximum number of inmates who can be incarcerated in a jail facility;
- “Judicial transfer date” is the date on which a defendant’s case is transferred to another court or presiding judge;
- “Length of probation sentence imposed” is the duration of probation ordered by a court;
- “Length of probation sentence served” is the amount of time on probation that a defendant has served to date;
- “Nonmonetary condition of release” is a condition of a defendant’s pretrial release imposed by the court that is not based on payment of bail or bond;
- “Number of contract attorneys representing indigent defendants for the office of the public defender” is the number of attorneys hired on a temporary basis, by contract, to represent indigent clients who were appointed a public defender;
- “Offense date” is the date that the alleged crime occurred;
- “Plea date” is the date a defendant enters a plea to a pending charge;
- “Presentence jail population at year-end” is the number of inmates incarcerated within a jail facility at the end of the calendar year who entered pleas or who were found guilty at trial and are awaiting sentencing;
- “Pretrial release decision” is the date the court decides the issue of a defendant’s pretrial release from incarceration;
- “Pretrial release offender flag” is an indication that the defendant has violated the terms of his or her pretrial release;
- “Prior incarceration within the state” is any prior history of a defendant being incarcerated in a jail facility or state correctional institution;
- “Postsentence jail population at year-end” is the number of inmates incarcerated within a jail facility at the end of the calendar year who have been sentenced and are either serving that sentence in the facility or awaiting transportation to the DOC;
- “Probation revocation” is any instance where a defendant’s probation was revoked;
- “Projected discharge date” is the anticipated date an inmate will be released from incarceration;
- “Race” is a person’s identification as American Indian or Alaskan Native, African American or Black, Asian, Hawaiian or other Pacific Islander, White, or Other, which includes multi-racial individuals;
- “Restitution amount ordered” is the amount of money imposed by the court to compensate a victim of a defendant’s criminal activity;

- “Sentence condition” is any requirement imposed by a court in addition to incarceration;
- “Sentence date” is the date a court enters a sentence against a defendant;
- “Sentence length” is the total duration of jail time, prison time, and probation that a defendant is ordered to serve;
- “Sentence type” is capital punishment, incarceration, probation, or a combination thereof;
- “Sentencing scoresheet” is the digitized worksheet created under s. 921.0024, F.S., to compute the defendant’s minimum sentence that may be imposed by the trial court;
- “Speedy trial motion date” is the date a defendant files a demand for speedy trial;
- “Speedy trial motion hearing date” is the date a court hears a defendant’s demand for speedy trial;
- “Sexual offender flag” is an indication that a defendant is a sexual offender as defined in s. 943.0435, F.S.;
- “Time served credit and length” is the amount of prior incarceration credited to an inmate’s current sentence to reduce the amount of time remaining in the sentence;
- “Total jail population at year-end” is the number of inmates incarcerated within a jail facility at the end of a calendar year; and
- “Trial date” is the date a defendant’s case is set for trial, beginning with jury selection.

The bill requires the following data to be collected and transmitted weekly, beginning January 1, 2019, to the FDLE:

- Each clerk of court must collect the following data for:
 - Each criminal case:
 - Case number;
 - Offense date;
 - County in which the offense was committed;
 - Arrest date;
 - Filing date;
 - Arraignment date or initial appearance;
 - Attorney assignment date;
 - Attorney withdrawal date;
 - Case status; and
 - Disposition date.
 - Each defendant:
 - Name;
 - Date of birth;
 - Age;
 - Zip code of primary residence;
 - Primary language;
 - Race and ethnicity;
 - Gender;
 - Citizenship;
 - Immigration status, if applicable; and
 - Whether the defendant is indigent under s. 27.52, F.S.
 - Any charge referred to the state attorney by law enforcement;
 - A formal charge filed against the defendant;

- Charge sequence number;
- Charge description;
- Charge statute;
- Charge type;
- Charge class severity;
- Charge modifier, if any;
- Charge disposition;
- Charge disposition date;
- Drug type for drug charge, if known;
- Domestic violence flag;
- Gang affiliation flag;
- Sexual offender flag; and
- Habitual offender flag.
- A plea date;
- Bail or bond and pretrial release:
 - Pretrial release decision;
 - Nonmonetary condition of release;
 - Cash bail or bond amount;
 - Cash bail or bond payment;
 - Booking date and reason;
 - Date defendant is released on bail, bond, or pretrial release;
 - Bail or bond revocation due to a new offense, a failure to appear, or a violation of the terms of bail or bond; and
 - Pretrial release offender flag.
- Pretrial dates:
 - Bail or bond hearing date;
 - Bail or bond setting date;
 - Bail or bond modification date;
 - Bail or bond posting date; and
 - Deferred prosecution or pretrial diversion hearing date or agreement date.
- Court dates and dates of motions and appearances:
 - Date of court appearance;
 - Date of failure to appear in court;
 - Judicial transfer date;
 - Trial date;
 - Bail or bond motion date;
 - Discovery motion date;
 - Speedy trial motion date;
 - Speedy trial motion hearing date;
 - Dismissal motion date; and
 - Dismissal motion hearing date.
- The defense attorney type;
- Sentencing:
 - Sentence date;
 - Sentence type;

- Sentence length;
- Sentence condition;
- Time served credit and length;
- Court fees amount;
- Court fees amount balance or payment to date;
- Fine amount;
- Fine amount balance or payment to date;
- Restitution amount ordered; and
- If restitution is ordered, the amount collected by the court and the amount paid to the victim.
- The number of judges, magistrates, court commissioners, or their equivalents hearing non-appellant, adult criminal cases in the circuit;
- Each state attorney must collect the following data on the:
 - Human victim of a criminal offense:
 - Race and ethnicity;
 - Gender;
 - Age; and
 - Relationship to the offender.
 - Number of full-time and part-time prosecutors;
 - Annual felony caseload;
 - Annual misdemeanor caseload;
 - Defendant:
 - Each charge referred to the office of the state attorney by law enforcement; and
 - Drug type for each drug charge.
 - Number of cases in which no information was filed;
- Each public defender must collect the following data on the:
 - Number of full-time and part-time public defenders;
 - Number of contract attorneys representing indigent defendants for the office of the public defender;
 - Annual felony caseload; and
 - Annual misdemeanor caseload.
- The administrator of each county detention facility must collect the following data on the:
 - Jail capacity;
 - Weekly admissions to jail for probation revocation;
 - Daily jail population;
 - Daily jail pretrial population;
 - Daily jail presentence population;
 - Daily jail postsentence population;
 - Daily number of federal and state inmates held in jail;
 - Total jail population at year-end;
 - Pretrial jail population at year-end;
 - Presentence jail population at year-end;
 - Postsentence jail population at year-end;
 - Number of federal and state inmates held in jail at year-end;
 - Daily cost of a jail bed;
 - Daily number of correctional officers;

- Annual jail budget;
- Revenue generated from the temporary incarceration of federal defendants or inmates;
- Inmate:
 - Booking date and reason;
 - Domestic violence flag;
 - Gang affiliation flag;
 - Habitual offender flag;
 - Pretrial release offender flag; and
 - Sexual offender flag.
- The DOC must collect the following data :
 - For each prisoner:
 - Name;
 - DOC number;
 - Date of birth;
 - Race and ethnicity;
 - Number of children;
 - Education level;
 - Admission date;
 - Admission type;
 - Current institution and institution security level;
 - Sexual offender flag;
 - Habitual offender flag;
 - Gang affiliation flag;
 - Sentencing scoresheet;
 - Committing county;
 - Whether the reason for admission to the DOC is for a new conviction or a probation violation. For an admission for a probation violation, the DOC must report whether the violation was technical, based on a new offense, or based on another term of probation.
 - Specific offense codes, including, for an inmate convicted of drug trafficking under s. 893.135, F.S., the offense code for each specific drug trafficked;
 - Concurrent or consecutive sentence flag;
 - Length of sentence or concurrent or consecutive sentences served;
 - Projected discharge date;
 - Time served, in days;
 - Good conduct credit earned;
 - Prior incarceration within the state;
 - Disciplinary violation and action; and
 - Participation in rehabilitative or educational correctional programs.
 - About each correctional facility:
 - Budget for each correctional institution;
 - Daily prison population;
 - Daily number of correctional officers; and
 - Daily cost of a prison bed.

