



814130

LEGISLATIVE ACTION

Senate

.

House

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Floor: 1/AD/2R

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04/28/2017 02:25 PM

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Senator Flores moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 25.052, Florida Statutes, is created to
read:

25.052 Annual report.-

(1) Between October 1 and October 15 of each year, the
Supreme Court shall provide a report with data as of September
30 of that year, to the Governor, the Attorney General, the
President of the Senate, and the Speaker of the House of



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12 Representatives consisting of two parts.

13 (a) In part I of the report, the court shall provide the
14 following information regarding each case on the court's docket
15 as of September 30 of the current year, for which a decision or
16 disposition has not been rendered within 180 days after oral
17 argument was heard or after the date on which the case was
18 submitted to the court panel for a decision without oral
19 argument:

20 1. The case name and number.

21 2. The case type.

22 3. A brief description of the case.

23 4. The date on which the case was added to the court's
24 docket.

25 5. The date of oral argument or the date the case was
26 submitted to the court panel for decision without oral argument.

27 6. The number of days that have elapsed since the date the
28 oral argument was heard or the date the case was submitted to
29 the court panel for a decision without oral argument.

30 7. A detailed explanation of the court's failure to render
31 a decision or disposition within 180 days after oral argument
32 was heard or after the date on which the case was submitted to
33 the court panel for a decision without oral argument.

34 8. The date on which, or the time period within which, the
35 court expects to render a decision or disposition.

36 (b) In part II of the report, the court shall provide the
37 following information regarding each case decided or disposed of
38 by the court between October 1 of the prior year and September
39 30 of the current year, for which the decision or disposition
40 was not rendered within 180 days after oral argument was heard



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41 or after the date on which the case was submitted to the court
42 panel for a decision without oral argument:

43 1. The information required in subparagraphs (a)1.-5. and
44 7.

45 2. The date that a decision or disposition was issued.

46 3. The number of days that had elapsed between the date
47 oral argument was heard or the date the case was submitted to
48 the court panel for a decision without oral argument and the
49 date on which a decision or disposition was issued.

50 (2) The report shall be submitted in an electronic
51 spreadsheet format capable of being sorted and filtered by the
52 following elements:

53 (a) The case number.

54 (b) The case type.

55 (c) The date on which the case was added to the court's
56 docket.

57 (d) The date of oral argument or the date the case was
58 submitted to the court panel for decision without oral argument.

59 (e) The number of days that elapsed since the date oral
60 argument was heard or the date the case was submitted to the
61 court panel for a decision without oral argument.

62 (f) The date of decision or disposition.

63 (3) The case type of each case reported shall include
64 civil, criminal not seeking the death penalty, criminal seeking
65 the death penalty, court rules, bar discipline, or judicial
66 discipline.

67 (4) This section is repealed July 1, 2022, unless reviewed
68 and reenacted by the Legislature before that date.

69 Section 2. Effective October 1, 2017, section 985.12,



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70 Florida Statutes, is amended to read:

71 985.12 Civil citation and similar diversion programs.—

72 (1) As used in this section, the term:

73 (a) "Law enforcement officer" has the same meaning as
74 provided in s. 943.10.

75 (b) "Misdemeanor offense" means one misdemeanor violation
76 of law.

77 (2) (a) ~~(1)~~ There is established a process for the use of
78 juvenile civil citation and similar diversion programs to
79 provide process for the purpose of providing an efficient and
80 innovative alternative to custody by the department of Juvenile
81 Justice for juveniles ~~children~~ who commit nonserious delinquent
82 acts and to ensure swift and appropriate consequences. The
83 department shall encourage and assist in the implementation and
84 improvement of civil citation and ~~programs or other~~ similar
85 diversion programs ~~in~~ around the state.

86 (b) One or more ~~The~~ civil citation or similar diversion
87 programs ~~program~~ shall be established in each county to serve
88 juveniles who commit misdemeanor offenses as provided in this
89 section. Such programs must meet the requirements of this
90 section and be established at the local level with the
91 concurrence of the chief judge of the circuit, state attorney,
92 public defender, and the head of each local law enforcement
93 agency involved. At least one program must be applicable
94 countywide. The countywide program may be established by a
95 county or by interlocal agreement pursuant to s. 163.01 by a
96 county working jointly with any municipalities or other entities
97 within the county's boundaries or contiguous counties and any
98 municipalities or other entities within the counties'



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99 boundaries. The program may be operated by an entity such as a
100 law enforcement agency, the department, a juvenile assessment
101 center, the county or municipality, or another entity selected
102 by the county or municipality. Any additional programs shall
103 complement the countywide program. Any program may work with any
104 other program in the state to best serve the juveniles in the
105 jurisdiction. An entity operating such a ~~the civil citation or~~
106 ~~similar diversion~~ program must do so in consultation and
107 agreement with the state attorney and local law enforcement
108 agencies.

