

## SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Date: January 22, 1998 Revised: \_\_\_\_\_

Subject: Department of Law Enforcement

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Barrow</u>	<u>Miller</u>	<u>CJ</u>	<u>Favorable/CS</u>
2.	<u>Wilson</u>	<u>Wilson</u>	<u>GO</u>	<u>Favorable</u>
3.	_____	_____	<u>WM</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

### I. Summary:

The committee substitute would reorganize the Department of Law Enforcement (FDLE or department) from five divisions into three programs to conform with the budget entities that have been implemented for the department for performance-based program budgeting (PB<sup>2</sup>): Criminal Justice Investigations and Forensic Science, Criminal Justice Professionalism, and Criminal Justice Information. The new programs within the department would be managed by persons appointed by the executive director and the department would have the flexibility to create different titles for those former division director positions. The committee substitute would also provide additional discretionary authority to the executive director to establish a “command, operational, and administrative services structure” that would assist, manage, and support the department in operating programs and delivering services.

Subject to appropriations, the department would also be required to develop and maintain an information system that administers the state’s criminal and juvenile justice system. The department would be the custodial manager of the statewide telecommunications and data network developed and maintained as part of this information system. The department would also be allowed to contract with other agencies or private entities to assist in the department’s responsibilities relating to criminal justice information and records. Obsolete language related to the department is also deleted.

The committee substitute would take effect on July 1, 1998.

This committee substitute substantially amends or repeals the following sections of the Florida Statutes: 20.201, 943.01, 943.03, 943.04, 943.05, 943.051, 943.0515, 943.052, 943.0525, 943.053, 943.055, 943.056, 943.057, 943.08, 943.09, 943.10, 943.133, 943.17, 943.173, 943.25, 943.35, 938.07, 943.26, and 943.381.

## II. Present Situation:

In 1994, the Legislature passed a law that required state agencies to submit performance-based program budget requests according to a schedule that is set out in s. 216.0172, F.S. Within this schedule, the Department of Law Enforcement was required to submit its first performance-based program budget request by September 1, 1995 for the 1996-97 fiscal year pursuant to s. 216.0172(2)(d), F.S. The department is now budgeted in accordance with the legislatively approved program measures.

The department, along with all other state agencies on the PB<sup>2</sup> schedule, was required to follow s. 216.0166, F.S., which sets out the statutory process for performance measures to be approved and for agency submission of performance-based budget requests. The department was required to develop a list of agency programs to be subsequently approved by the Executive Office of the Governor in consultation with legislative appropriations and appropriate substantive committees. Once the list of programs was approved, performance measures were required to be developed for each program. FDLE was required to identify the outputs produced by each approved program, the outcomes resulting from each approved program, and the baseline data associated with each performance measure. Agency performance measures were also developed and revised in consultation with legislative appropriations and appropriate substantive committees and the Office of Program Policy Analysis and Government Accountability (OPPAGA). The Governor's Office approved the final list of proposed performance measures. However, as it is for all agencies, the Legislature had final approval of FDLE's programs, performance measures, and standards through the General Appropriations Act and its implementing bill.

Pursuant to s. 20.201(2), F.S., the department is currently organized as five divisions: Criminal Investigation, Local Law Enforcement Assistance, Criminal Justice Information Systems, Criminal Justice Standards and Training, and Staff Services. As part of PB<sup>2</sup>, the Department of Law Enforcement was reconfigured into three programs or budget entities: Criminal Justice Investigations and Forensic Science, Criminal Justice Information, and Criminal Justice Professionalism. Despite this change in performance-based program budgeting, the department is still statutorily organized in a configuration that differs from how it is budgeted under PB<sup>2</sup>.

According to OPPAGA's FGAR report on FDLE, the Criminal Justice and Juvenile Justice Information Systems Council was created in 1974 to serve as an advisory body to the Criminal Justice Information System Division in FDLE. In 1995, the Legislature directed the Council to develop standards and policies to promote sharing criminal justice information throughout the state and provide oversight on the development of the juvenile justice data system. The Council is currently working on linking law enforcement and other criminal justice agencies' database systems through the Criminal Justice Network.

The Department of Law Enforcement's PB<sup>2</sup> measures were "improved" in its second year of PB<sup>2</sup>, FY 1997-98, according to OPPAGA, and expectations are that the measures will continue to improve through future revisions. According to OPPAGA's FGAR report, the PB<sup>2</sup> process has

already improved the organization of the department and delivery of services by FDLE which has a current budget of approximately \$136 million and over 1,530 positions in its agency.

Currently, each sheriff or unit of government is required to submit information to the Criminal Justice Information Program (or Division) relating to the receipt or discharge of any person who is sentenced to a jail facility. Apparently, most information that was required to be reported was not received and the department did not find the information necessary. Information on the disposition of all adult offenders is already being received from the clerks of the courts. The department has found this information to be adequate for its database and feels that it does not need the information on the receipt or discharge of any person sentenced to a jail.