- For probation and probationary services:
 - Each probationer:
 - Name;
 - Date of birth;
 - Race and ethnicity;
 - Sex; and
 - Department-assigned case number.
 - Length of probation sentence imposed and length of probation sentence served;
 - Probation release date or projected release date;
 - Probation revocation due to a violation;
 - Probation revocation due to a new offense; and
 - Daily cost per probationer.

The bill requires the FDLE, beginning January 1, 2019, to publish datasets in its possession in a modern, open, electronic format that is machine-readable and readily accessible by the public on the FDLE's website. The bill requires the data to be searchable, at a minimum, by each data element, county, circuit, and unique identifier.

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

Criminal Justice Data Transparency (Section 6, creating s. 943.687, F.S.)

The bill requires the FDLE to:

- Collect, compile, maintain, and manage the data submitted by local and state entities pursuant to the bill, and coordinate related activities to collect and submit data;
- Create a unique identifier for each criminal case received from the clerks of court, which identifies the person who is the subject of the criminal case. The unique identifier must:
 - Be the same for that person in any court case and used across local and state entities for all information related to that person at any time;
 - Be randomly created; and
 - Not include any portion of the person's social security number or date of birth.
- Promote criminal justice data sharing by making data received under the bill comparable, transferable, and readily usable;
- Create and maintain an Internet-based database of criminal justice data received under the bill in a modern, open, electronic format that is machine-readable and readily accessible through an application program interface. The database must permit the public³² to search, at a minimum, by each data element, county, judicial circuit, or unique identifier;
- Develop written agreements with local, state, and federal agencies to facilitate criminal justice data sharing;
- Establish by rule:

³² The FDLE may not require a license or charge a fee to access or receive information from the database.

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

Criminal Punishment Code Scoresheet (Section 4, amending s. 921.0024, F.S.)

Current law requires a Criminal Punishment Code scoresheet be prepared for each defendant who is sentenced for a felony offense. The scoresheet determines the permissible range for the sentence that may be imposed by the court.³³ The bill requires such scoresheets to be digitized.

The bill requires such digitized scoresheets to have individual, structured data cells for each data field on the scoresheet.

Current law requires the clerk of the circuit court to transmit scoresheets on a monthly basis.³⁴ The bill requires the digitized scoresheets to be electronically transmitted on a weekly basis.

Pretrial Release Annual Report (Section 3, amending s. 907.043, F.S.)

Current law requires each pretrial release program³⁵ to submit an annual report no later than March 31 for the previous calendar year that contains information about each program, including, but not limited to, the amount of fees paid by defendants to the pretrial release program and the number of persons employed by the program.³⁶

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

- The number of defendants accepted into a pretrial release program who paid a surety or cash bail or bond;

³³ Section 921.0024(3) and (7), F.S.

³⁴ Section 921.0024(6), F.S.

³⁵ “Pretrial release program” means an entity, public or private, that conducts investigations of pretrial detainees, makes pretrial release recommendations to a court, and electronically monitors and supervises pretrial defendants. Section 907.043(2)(b), F.S.

³⁶ Section 907.043(4), F.S.

- The number of defendants for whom a risk assessment tool was used in determining whether the defendant should be released pending the disposition of the case and the number of defendants for whom a risk assessment tool was not used;
- The type of each criminal charge of a defendant accepted into a pretrial release program including, at a minimum, the number of defendants charged with:
 - Dangerous crimes as defined in s. 907.041, F.S.;
 - Nonviolent felonies; and
 - Misdemeanors only.
- The number of defendants accepted into a pretrial release program with no prior criminal conviction.

Department of Corrections Reports (Section 7, creating s. 945.041, F.S.)

The bill requires the DOC to publish on its website and make available to the public, inmate admissions by offense type. Specifically, burglary of dwelling offenses under s. 810.02(2), (3)(a), and (3)(b), F.S., must be reported as a separate category from all other property crimes.

The DOC must also publish the recidivism rate which the bill defines as rearrest, reconviction, reincarceration, and probation revocation in the state within a three-year time period following release from incarceration. This information must be updated on a quarterly basis.

Department of Corrections Annual Report (Section 1, amending s. 20.315, F.S.)

The bill amends s. 20.315, F.S., to require the DOC include the information in the newly created s. 945.041, F.S., (section 7) in the DOC's annual report submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Pilot Project (Section 9)

The bill establishes a pilot project in the Sixth Judicial Circuit for the purpose of improving criminal justice data transparency. The pilot project is tasked with ensuring data submitted under the bill is accurate, valid, reliable, and structured.

The bill permits the clerk of court, state attorney, public defender, or a sheriff in the circuit to enter into a memorandum of understanding with a national, nonpartisan, not-for-profit entity that provides data and measurement for county-level criminal justice systems. The memorandum of understanding will establish the duties and responsibilities of a data fellow. The data fellow will be funded by the entity and embedded with the office or agency. The data fellow will assist with compiling and reporting data pursuant to the newly created s. 900.05, F.S. The bill provides that the memorandum of understanding will specify when the pilot project will expire.

Appropriation (Section 10)

The bill authorizes an appropriation for the 2018-2019 fiscal year of \$1,750,000 in nonrecurring funds from General Revenue to the FDLE for the purposes of implementing the bill and transitioning to incident-based crime reporting, and collecting and submitting of crime statistics

that meet the requirements of the FBI under the National Incident-Based Reporting System. Nine full-time positions are authorized with a total salary rate of \$665,884.

Other (Section 8)

The bill reenacts s. 932.7602, F.S., to make a conforming change for the purpose of incorporating amendments made by the bill.

The bill is effective July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Reports Concerning Seized or Forfeited Property

The bill will likely have no fiscal impact with regards to the reports. While law enforcement agencies are subject to a fine if they are in noncompliance with the reporting requirements pursuant to s. 932.7061, F.S., the agencies have 60 days after receiving notification of noncompliance to comply. Sections 932.7061 and 932.7062, F.S., went into effect July 1, 2016.³⁷ Since the law has gone into effect, no law enforcement agencies have been in noncompliance after the passage of the 60 days.³⁸ No fines have been collected pursuant to s. 932.7062, F.S., to date,³⁹ and the modification to the

³⁷ Chapter 2016-179, L.O.F.

³⁸ Conversation with Tabitha Krol, Government Affairs Coordinator, Florida Sheriffs Association (February 8, 2018).

³⁹ *Id.*

submission deadline will enable law enforcement agencies a greater opportunity to achieve initial compliant status.

Criminal Justice Data Collection

Department of Corrections

The bill will have a negative fiscal impact on the DOC. The requirements of reporting additional budget information will require one additional full-time employee at a cost of approximately \$93,000 per year. Additionally, the DOC estimates that the cost of implementing the technology required to create digital scoresheets and report additional information as required by the bill will cost approximately \$432,908.⁴⁰

State Attorneys and Public Defenders

The bill will likely have an indeterminate, but potentially significant impact on the state attorneys and public defenders. Additional staff and updates or modifications to technology systems may be needed at each of the state attorney and public defender offices to comply with the bill.

Florida Department of Law Enforcement

The bill will have a significant fiscal impact on the FDLE. The FDLE is tasked with receiving, publishing, maintaining, and storing the data required under the bill. Additionally, the bill requires upkeep and maintenance of the data. The bill appropriates \$1,750,000 in nonrecurring funds from General Revenue for the 2018-2019 fiscal year to implement the bill and transition to incident-based crime reporting, and collecting and submitting of crime statistics that meet the requirements of the FBI under the National Incident-Based Reporting System. Nine full-time positions are authorized with a total salary rate of \$665,884.

The FDLE estimates that implementing the incident-based crime reporting system will take a minimum of five years. The FDLE further estimates that nine full-time employees will be insufficient to implement the bill. The FDLE anticipates conducting workshops with the various entities specified in the bill to plan the project and gauge the fiscal requirements.⁴¹

VI. Technical Deficiencies:

None.

⁴⁰ HB 7071 has identical language to the data collection portion in SB 1678. Department of Corrections, *2018 Legislative Bill Analysis for HB 7071*, (February 9, 2018) (on file with the Senate Criminal Justice Committee).

⁴¹ Email from Ron Draa, Director of External Affairs, Florida Department of Law Enforcement, to Senate Criminal Justice Staff, (February 13, 2018) (on file with the Senate Criminal Justice Committee).