109 (3) Under ~~such~~ a juvenile civil citation or similar
110 diversion program, a law enforcement officer who makes, ~~upon~~
111 ~~making~~ contact with a juvenile who admits having committed a
112 misdemeanor offense for the first time ~~misdemeanor,~~ may:

113 (a) Choose to issue a simple warning or inform the child's
114 guardian or parent of the child's infraction; ~~or may~~

115 (b) Issue a civil citation to the juvenile or require the
116 juvenile's participation in a similar diversion program, as
117 follows:

118 1. A law enforcement officer shall issue the citation if
119 the violation of law is a misdemeanor offense and is one of the
120 following:

121 a. Section 562.111, relating to possession of alcoholic
122 beverages by persons under age 21;

123 b. Section 784.03(1), relating to battery. This sub-
124 subparagraph excludes battery relating to domestic violence as
125 defined in s. 741.28;

126 c. Section 806.13, relating to criminal mischief;

127 d. Section 810.08 or s. 810.09, relating to trespass;



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- 128 e. Section 812.014(2)(e) or s. 812.014(3)(a), relating to
129 theft;
- 130 f. Section 812.015(2), relating to retail and farm theft;
- 131 g. Section 856.021, relating to loitering or prowling;
- 132 h. Section 870.01(1), relating to affrays and riots;
- 133 i. Section 877.03, relating to disorderly conduct;
- 134 j. Section 893.13(6)(b), relating to possession of certain
135 amounts of cannabis;
- 136 k. Section 893.147, relating to use, possession,
137 manufacture, delivery, transportation, advertisement, or retail
138 sale of drug paraphernalia; or
- 139 1. Section 843.02, relating to resisting an officer without
140 violence.
- 141 2. A law enforcement officer may issue a civil citation to
142 a juvenile or require the juvenile's participation in a similar
143 diversion program if the violation of law is a misdemeanor
144 offense not enumerated in subparagraph 1.
- 145 3. Notwithstanding subparagraph 1., a law enforcement
146 officer may issue a civil citation to a juvenile or require the
147 juvenile's participation in a similar diversion program if the
148 violations of law are more than one misdemeanor offense arising
149 out of the same criminal episode.
- 150 (4) Under a juvenile civil citation or similar diversion
151 program, a law enforcement officer who makes contact with a
152 juvenile who admits to having committed a misdemeanor offense
153 and has one or two prior misdemeanors from a separate criminal
154 episode may issue a civil citation to the juvenile or require
155 the juvenile's participation in a similar diversion program,
156 regardless of whether the violations of law are enumerated in



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157 subparagraph (3) (b)1.

158 (5) Under a juvenile civil citation or similar diversion
159 program, a law enforcement officer who makes contact with a
160 juvenile who admits to having committed a misdemeanor offense
161 and is currently alleged to have committed, or is currently
162 charged with and awaiting final disposition, of an offense that
163 would be a felony, may issue a civil citation to the juvenile or
164 require the juvenile's participation in a similar diversion
165 program, regardless of whether the violations of law are
166 enumerated in subparagraph (3) (b)1.

167 (6) If an arrest is made for a misdemeanor offense subject
168 to subparagraph (3) (b)2., subparagraph (3) (b)3., subsection (4),
169 or subsection (5), a law enforcement officer must provide
170 written documentation as to why the arrest was warranted.

171 (7) A law enforcement officer shall advise a juvenile
172 eligible to receive a civil citation under subsection (3), (4),
173 or (5) that he or she has the option to refuse the civil
174 citation or other similar diversion program and be referred to
175 the department. This option may be exercised at any time before
176 completion of the community service assignment required under
177 subsection (9). Participation in a civil citation or similar
178 diversion program is not considered a referral to the
179 department.

180 (8) Upon issuance of the civil citation or documentation
181 requiring a similar diversion program, the law enforcement
182 officer shall send a copy to the county sheriff, the state
183 attorney, the department or the entity operating the program as
184 designated by the department, the parent or guardian of the
185 juvenile, and the victim. The entity operating the program shall



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186 enter such information into the juvenile justice information
187 system.

