

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.)

BILL: SB 730

SPONSOR: Senator Meek

SUBJECT: Public Defender Access to Criminal Records

DATE: February 24, 1999 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Gomez</u>	<u>Cannon</u>	<u>CJ</u>	<u>Favorable</u>
2.	_____	_____	<u>FP</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

Florida Statutes provide that criminal history information compiled by FDLE's Division of Criminal Justice Information Systems from intrastate sources shall be made available to criminal justice agencies on a priority basis, free of charge.

A public defender's office does not meet the statutory definition of a criminal justice agency. Consequently, FDLE is not authorized to provide a public defender's office with on-line access to Florida criminal history information. Public defenders' offices are able to obtain this information but it may take several working days.

This bill requires FDLE to provide each public defender's office with on-line access to Florida criminal records. It specifies that the cost of establishing and maintaining on-line access shall be borne by the public defender's office.

The bill shall take effect on October 1, 1999.

This bill substantially amends the following section of the Florida Statutes: 943.053

II. Present Situation:

In Florida's state courts, indigent criminal defendants are represented by a public defender system headed by 20 elected constitutional officers. The public defenders and their assistants represent all indigents charged in the 20 judicial circuits with felony, misdemeanor, or juvenile offenses. *See* Chapter 27, F.S.

Section 943.053, F.S., specifies how the Florida Department of Law Enforcement (FDLE), is to disseminate criminal justice information. Section 943.053(3), F.S., states that criminal history information compiled by the FDLE's Division of Criminal Justice Information Systems from

intrastate sources shall be made available to criminal justice agencies on a priority basis, free of charge.

A public defender's office does not meet the definition of a criminal justice agency under the statutes relating to the criminal justice information system. *See* ss. 943.045(2) & (10), F.S. Consequently, FDLE is not authorized to provide a public defender's office with on-line access to Florida criminal history information. Public defenders' offices are able to obtain this information but it may take several working days.

Section 943.053(3), F.S., provides that criminal history information be provided to non criminal justice agencies on an approximate-cost basis. On a fee basis, a member of the public may also be provided criminal history information. s. 943.053(3), F.S.

Section 943.053(5), F.S., states that FDLE is to provide the Department of Revenue, Division of Child Support Enforcement access to Florida criminal records and other information for the purpose of locating subjects who owe or potentially owe child support or to whom such obligation is owed.

Section 943.08 (1), F.S., requires the Criminal Justice Information Systems Council to "facilitate the identification, standardization, sharing, and coordination of criminal and juvenile justice data among federal, state, and local agencies."

III. Effect of Proposed Changes:

This bill requires FDLE to provide each public defender's office with on-line access to Florida criminal records. The record access is limited to those records which are public and not confidential. The bill specifies that the access shall be used solely in support of the duties of a public defender or a conflict attorney, (an attorney appointed by the court to represent an indigent defendant when the public defender withdraws from representation due to a conflict of interest). It also specifies that the cost of establishing and maintaining on-line access shall be borne by the public defender's office.

Although the bill contemplates use by appointed conflict attorneys, it only authorizes FDLE to provide on-line access to public defenders' offices. This will require conflict attorneys to obtain on-line access through the public defender's office.

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:

The bill provides that the cost of on-line access is to be borne by the public defender's office to which access has been provided. The FDLE estimates that the annual costs to an office will be minimal, less than \$1,000. An analysis from the Florida Public Defenders Coordination Office concludes that this bill's fiscal impact will be positive: "Through on-line access, client criminal records will be obtained much faster utilizing less staff time [which] could accelerate the processing of many pending cases, thereby saving jail and court time and costs."

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.