VII. Related Issues:

Definitions

Lines 92-96 “Admission type”: This definition is inconsistent with terminology used by the DOC and could create issues for collecting this type of data.

Lines 97-103 “Annual felony caseload”: The inclusion of “adult” in the definition thereby excludes any juveniles that were transferred to adult court which could result in an inaccurate annual felony caseload. Additionally, the consideration of an “annual felony caseload” is required to be collected and submitted on a *weekly* basis, despite the fact that an annual caseload figure would not change from week-to-week.

Lines 104-110 “Annual misdemeanor caseload”: The inclusion of “adult” in the definition thereby excludes any juveniles that were transferred to adult court which could result in an inaccurate annual felony caseload. Additionally, the consideration of an “annual misdemeanor caseload” is required to be collected and submitted on a weekly basis, despite the fact that an annual caseload figure would not change from week-to-week.

Lines 111-112 “Arraignment date or initial appearance”: The words “initial appearance” should be removed from the term because an arraignment is different from a defendant’s initial appearance.

Lines 113-116 “Arrest date”: The words “charging document” should be removed from the definition because the charging document has no relevance to the arrest date.

Lines 117-124 “Attorney assignment date” and “Attorney withdrawal date”: These definitions do not provide for the possibility that an assignment or withdrawal of an attorney can occur multiple times throughout the duration of a case. It is unclear the purpose of this data point and could result in an inaccurate caseload number since there is only one case and only the attorney representing the defendant is changing.

Lines 125-135 “Bail or bond hearing date,” “Bail or bond modification date,” “Bail or bond posting date,” “Bail or bond revocation,” and “Bail or bond setting date”: Rule 3.130 of Florida Criminal Procedure provides that bond is determined at the defendant’s first appearance.⁴² These definitions should be modified to accurately reflect Florida’s first appearance process. Line 126 should also be modified to read “bail *or* bond” not “*bailor*.”

Lines 147-148 “Cash bail or bond payment”: This definition is unnecessary because stating “cash bail or bond payment” indicates that it has been paid.

Lines 149-150 “Charge class severity”: This term should be combined with the term to “charge description,” which is a more encompassing term.

⁴² Fla. R. Crim. P. 3.130.

Lines 154-156 “Charge disposition date”: This definition does not provide for the possibility that there can be multiple charges in one case, any of which a state attorney can elect to drop which would result in different disposition dates for charges within one case. Furthermore, the purpose of this data point is unclear.

Lines 157-159 “Charge modifier”: The word “modifies” should be replaced with “reclassifies” to be consistent with how enhancements are handled in the Florida Statutes.

Lines 149-153 and 162-165 “Charge class severity,” “Charge description,” “Charge statute,” and “Charge type”: These terms should be combined into one term to describe the information of the charge.

Lines 174-176 “Court fees amount balance or payment to date”: The definition should change the word “and” to “or” to be consistent with the term that provides for either court fees amount balance *or* payment to date to be collected.

Lines 177-179 “Current institution and institution security level”: This term may want to be modified to provide for the collection of the defendant’s custody level, rather than the institution’s security level.

Lines 180-188: “Daily cost of a jail bed,” “Daily cost of a prison bed,” and “Daily cost per probationer”: These terms do not need to be defined because the plain meaning of the terms are clear. Additionally, the daily per diem costs for the DOC are determined annually so the weekly submission of such data is not necessary.

Lines 191-194 “Daily jail postsentence population”: This definition provides for the number of inmates incarcerated within a jail facility who have been sentenced to a jail term or to a prison term. These are two distinct statuses and should be provided for with separate data points.

Lines 207-209 “Daily number of federal and state inmates held in jail” and “Daily prison population”: These terms do not need to be defined as they are easily understood in their plain meaning.

Lines 154-156 and 234-235 “Charge disposition date” and “disposition date”: These terms are defined the same and could be combined into one term.

Lines 236-237 “Domestic violence flag”: The word “reclassification” should substitute the word “flag” to be consistent with the Florida Statutes.

Lines 238-239 “Drug type for drug charge”: This term does not need to be defined as it is understood in its plain meaning.

Lines 252-255: “Good conduct credit earned”: This term should be changed to “gain time” to be consistent with terms used in Florida Statutes.

Lines 278-279 “Plea date”: The words “a pending charge” should be substituted with “resolve a pending charge” in order to exclude the collection of data for not guilty pleas.

Line 280-283: “Presentence jail population at year-end”: This term should be removed because this data is already being collected pursuant to “daily jail presentence population” at lines 195-198.

Line 284-286 “Pretrial release decision”: This term should be removed because this data is already being collected pursuant to information related to the bail or bond hearings.

Lines 287-289 “Pretrial release offender flag”: This term should be modified to more actually reflect the data point being sought, which is the revocation of a defendant’s pretrial release.

Lines 293-297: “Postsentence jail population at year-end” This term should be removed because this data is already being collected pursuant to the bill in the “daily jail postsentence population” at lines 191-194..

Lines 298-299: “Probation revocation”: This term does not need to be defined as it is understood in its plain meaning.

Lines 300-301 “Projected discharge date”: This term should be modified to read “tentative release date” to be consistent with terms used in the Florida Statutes.

Lines 309-317 “Sentence condition,” “Sentence date,” “Sentence length,” and “Sentence type”: These terms do not need to be defined as they are understood in their plain meaning.

Lines 321-324 “Speedy trial motion date” and “speedy trial motion hearing date”: These terms do not need to be defined as they are understood in their plain meaning.

Lines 327-329 “Time served credit and length”: This term should be modified to “time served credit” to be consistent with terms used in the Florida Statutes.

Lines 333-334 “Trial date”: This term does not need to be defined as it is understood in its plain meaning.

Other

The requirement for the specified data to be collected and transmitted on a weekly basis to the FDLE could present an onerous task for the entities listed in the bill. Requiring the collection and transmission to the FDLE on a monthly or semi-annual basis would provide equally productive information with a less burdensome task.

Lines 361-362: This information would be better collected by the state attorney, than the clerk.

Line 424: The words “court commissioners” should be removed because this term is not present in the Florida Statutes.

Line 450: Should be modified to read “chief county correctional officer” to be consistent with terms used in the Florida Statutes.

Line 467: Should be removed from the data required to be collected because the annual jail budget will not change from week-to-week and thus, should only be collected once a year.

Lines 472-476: Should be removed from the data required to be collected by the administrator of each county detention facility because this data is already being collected by the clerk.

Line 478: The word “prisoner” should be substituted with the word “inmate” to provide consistent word usage throughout the bill.

Lines 480 and 482: The collection of the name and date of birth of each prisoner by the DOC is redundant because this data is already collected by the clerk.

Line 487: The information requested under lines 494-498 is the same as an admission type. Therefore, this information is redundant and should be grouped into one data point.

Line 499: The term offense code is not defined and is not used in statute. Therefore, this data point should be removed to prevent confusion.

Line 502: This information does not need to be collected by the DOC because it is already being collected by the clerk under the bill.

Lines 525-530: These need to be renumbered to reflect that these are data points collected for each probationer.

Lines 527: Should be modified to “probation termination date” to be consistent with terms used in the Florida Statutes.

Line 584: This term should be defined since it is unclear what constitutes a “nonviolent felony.”

Lines 637-640: The bill requires the scoresheets to be electronically transmitted on a weekly basis, by the first of each month. These are contradictory requirements and should be modified for clarification.

Lines 694-695: The requirement for the FDLE to provide access to the database free of charge may cause complications pursuant to s. 943.053, F.S., which permits the FDLE to charge a fee for access to criminal history records. The information that will be included in the database will encompass information that would be included in a criminal history record and this could result in the loss of revenue for the FDLE.

VIII. Statutes Affected:

The bill creates the following sections of the Florida Statutes: 900.05, 943.687, and 945.041.

This bill substantially amends the following sections of the Florida Statutes: 20.315, 907.043, 921.0024, and 932.7061.