In 1995, Senator Jones sponsored SB 2532, which sought to amend substantive law under s. 943.35, F.S., to transfer the Monroe County Crime Laboratory to the Department of Law Enforcement. However, the Senate bill, as well as the House companion bill, HB 1193, died in committee. Until that time, the Monroe County Sheriff's Crime Laboratory received state funding for its operations with the Department of Law Enforcement acting as the "pass-through" agency for the state funding. Despite the substantive bills not passing the Legislature, the transfer of the laboratory to FDLE operation was actually made in the appropriations process. The changes in the substantive law were never made for consistency with actual funding practice.

### **III. Effect of Proposed Changes:**

Committee Substitute for Senate Bill 486 would change the organizational structure of the Department of Law Enforcement. The agency would contain three main programs, rather than five separate divisions, which would conform the agency with the budget entities that exist for the department for performance-based program budgeting (PB<sup>2</sup>): Criminal Justice Investigations and Forensic Science, Criminal Justice Professionalism, and Criminal Justice Information. The department would no longer be required to designate persons currently referred to as "division directors," but would have the flexibility to name one or more persons to the same or similar position in each program as determined by the executive director. Such personnel would supervise, direct, coordinate, and administer activities of the three programs.

The committee substitute would also provide additional authority to the executive director of the department to establish a "command, operational, and administrative services structure" that would assist and support the department in operating programs and delivering services. This authority would provide wide discretion to the executive director to organize the administrative and support services structure without explicit legislative directive. Such services would involve a chain-of-command for management and accountability for the activities and mission of the department. Positions that would be included in this structure would be the general counsel and assistant general counsels, and the inspector general, among others.

According to the department, this administrative structure basically includes all of the personnel that was included in the Division of Staff Services, which is approximately 100 persons. The new structure that would be authorized to be created by the executive director is not included, and

would not be included, in performance-based program budgeting; there are no measures for the performance of these activities of the department. There is currently no budget entity for administration of the department, however, the department is proposing an administrative program that apparently would have to be approved in the appropriations process.

Subject to “sufficient annual appropriations,” the department would be required to develop and maintain an information system that supports the administration of the state’s criminal and juvenile justice system in consultation with the Criminal and Juvenile Justice Information Systems Council. The Department of Law Enforcement would be required to serve as the custodial manager of the statewide telecommunications and data network developed and maintained as part of the department’s information system. The department would be encouraged to develop innovative and progressive methods of serving the information management needs of the “criminal justice community.” The department would be authorized to contract with other agencies or private entities to help facilitate the department’s responsibilities for receiving, maintaining, managing, processing, allowing access to, and disseminating criminal justice information and criminal history records to criminal justice agencies and the public, as appropriate.

The department would have the authority to adopt rules to carry out the services of the Criminal Justice Investigations and Forensic Science Program relating to cooperative policies for coordinating law enforcement work of all state, county, and municipal law enforcement agencies; assisting local law enforcement agencies with research, planning, training, and technical assistance to aid officers in preventing, controlling, and solving criminal activity; providing forensic services to all levels of law enforcement agencies; and adopting procedures and standards for operating certain crime laboratories.

The committee substitute would delete the requirement that each sheriff or unit of government submit information to the Criminal Justice Information Program (or Division) relating to the receipt or discharge of any person who is sentenced to a jail facility because it is not deemed necessary by the department.

Reference to the department being a “pass through” for state funding for the Monroe County Sheriff’s Crime Laboratory would be deleted. Reference to \$50 in fines being deposited in the Criminal Justice Standards and Training Trust Fund of the department to be used for operational expenses of the Division of Local Law Enforcement Assistance is deleted. The department would still be required to use that money for operational expenses in conducting the statewide criminal analysis laboratory system established in s. 943.32, F.S.

The committee substitute would take effect on July 1, 1998.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

As noted by OPPAGA, there can be expectations of cost-efficiency and effectiveness of the department's programs as the PB<sup>2</sup> process continues for FDLE. Because the intent of this committee substitute is to align the agency's organizational structure with adjustments that have already been made for FDLE in the appropriations process, it is not anticipated that funding will decrease as a result of this legislation. Although increases in funding to the department may occur as a result of other factors, it is not anticipated that any funding increases to FDLE would occur as a direct result of this committee substitute.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

Without legislative directive as to how such administrative services would be separately organized in relation to the three main programs that would be established, it is unclear how such authority would work within the PB<sup>2</sup> structure. In other words, if the purpose of this bill is to conform the department's organizational structure with PB<sup>2</sup>, "administrative services" is currently not a

separate budget entity with approved performance measures. It is recommended that this difference from PB<sup>2</sup> be reconciled at some point.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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