The bill reenacts section 932.7062 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 February 12, 2018:

The Committee Substitute:

- Creates a model of uniform criminal justice data collection;
- Defines terms used in the bill as they relate to data collection;
- Requires the clerks of the circuit court, state attorneys, public defenders, county jail operators, and the Department of Corrections (DOC) to collect certain data and transmit it to the Florida Department of Law Enforcement (FDLE) on a weekly basis;
- Requires the FDLE to publish the data on the FDLE’s website and make it searchable and accessible to the public;
- Digitizes the Criminal Punishment Code sentencing scoresheet;
- Requires additional information to be reported in the annual report for pretrial release programs;
- Authorizes a pilot project in the Sixth Judicial Circuit for the purposes of implementing the bill; and
- Appropriates \$1,750,000 in nonrecurring funds to the FDLE for the hiring of nine full-time employees for purposes of implementing the requirements of the bill and to assist in the transition to incident-based crime reporting to meet the requirements of the FBI under the National Incident-Based Reporting System.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/12/2018	.	
	.	
	.	
	.	

The Committee on Criminal Justice (Brandes) recommended the following:

Senate Amendment (with title amendment)

Between lines 50 and 51

insert:

Section 3. Section 900.05, Florida Statutes, is created to read:

900.05 Criminal justice data collection.—It is the intent of the Legislature to create a model of uniform criminal justice data collection by requiring local and state criminal justice agencies to report complete, accurate, and timely data, and



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11 making such data available to the public.

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

13 (a) "Admission date" means the date a defendant was
14 admitted to the Department of Corrections.

15 (b) "Admission type" means the underlying reason for which
16 defendant is admitted to the Department of Corrections,
17 including a new conviction, probation violation, probation
18 violation based on a new offense, parole violation, or parole
19 violation based on a new offense.

20 (c) "Annual felony caseload" means the yearly adult
21 criminal felony caseload of each full-time state attorney and
22 assistant state attorney or public defender and assistant public
23 defender, based on the number of felony cases reported to the
24 Supreme Court under s. 25.075. The term does not include the
25 appellate caseload of a public defender or assistant public
26 defender.

27 (d) "Annual misdemeanor caseload" means the yearly adult
28 criminal misdemeanor caseload of each full-time state attorney
29 and assistant state attorney or public defender and assistant
30 public defender, based on the number of misdemeanor cases
31 reported to the Supreme Court under s. 25.075. The term does not
32 include the appellate caseload of a public defender or assistant
33 public defender.

34 (e) "Arraignment date or initial appearance" means the date
35 a defendant first appears before a judge to enter a plea.

36 (f) "Arrest date" means the date a defendant is taken into
37 physical custody by a law enforcement agency on a criminal
38 charge, a defendant is issued a notice to appear, or a charging
39 document is filed by the state attorney's office.



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40 (g) "Attorney assignment date" means the date a court-
41 appointed attorney is assigned to the case or, if privately
42 retained, the date an attorney files a notice of appearance with
43 the clerk of court.

44 (h) "Attorney withdrawal date" means the date the court
45 removes court-appointed counsel from a case or, for a privately
46 retained attorney, the date a motion to withdraw is granted by
47 the court.

48 (i) "Bail or bond hearing date" means the date a defendant
49 appears in court for bailor bond determination.

50 (j) "Bail or bond modification date" means the date a
51 hearing is held to consider a defendant's bail or bond
52 conditions and the conditions are modified.

53 (k) "Bail or bond posting date" means the date a defendant
54 posts bail or bond.

55 (l) "Bail or bond revocation" means the date a court
56 revokes a defendant's bail or bond.

57 (m) "Bail or bond setting date" means the date a court
58 confirms or orders bail or bond in a criminal case.

59 (n) "Booking date and reason" means the date a defendant is
60 booked into a jail facility for a new charge, probation
61 violation, pursuant to a bench warrant for pretrial release
62 violation, or pursuant to a warrant from another jurisdiction.

63 (o) "Case number" means the identification number assigned
64 by the clerk of court to a criminal case.

65 (p) "Case status" means whether a case is open, closed,
66 reopened due to a probation violation, or inactive.

67 (q) "Cash bail or bond amount" means the monetary amount of
68 bail or bond imposed by a court.



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69 (r) "Cash bail or bond payment" means whether or not a
70 defendant posted bail or bond.

71 (s) "Charge class severity" means the degree misdemeanor or
72 felony for each charged offense.

73 (t) "Charge description" means the statement of the charge
74 matched to the statutory section establishing the conduct as
75 criminal.

76 (u) "Charge disposition date" means the date of final
77 judgment, adjudication, adjudication withheld, dismissal, or
78 nolle prosequi of each charge.

79 (v) "Charge modifier" means an aggravating circumstance of
80 an alleged crime that enhances or modifies a charge to a more
81 serious offense level.

82 (w) "Charge sequence number" means the unique numerical
83 identifier for each charge in a case with multiple charges.

84 (x) "Charge statute" means the statute for each charge
85 establishing the conduct as criminal.

86 (y) "Charge type" means whether the charge is a misdemeanor
87 or felony.

88 (z) "Committing county" means the county from which
89 defendant was transported to the Department of Corrections.

90 (aa) "Concurrent or consecutive sentence flag" means an
91 indication that a defendant is serving another sentence
92 concurrently or consecutively in addition to the current
93 sentence.

94 (bb) "Court fees amount" means the amount of fees owed to
95 the clerk of court at disposition of the case.

96 (cc) "Court fees amount balance or payment to date" means
97 the amount a defendant paid towards outstanding court fees and



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98 the remaining balance owed.

99 (dd) "Current institution and institution security level"
100 means the name of the institution where a defendant is currently
101 incarcerated and the institution's security level.

102 (ee) "Daily cost of a jail bed" means the cost per diem,
103 based on all sources of funding and costs associated with
104 operations, for each inmate in a jail facility.

105 (ff) "Daily cost of a prison bed" means the cost per diem,
106 based on all sources of funding and costs associated with
107 operations, for each inmate in a state correctional institution.

108 (gg) "Daily cost per probationer" means the cost per diem
109 for each individual serving probation with the Department of
110 Corrections.

111 (hh) "Daily jail population" means the number of inmates
112 incarcerated within a jail facility on each day.

113 (ii) "Daily jail postsentence population" means the number
114 of inmates incarcerated within a jail facility on each day who
115 have been sentenced and are either serving the sentence in jail
116 or awaiting transportation to the Department of Corrections.

117 (jj) "Daily jail presentence population" means the number
118 of inmates incarcerated within a jail facility on each day who
119 entered a plea to charges or were found guilty at trial and are
120 awaiting sentencing.

121 (kk) "Daily jail pretrial population" means the number of
122 inmates incarcerated within a jail facility on each day awaiting
123 case disposition.

124 (ll) "Daily number of correctional officers" means the
125 number of full-time, part-time and auxiliary correctional
126 officers who are actively providing supervision, protection,



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127 care, custody, and control of inmates in a state correctional
128 institution or jail facility each day.

129 (mm) "Daily number of federal and state inmates held in
130 jail" means the number of inmates who are temporarily
131 incarcerated within a jail facility.

132 (nn) "Daily prison population" means the number of inmates
133 incarcerated in a state correctional institution on each day.

134 (oo) "Date of court appearance" means each date a criminal
135 case is considered by a court.

136 (pp) "Date of failure to appear in court" means each date a
137 criminal case was set to be heard by a court with required
138 appearance by defendant and he or she failed to appear.

139 (qq) "Defense attorney type" means whether the attorney is
140 court-appointed to or privately retained by a defendant, or the
141 defendant is represented pro se.

142 (rr) "Deferred prosecution or pretrial diversion hearing
143 date or agreement date" means each date a hearing is held or a
144 contract is signed by the parties regarding a defendant's
145 admission into a deferred prosecution or pretrial diversion
146 program.

147 (ss) "Disciplinary violation and action" means any inmate
148 disciplinary conduct and the consequences of such conduct.

149 (tt) "Discovery motion date" means the date a defendant
150 files a notice to participate in discovery.

151 (uu) "Dismissal motion date" means the date a defendant
152 files a motion to dismiss charges.

153 (vv) "Dismissal motion hearing date" means the date a court
154 considers a defendant's motion to dismiss charges.

155 (ww) "Disposition date" means the date on which all case



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156 activity is final.

157 (xx) "Domestic violence flag" means an indication that a
158 charge involves domestic violence as defined in s. 741.28.

159 (yy) "Drug type for drug charge" mean the type of drug
160 specified in each drug charge against a defendant.

161 (zz) "Ethnicity" means a person's identification as
162 Hispanic or Latino, not Hispanic or Latino, or Haitian.

163 (aaa) "Filing date" means the date a formal charge is filed
164 against a defendant.

165 (bbb) "Fine amount" means the total fines imposed at case
166 disposition.

167 (ccc) "Fine amount balance or payment to date" means the
168 amount a defendant paid towards outstanding fines and the
169 remaining balance owed.

170 (ddd) "Gang affiliation flag" means an indication that a
171 defendant is involved in or associated with a criminal gang as
172 defined in s. 874.03.

173 (eee) "Good conduct credit earned" means time an inmate
174 earned for good behavior in a jail facility or state
175 correctional institution and credited toward his or her
176 sentence.

177 (fff) "Habitual offender flag" means an indication that a
178 defendant is a habitual felony offender as defined in s. 775.084
179 or a habitual misdemeanor offender as defined in s. 775.0837.

180 (ggg) "Jail capacity" means the maximum number of inmates
181 who can be incarcerated in a jail facility.

182 (hhh) "Judicial transfer date" means a date on which a
183 defendant's case is transferred to another court or presiding
184 judge.



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185 (iii) "Length of probation sentence imposed" means the
186 duration of probation ordered by a court.

187 (jjj) "Length of probation sentence served" means the
188 amount of time on probation a defendant has served to date.

189 (kkk) "Nonmonetary condition of release" means a condition
190 of a defendant's pretrial release imposed by the court that is
191 not based on payment of bail or bond.

192 (lll) "Number of contract attorneys representing indigent
193 defendants for the public defender's office" means the number of
194 attorneys hired on a temporary basis, by contract, to represent
195 indigent clients who were appointed a public defender.

196 (mmm) "Offense date" means the date that the alleged crime
197 occurred.

198 (nnn) "Plea date" means the date a defendant enters a plea
199 to a pending charge.

200 (ooo) "Presentence jail population at year-end" means the
201 number of inmates incarcerated within a jail facility, at the
202 end of the calendar year, who entered pleas or were found guilty
203 at trial and are awaiting sentencing.

204 (ppp) "Pretrial release decision" means the date the court
205 decides the issue of defendant's pretrial release from
206 incarceration.

207 (qqq) "Pretrial release offender flag" means an indication
208 that the defendant has violated the terms of his or her pretrial
209 release.

210 (rrr) "Prior incarceration within the state" means any
211 prior history of a defendant being incarcerated in a jail
212 facility or state correctional institution.

213 (sss) "Postsentence jail population at year-end" means the



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214 number of inmates incarcerated within a jail facility, at the
215 end of the calendar year, who have been sentenced and are either
216 serving that sentence in the facility or awaiting transportation
217 to the Department of Corrections.

218 (ttt) "Probation revocation" means any instance where a
219 defendant's probation was revoked.

220 (uuu) "Projected discharge date" means the anticipated date
221 an inmate will be released from incarceration.

222 (vvv) "Race" means a person's identification as American
223 Indian or Alaskan Native, African-American or Black, Asian,
224 Hawaiian or other Pacific Islander, White, or Other, which
225 includes multi-racial individuals.

226 (www) "Restitution amount ordered" means the amount of
227 money imposed by the court to compensate a victim of a
228 defendant's criminal activity.

229 (xxx) "Sentence condition" means any requirement imposed by
230 a court in addition to incarceration.

231 (yyy) "Sentence date" means the date a court enters a
232 sentence against a defendant.

233 (zzz) "Sentence length" means the total duration of jail
234 time, prison time, and probation a defendant is ordered to
235 serve.

236 (aaaa) "Sentence type" means capital punishment,
237 incarceration, probation, or a combination thereof.

238 (bbbb) "Sentencing scoresheet" means the digitized
239 worksheet created under s. 921.0024 to compute the defendant's
240 minimum sentence that may be imposed by the trial court.

241 (cccc) "Speedy trial motion date" means the date a
242 defendant files a demand for speedy trial.



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243 (dddd) "Speedy trial motion hearing date" means the date a
244 court hears a defendant's demand for speedy trial.

245 (eeee) "Sexual offender flag" means an indication that a
246 defendant is a sexual offender as defined in s. 943.0435.

247 (ffff) "Time served credit and length" means the amount of
248 prior incarceration credited to an inmate's current sentence to
249 reduce the amount of time remaining in the sentence.

250 (gggg) "Total jail population at year-end" means the number
251 of inmates incarcerated within a jail facility at the end of the
252 calendar year.

253 (hhhh) "Trial date" means the date a defendant's case is
254 set for trial, beginning with jury selection.

255 (2) DATA COLLECTION AND REPORTING—Beginning January 1,
256 2019, the following entities shall collect and transmit data
257 weekly to the Department of Law Enforcement:

258 (a) Each clerk of court shall collect the following data
259 for each criminal case:

260 1. Case number.

261 2. Offense date.

262 3. County in which the offense was committed.

263 4. Arrest date.

264 5. Filing date.

265 6. Arraignment date or initial appearance.

266 7. Attorney assignment date.

267 8. Attorney withdrawal date.

268 9. Case status.

269 10. Disposition date.

270 11. For each defendant:

271 a. Name.



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- 272 b. Date of birth.
- 273 c. Age.
- 274 d. Zip code of primary residence.
- 275 e. Primary language.
- 276 f. Race and ethnicity.
- 277 g. Gender.
- 278 h. Citizenship.
- 279 i. Immigration status, if applicable.
- 280 j. Whether the defendant is indigent under s. 27.52.
- 281 12. Any charge referred to the state attorney by law
- 282 enforcement.
- 283 13. The following information on a formal charge filed
- 284 against the defendant:
- 285 a. Charge sequence number.
- 286 b. Charge description.
- 287 c. Charge statute.
- 288 d. Charge type.
- 289 e. Charge class severity.
- 290 f. Charge modifier, if any.
- 291 g. Charge disposition.
- 292 h. Charge disposition date.
- 293 i. Drug type for drug charge, if known.
- 294 j. Domestic violence flag.
- 295 k. Gang affiliation flag.
- 296 l. Sexual offender flag.
- 297 m. Habitual offender flag.
- 298 14. Plea date.
- 299 15. The following information on bail or bond and pretrial
- 300 release:



- 301 a. Pretrial release decision.
- 302 b. Nonmonetary condition of release.
- 303 c. Cash bail or bond amount.
- 304 d. Cash bail or bond payment.
- 305 e. Booking date and reason.
- 306 f. Date defendant is released on bail, bond, or pretrial
- 307 release.
- 308 g. Bail or bond revocation due to a new offense, a failure
- 309 to appear, or a violation of the terms of bail or bond.
- 310 h. Pretrial release offender flag.
- 311 16. The following pretrial dates:
- 312 a. Bail or bond hearing date.
- 313 b. Bail or bond setting date.
- 314 c. Bail or bond modification date.
- 315 d. Bail or bond posting date.
- 316 e. Deferred prosecution or pretrial diversion hearing date
- 317 or agreement date.
- 318 17. The following court dates and dates of motions and
- 319 appearances:
- 320 a. Date of court appearance.
- 321 b. Date of failure to appear in court.
- 322 c. Judicial transfer date.
- 323 d. Trial date.
- 324 e. Bail or bond motion date.
- 325 f. Discovery motion date.
- 326 g. Speedy trial motion date.
- 327 h. Speedy trial motion hearing date.
- 328 i. Dismissal motion date.
- 329 j. Dismissal motion hearing date.



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- 330 18. Defense attorney type.
- 331 19. The following information related to sentencing:
- 332 a. Sentence date.
- 333 b. Sentence type.
- 334 c. Sentence length.
- 335 d. Sentence condition.
- 336 e. Time served credit and length.
- 337 f. Court fees amount.
- 338 g. Court fees amount balance or payment to date.
- 339 h. Fine amount.
- 340 i. Fine amount balance or payment to date.
- 341 j. Restitution amount ordered.
- 342 k. If restitution is ordered, the amount collected by the
- 343 court and the amount paid to the victim.
- 344 19. The number of judges, magistrates, court commissioners,
- 345 or their equivalents hearing nonappellant, adult criminal cases
- 346 in the circuit.
- 347 (b) Each state attorney shall collect the following data:
- 348 1. For a human victim of a criminal offense:
- 349 a. Race and ethnicity.
- 350 b. Gender.
- 351 c. Age.
- 352 d. Relationship to the offender.
- 353 2. Number of full-time prosecutors.
- 354 3. Number of part-time prosecutors.
- 355 4. Annual felony caseload.
- 356 5. Annual misdemeanor caseload.
- 357 6. For each defendant:
- 358 a. Each charge referred to the office of the state attorney



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359 by law enforcement.
360 b. Drug type for each drug charge.
361 7. Number of cases in which no information was filed.
362 (c) Each public defender shall collect the following data
363 for each criminal case:
364 1. Number of full-time public defenders.
365 2. Number of part-time public defenders.
366 3. Number of contract attorneys representing indigent
367 defendants for the office of the public defender.
368 4. Annual felony caseload.
369 5. Annual misdemeanor caseload.
370 (d) The administrator of each county detention facility
371 shall collect the following data:
372 1. Jail capacity.
373 2. Weekly admissions to jail for probation revocation.
374 3. Daily jail population.
375 4. Daily jail pretrial population.
376 5. Daily jail presentence population.
377 6. Daily jail postsentence population.
378 7. Daily number of federal and state inmates held in jail.
379 8. Total jail population at year-end.
380 9. Pretrial jail population at year-end.
381 10. Presentence jail population at year-end.
382 11. Postsentence jail population at year-end.
383 12. Number of federal and state inmates held in jail at
384 year-end.
385 13. Daily cost of a jail bed.
386 14. Daily number of correctional officers.
387 15. Annual jail budget.



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388 16. Revenue generated from the temporary incarceration of
389 federal defendants or inmates.

390 17. For each inmate:

391 a. Booking date and reason.

392 b. Domestic violence flag.

393 c. Gang affiliation flag.

394 d. Habitual offender flag.

395 e. Pretrial release offender flag.

396 f. Sexual offender flag.

397 (e) The Department of Corrections shall collect:

398 1. For each prisoner:

399 a. The following data:

400 (I) Name.

401 (II) DOC number.

402 (III) Date of birth.

403 (IV) Race and ethnicity.

404 (V) Number of children.

405 (VI) Education level.

406 (VII) Admission date.

407 (VIII) Admission type.

408 (IX) Current institution and institution security level.

409 (X) Sexual offender flag.

410 (XI) Habitual offender flag.

411 (XII) Gang affiliation flag.

412 (XIII) Sentencing scoresheet.

413 (XIV) Committing county.

414 (XV) Whether the reason for admission to the department is

415 for a new conviction or a probation violation. For an admission

416 for a probation violation, the department shall report whether



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417 the violation was technical, based on a new offense, or based on
418 another term of probation.

419 b. Specific offense codes, including, for an inmate
420 convicted of drug trafficking under s. 893.135, the offense code
421 for each specific drug trafficked.

422 c. Concurrent or consecutive sentence flag.

423 d. Length of sentence or concurrent or consecutive
424 sentences served.

425 e. Projected discharge date.

426 f. Time served, in days.

427 g. Good conduct credit earned.

428 h. Prior incarceration within the state.

429 i. Disciplinary violation and action.

430 j. Participation in rehabilitative or educational
431 correctional programs.

432 2. The following information about each correctional
433 facility:

434 a. Budget for each correctional institution.

435 b. Daily prison population.

436 c. Daily number of correctional officers.

437 d. Daily cost of a prison bed.

438 3. For probation and probationary services:

439 a. For each probationer:

440 (I) Name.

441 (II) Date of birth.

442 (III) Race and ethnicity.

443 (IV) Sex.

444 (V) Department-assigned case number.

445 b. Length of probation sentence imposed and length of



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446 probation sentence served.

447 c. Probation release date or projected release date.

448 d. Probation revocation due to a violation.

449 e. Probation revocation due to a new offense.

450 f. Daily cost per probationer.

451 (3) DATA PUBLICLY AVAILABLE—Beginning January 1, 2019, the
452 department shall publish datasets in its possession in a modern,
453 open, electronic format that is machine-readable and readily
454 accessible by the public on the department’s website. The
455 published data shall be searchable, at a minimum, by each data
456 element, county, circuit, and unique identifier. Beginning March
457 1, 2019, the department shall begin publishing the data received
458 under subsection (2) in the same modern, open, electronic format
459 that is machine-readable and readily accessible to the public on
460 the department’s website. The department shall publish all data
461 received under section (2) no later than July 1, 2019.

462 Section 4. Section 943.687, Florida Statutes, is created to
463 read:

464 943.687 Criminal justice data transparency.—In order to
465 facilitate the availability of comparable and uniform criminal
466 justice data, the department shall:

467 (1) Collect, compile, maintain, and manage the data
468 submitted by local and state entities pursuant to s. 900.05 and
469 coordinate related activities to collect and submit data. The
470 department shall create a unique identifier for each criminal
471 case received from the clerks of court which identifies the
472 person who is the subject of the criminal case. The unique
473 identifier must be the same for that person in any court case
474 and used across local and state entities for all information



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475 related to that person at any time. The unique identifier shall
476 be randomly created and may not include any portion of the
477 person's social security number or date of birth.

478 (2) Promote criminal justice data sharing by making such
479 data received under s. 900.05 comparable, transferable, and
480 readily usable.

481 (3) Create and maintain an Internet-based database of
482 criminal justice data received under s. 900.05 in a modern,
483 open, electronic format that is machine-readable and readily
484 accessible through an application program interface. The
485 database shall allow the public to search, at a minimum, by each
486 data element, county, judicial circuit, or unique identifier.
487 The department may not require a license or charge a fee to
488 access or receive information from the database.

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

491 (5) Establish by rule:

492 (a) Requirements for the entities subject to the
493 requirements of s. 900.05 to submit data through an application
494 program interface.

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

498 (c) How data collected pursuant to s. 900.05 is compiled,
499 processed, structured, used, or shared. The rule shall provide
500 for tagging all information associated with each case number and
501 unique identifier.

502 (d) Requirements for implementing and monitoring the
503 Internet-based database under subsection (3).



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504 (e) How information contained in the Internet-based
505 database under subsection (3) is accessed by the public.

506 (6) Consult with local, state, and federal criminal justice
507 agencies and other public and private users of the database
508 under subsection (3) on the data elements collected under s.
509 900.05, the use of such data, and adding data elements to be
510 collected.

511 (7) Monitor data collection procedures and test data
512 quality to facilitate the dissemination of accurate, valid,
513 reliable, and complete criminal justice data.

514 (8) Develop methods for archiving data, retrieving archived
515 data, and data editing and verification.

516 Section 5. Subsections (3), (4), (5), (6), and (7) of
517 section 921.0024, Florida Statutes, are amended to read:

518 921.0024 Criminal Punishment Code; worksheet computations;
519 scoresheets.—

520 (3) A single digitized scoresheet shall be prepared for
521 each defendant to determine the permissible range for the
522 sentence that the court may impose, except that if the defendant
523 is before the court for sentencing for more than one felony and
524 the felonies were committed under more than one version or
525 revision of the guidelines or the code, separate digitized
526 scoresheets must be prepared. The scoresheet or scoresheets must
527 cover all the defendant's offenses pending before the court for
528 sentencing. The state attorney shall prepare the digitized
529 scoresheet or scoresheets, which must be presented to the
530 defense counsel for review for accuracy in all cases unless the
531 judge directs otherwise. The defendant's scoresheet or
532 scoresheets must be approved and signed by the sentencing judge.



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533 (4) The Department of Corrections, in consultation with the
534 Office of the State Courts Administrator, state attorneys, and
535 public defenders, must develop and submit the revised digitized
536 Criminal Punishment Code scoresheet to the Supreme Court for
537 approval by June 15 of each year, as necessary. The digitized
538 scoresheet shall have individual, structured data cells for each
539 data field on the scoresheet. Upon the Supreme Court's approval
540 of the revised digitized scoresheet, the Department of
541 Corrections shall produce and provide ~~sufficient copies~~ of the
542 revised digitized scoresheets by September 30 of each year, as
543 necessary. Digitized scoresheets must include individual data
544 cells to indicate item entries for the scoresheet preparer's use
545 ~~in indicating~~ whether any prison sentence imposed includes a
546 mandatory minimum sentence or the sentence imposed was a
547 downward departure from the lowest permissible sentence under
548 the Criminal Punishment Code.

549 (5) The Department of Corrections shall make available
550 ~~distribute sufficient copies~~ of the digitized Criminal
551 Punishment Code scoresheets to those persons charged with the
552 responsibility for preparing scoresheets.

553 (6) The clerk of the circuit court shall transmit a
554 complete, and accurate digitized, ~~and legible~~ copy of the
555 Criminal Punishment Code scoresheet used in each sentencing
556 proceeding to the Department of Corrections. Scoresheets must be
557 electronically transmitted no less frequently than weekly
558 ~~monthly~~, by the first of each month, and may be sent
559 collectively.

560 (7) A digitized sentencing scoresheet must be prepared for
561 every defendant who is sentenced for a felony offense. ~~A copy of~~



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562 The individual offender's digitized Criminal Punishment Code
563 scoresheet and any attachments thereto prepared pursuant to Rule
564 3.701, Rule 3.702, or Rule 3.703, Florida Rules of Criminal
565 Procedure, or any other rule pertaining to the preparation and
566 submission of felony sentencing scoresheets, must be included
567 with ~~attached to the copy of~~ the uniform judgment and sentence
568 form provided to the Department of Corrections.

569 Section 6. Paragraph (b) of subsection (4) of section
570 907.043, Florida Statutes, is amended to read:

571 907.043 Pretrial release; citizens' right to know.—

572 (4)

573 (b) The annual report must contain, but need not be limited
574 to:

575 1. The name, location, and funding sources of the pretrial
576 release program, including the amount of public funds, if any,
577 received by the pretrial release program.

578 2. The operating and capital budget of each pretrial
579 release program receiving public funds.

580 3.a. The percentage of the pretrial release program's total
581 budget representing receipt of public funds.

582 b. The percentage of the total budget which is allocated to
583 assisting defendants obtain release through a nonpublicly funded
584 program.

585 c. The amount of fees paid by defendants to the pretrial
586 release program.

587 4. The number of persons employed by the pretrial release
588 program.

589 5. The number of defendants assessed and interviewed for
590 pretrial release.



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- 591 6. The number of defendants recommended for pretrial
592 release.
- 593 7. The number of defendants for whom the pretrial release
594 program recommended against nonsecured release.
- 595 8. The number of defendants granted nonsecured release
596 after the pretrial release program recommended nonsecured
597 release.
- 598 9. The number of defendants assessed and interviewed for
599 pretrial release who were declared indigent by the court.
- 600 10. The number of defendants accepted into a pretrial
601 release program who paid a surety or cash bail or bond.
- 602 11. The number of defendants for whom a risk assessment
603 tool was used in determining whether the defendant should be
604 released pending the disposition of the case and the number of
605 defendants for whom a risk assessment tool was not used.
- 606 12. The type of each criminal charge of a defendant
607 accepted into a pretrial release program to include, at a
608 minimum, the number of defendants charged with:
- 609 a. Dangerous crimes as defined in s. 907.041.
610 b. Nonviolent felonies.
611 c. Misdemeanors only.
- 612 13. The number of defendants accepted into a pretrial
613 release program with no prior criminal conviction.
- 614 ~~14.10.~~ The name and case number of each person granted
615 nonsecured release who:
- 616 a. Failed to attend a scheduled court appearance.
617 b. Was issued a warrant for failing to appear.
618 c. Was arrested for any offense while on release through
619 the pretrial release program.



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620 15.11. Any additional information deemed necessary by the
621 governing body to assess the performance and cost efficiency of
622 the pretrial release program.

623 Section 7. Section 945.041, Florida Statutes, is created to
624 read:

625 945.041 Department of Corrections reports.—The department
626 shall publish on its website and make available to the public
627 the following information, updated on a quarterly basis:

628 (1) Inmate admissions by offense type. Burglary of dwelling
629 offenses under s. 810.02(2), (3) (a), and (3) (b) shall be
630 reported as a separate category from all other property crimes.

631 (2) The recidivism rate, defined as rearrest, reconviction,
632 reincarceration, and probation revocation in the state within a
633 3-year time period following release from incarceration.

634 Section 8. Subsection (5) of section 20.315, Florida
635 Statutes, is amended to read:

636 20.315 Department of Corrections.—There is created a
637 Department of Corrections.

638 (5) ANNUAL REPORTING.—The department shall report annually
639 to the Governor, the President of the Senate, and the Speaker of
640 the House of Representatives recounting its activities and
641 making recommendations for improvements to the performance of
642 the department. The annual report shall include information
643 published under s. 945.041.

644 Section 9. A pilot project is established in the Sixth
645 Judicial Circuit for the purpose of improving criminal justice
646 data transparency and ensuring data submitted under s. 900.05,
647 Florida Statutes, is accurate, valid, reliable, and structured.
648 The clerk of court, the state attorney, the public defender, or



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649 a sheriff in the circuit may enter into a memorandum of
650 understanding with a national, nonpartisan, not-for-profit
651 entity which provides data and measurement for county-level
652 criminal justice systems to establish the duties and
653 responsibilities of a data fellow, completely funded by the
654 entity, to be embedded with the office or agency. The data
655 fellow will assist with data extraction, validation, and quality
656 and publish such data consistent with the terms of the
657 memorandum. The data fellow will assist the office or agency in
658 compiling and reporting data pursuant to s. 900.05, Florida
659 Statutes, in compliance with rules established by the Department
660 of Law Enforcement. The pilot project shall expire pursuant to
661 the terms outlined in the memorandum.

662 Section 10. For the 2018-2019 fiscal year, nine full-time
663 equivalent positions with an associated total salary rate of
664 \$665,884 are authorized, and the sum of \$1,750,000 in
665 nonrecurring funds from General Revenue is appropriated to the
666 Department of Law Enforcement for the purposes of implementing
667 ss. 900.05(3) and 943.687, Florida Statutes, transitioning to
668 incident-based crime reporting, and collecting and submitting
669 crime statistics that meet the requirements of the Federal
670 Bureau of Investigation under the National Incident-Based
671 Reporting System.

672
673 ===== T I T L E A M E N D M E N T =====

674 And the title is amended as follows:

675 Delete lines 2 - 10

676 and insert:

677 An act relating to criminal justice; amending s.



678 932.7061, F.S.; revising the deadline for submitting
679 an annual report by law enforcement agencies
680 concerning property seized or forfeited under the
681 Florida Contraband Forfeiture Act; reenacting s.
682 932.7062, F.S., relating to a penalty for
683 noncompliance with reporting requirements, to
684 incorporate the amendment made to s. 932.7061, F.S.,
685 in a reference thereto; creating s. 900.05, F.S.;
686 providing legislative intent; providing definitions;
687 requiring specified entities to collect and transmit
688 to the Department of Law Enforcement weekly specific
689 data; requiring the Department of Law Enforcement to
690 compile, maintain, and make publicly accessible the
691 data; creating s. 943.687, F.S.; requiring the
692 Department of Law Enforcement to collect, compile,
693 maintain, and manage data collected pursuant to s.
694 900.05, F.S.; requiring the department to make data
695 comparable, transferable, and readily usable;
696 requiring an Internet-based database; providing
697 requirements for data searchability and sharing;
698 requiring monitoring of data collection procedures;
699 providing for data archiving, editing, and retrieval;
700 amending s. 921.0024, F.S.; requiring scoresheets
701 prepared for all criminal defendants to be digitized;
702 requiring the Department of Corrections to develop and
703 submit revised digitized scoresheets to the Supreme
704 Court for approval; requiring digitized scoresheets to
705 include individual data cells for each field on the
706 scoresheet; requiring the clerk of court to



707 electronically transmit the digitized scoresheet used
708 in each sentencing proceeding to the department;
709 amending s. 907.043, F.S.; requiring each pretrial
710 release program to include in its annual report the
711 types of criminal charges of defendants accepted into
712 a pretrial release program, the number of defendants
713 accepted into a pretrial release program who paid a
714 bail or bond, the number of defendants accepted into a
715 pretrial release program with no prior criminal
716 conviction, and the number of defendants for whom a
717 pretrial risk assessment tool was used or was not;
718 creating s. 945.041, F.S.; requiring the Department of
719 Corrections to publish quarterly on its website inmate
720 admissions based on offense type and recidivism rate;
721 amending s. 20.315, F.S.; requiring the Department of
722 Corrections to include information in its annual
723 report on inmate admission based on offense type and
724 recidivism rate; creating a pilot project in a
725 specified judicial circuit to improve criminal justice
726 data transparency and ensure data submitted under s.
727 900.05, F.S., is accurate, valid, reliable, and
728 structured; permitting a memorandum of understanding
729 with a national, nonpartisan, not-for-profit
730 foundation meeting certain criteria for the purpose of
731 embedding a data fellow in the office or agency;
732 establishing data fellow duties and responsibilities;
733 providing for the expiration of the pilot project;
734 providing an appropriation; providing an effective

By Senator Stargel

22-01430A-18

20181678__

1 A bill to be entitled
 2 An act relating to reports concerning seized or
 3 forfeited property; amending s. 932.7061, F.S.;
 4 revising the deadline for submitting an annual report
 5 by law enforcement agencies concerning property seized
 6 or forfeited under the Florida Contraband Forfeiture
 7 Act; reenacting s. 932.7062, F.S., relating to a
 8 penalty for noncompliance with reporting requirements,
 9 to incorporate the amendment made to s. 932.7061,
 10 F.S., in a reference thereto; providing an effective
 11 date.
 12
 13 Be It Enacted by the Legislature of the State of Florida:
 14
 15 Section 1. Subsection (1) of section 932.7061, Florida
 16 Statutes, is amended to read:
 17 932.7061 Reporting seized property for forfeiture.—
 18 (1) Every law enforcement agency shall submit an annual
 19 report to the Department of Law Enforcement indicating whether
 20 the agency has seized or forfeited property under the Florida
 21 Contraband Forfeiture Act. A law enforcement agency receiving or
 22 expending forfeited property or proceeds from the sale of
 23 forfeited property in accordance with the Florida Contraband
 24 Forfeiture Act shall submit a completed annual report by
 25 December 1 ~~October 10~~ documenting the receipts and expenditures.
 26 The report shall be submitted in an electronic form, maintained
 27 by the Department of Law Enforcement in consultation with the
 28 Office of Program Policy Analysis and Government Accountability,
 29 to the entity that has budgetary authority over such agency and

Page 1 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

22-01430A-18

20181678__

30 to the Department of Law Enforcement. The annual report must, at
 31 a minimum, specify the type, approximate value, court case
 32 number, type of offense, disposition of property received, and
 33 amount of any proceeds received or expended.
 34 Section 2. For the purpose of incorporating the amendment
 35 made by this act to section 932.7061, Florida Statutes, in a
 36 reference thereto, section 932.7062, Florida Statutes, is
 37 reenacted to read:
 38 932.7062 Penalty for noncompliance with reporting
 39 requirements.—A seizing agency that fails to comply with the
 40 reporting requirements in s. 932.7061 is subject to a civil fine
 41 of \$5,000, to be determined by the Chief Financial Officer and
 42 payable to the General Revenue Fund. However, such agency is not
 43 subject to the fine if, within 60 days after receipt of written
 44 notification from the Department of Law Enforcement of
 45 noncompliance with the reporting requirements of the Florida
 46 Contraband Forfeiture Act, the agency substantially complies
 47 with those requirements. The Department of Law Enforcement shall
 48 submit any substantial noncompliance to the office of Chief
 49 Financial Officer, which shall be responsible for the
 50 enforcement of this section.
 51 Section 3. This act shall take effect July 1, 2018.

Page 2 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

APPEARANCE RECORD

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

2/12/18

Meeting Date

1678

Bill Number (if applicable)

Topic Seized or Forfeited Property

Amendment Barcode (if applicable)

Name Amy Mercer

Job Title Executive Director

Address 2636 Mitcham Dr

Phone 219 3631

Street

Tallahassee

FL

32308

City

State

Zip

Email amercer@fpc.com

Speaking: For Against Information

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

Representing Florida Police Chiefs Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

APPEARANCE RECORD

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

2/12/18

Meeting Date

SB 1678

Bill Number (if applicable)

Topic Forfeited Property Reports

Amendment Barcode (if applicable)

Name David Shepp

Job Title Lobbyist

Address P.O. Box 3739

Phone 863 581-4250

Street

Lakeland FL 33802

City

State

Zip

Email sheppesstrategy.com

Speaking: For Against Information

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

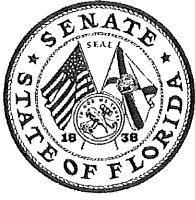
Representing Polk County Sheriff's Office

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

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on Finance and Tax, *Chair*
Appropriations Subcommittee on Health and Human Services, *Vice Chair*
Appropriations
Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Children, Families, and Elder Affairs
Communications, Energy, and Public Utilities
Governmental Oversight and Accountability
Military and Veterans Affairs, Space, and Domestic Security

SENATOR KELLI STARGEL

Deputy Majority Leader
22nd District

January 16, 2018

The Honorable Randolph Bracy
Senate Criminal Justice Committee, Chair
510 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399

Dear Chair Bracy:

I respectfully request that SB 1678, related to *Reports Concerning Seized or Forfeited Property*, be placed on the committee agenda at your earliest convenience.

Thank you for your consideration and please do not hesitate to contact me should you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Kelli Stargel". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Kelli Stargel
State Senator, District 22

Cc: Lauren Jones/ Staff Director
Sue Arnold/ AA

REPLY TO:

- 2033 East Edgewood Drive, Suite 1, Lakeland, Florida 33803 (863) 668-3028
- 322 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5022

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Subcommittee on Finance and Tax, *Chair*
Appropriations Subcommittee on Health and Human Services, *Vice Chair*
Appropriations
Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Children, Families, and Elder Affairs
Communications, Energy, and Public Utilities
Governmental Oversight and Accountability
Military and Veterans Affairs, Space, and Domestic Security

SENATOR KELLI STARGEL

Deputy Majority Leader
22nd District

February 5, 2018

The Honorable Randolph Bracy
Senate Criminal Justice Committee, Chair
510 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399

Dear Chair Bracy:

I respectfully request that SB 1678, related to *Reports Concerning Seized or Forfeited Property*, be placed on the committee agenda at your earliest convenience.

Thank you for your consideration and please do not hesitate to contact me should you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Kelli Stargel".

Kelli Stargel
State Senator, District 22

Cc: Lauren Jones/ Staff Director
Sue Arnold/ AA

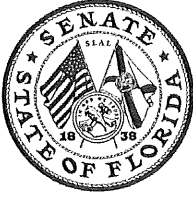
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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Agriculture, *Chair*
Appropriations
Appropriations Subcommittee on Pre-K - 12
Education
Banking and Insurance
Communications, Energy, and Public Utilities
Criminal Justice

SELECT COMMITTEE:

Joint Select Committee on Collective Bargaining

SENATOR DENISE GRIMSLEY
26th District

February 9, 2018

The Honorable Randolph Bracy, Chair
Senate Committee on Criminal Justice
213 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Bracy:

I respectfully request permission to be excused from our committee meeting on Monday, February 12, 2018.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Denise Grimsley".

Denise Grimsley
State Senator, District 26

DG/mm

REPLY TO:

- 295 E. Interlake Boulevard, Lake Placid, Florida 33852 (863) 465-2626
- 212 East Stuart Avenue, Lake Wales, Florida 33853 (863) 679-4847
- 410 Taylor Street, Suite 106, Punta Gorda, Florida 33950 (941) 575-5717
- 413 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5026

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

CourtSmart Tag Report

Room: LL 37

Case No.:

Type:

Caption: Senate Criminal Justice Committee

Judge:

Started: 2/12/2018 3:36:30 PM

Ends: 2/12/2018 3:53:49 PM

Length: 00:17:20

3:36:40 PM Recording Paused
3:39:45 PM Recording Resumed
3:39:48 PM Meeting called to order
3:39:51 PM Roll call
3:40:37 PM Tab 4- SB 1678 Reports Concerning Seized or Forfeited Property by Senator Stargel
3:41:00 PM Amendment Barcode 467810 by Senator Brandes
3:41:42 PM Amendment explained by Senator Brandes
3:46:13 PM Roll call on Amendment Barcode 467810
3:46:29 PM Back on SB 1678 as amended
3:46:47 PM Speaker David Shepp from Polk County Sheriff's Office
3:47:28 PM Speaker Amy Merrer from Florida Police Chiefs Association waives in support
3:47:33 PM Close on SB 1678
3:47:42 PM Roll call on SB 1678
3:48:55 PM Tab 1- SB 1094 Trespass on Airport Property by Senator Simmons
3:51:43 PM Speakers waive in support
3:52:50 PM Roll call on SB 1094
3:53:30 PM SB 1178 & SB 1420 are both temporarily postponed
3:53:40 PM Meeting moved to rise by Senator Bean