188 (9) A juvenile who elects to participate in a civil
189 citation or similar diversion program shall complete, and assess
190 up to 50 community service hours, and participate require
191 participation in intervention services as indicated by an
192 assessment of the needs of the juvenile, including family
193 counseling, urinalysis monitoring, and substance abuse and
194 mental health treatment services.

195 (a) The juvenile shall report to the entity operating the
196 program within 10 business days after the date of issuance of
197 the civil citation or documentation for a similar diversion
198 program. The juvenile shall spend a minimum of 5 hours per week
199 completing the community service assignment. The entity
200 operating the program shall immediately notify the department
201 through the juvenile justice information system that a juvenile
202 has reported to the entity operating the program and the
203 expected date on which the juvenile will complete the community
204 service assignment ~~A copy of each citation issued under this~~
205 ~~section shall be provided to the department, and the department~~
206 ~~shall enter appropriate information into the juvenile offender~~
207 ~~information system. Use of the civil citation or similar~~
208 ~~diversion program is not limited to first-time misdemeanors and~~
209 ~~may be used in up to two subsequent misdemeanors. If an arrest~~
210 ~~is made, a law enforcement officer must provide written~~
211 ~~documentation as to why an arrest was warranted.~~

212 (b) At the conclusion of a juvenile's civil citation
213 program or similar diversion program, the entity agency
214 operating the program shall report the outcome of the program to



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215 the department.

216 (c) If the juvenile fails to timely report for a community
217 service assignment, complete such assignment, or comply with
218 assigned intervention services within the prescribed time, the
219 entity operating the program shall notify the law enforcement
220 officer. The law enforcement officer shall determine if there is
221 good cause to arrest the juvenile for the original misdemeanor
222 offense and refer the case to the state attorney or allow the
223 juvenile to continue in the program.

224 (d) If the juvenile commits a subsequent delinquent act
225 then the entity operating the program shall notify the law
226 enforcement officer and the law enforcement officer shall arrest
227 the juvenile for the original misdemeanor offense and refer the
228 case to the state attorney ~~The issuance of a civil citation is~~
229 ~~not considered a referral to the department.~~

230 (10)-(2) The department shall develop guidelines for the
231 civil citation and similar diversion programs ~~program~~ which
232 include intervention services that are based on ~~upon~~ proven
233 civil citation or similar diversion programs ~~in~~ within ~~the~~
234 state. The department shall generate a report annually on the
235 best practices of the programs. The department must provide the
236 report annually to the Governor, the President of the Senate,
237 and the Speaker of the House of Representatives no later than
238 January 31 each year. The department must also provide an
239 electronic copy of the annual report to the civil citation and
240 similar diversion programs no later than January 31 of each
241 year.

242 (11) The department shall generate a report annually on
243 participation and outcomes for civil citation and similar



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244 diversion programs, reported as statewide aggregate data and
245 data for each civil citation and similar diversion program from
246 the previous calendar year. The annual report shall be available
247 on the department's website no later than January 31 of each
248 year. The department must also provide an electronic copy of the
249 annual report to each civil citation and similar diversion
250 program. At a minimum, the data shall include:

251 (a) The race, ethnicity, gender, and age of the juvenile;

252 (b) The juvenile's county of residence;

253 (c) The misdemeanor offenses committed;

254 (d) The county where the misdemeanor offenses were

255 committed;

256 (e) Whether the juvenile has previously participated in a
257 civil citation or similar diversion program;

258 (f) Whether the juvenile successfully completed or failed
259 to complete a civil citation or similar diversion program; and

260 (g) Recidivism data for juveniles in paragraph (f).

261 (12) This section does not apply to:

262 (a) A juvenile who has entered a plea of nolo contendere or
263 guilty to, or has been found to have committed, an offense that
264 would be a felony if committed by an adult.

265 (b) A misdemeanor offense arising out of a criminal episode
266 in which the juvenile is also alleged to have committed an
267 offense that would be a felony if committed by an adult.

268 ~~(3) Upon issuing such citation, the law enforcement officer~~
269 ~~shall send a copy to the county sheriff, state attorney, the~~
270 ~~appropriate intake office of the department, or the community~~
271 ~~service performance monitor designated by the department, the~~
272 ~~parent or guardian of the child, and the victim.~~



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273 ~~(4) The child shall report to the community service~~
274 ~~performance monitor within 7 working days after the date of~~
275 ~~issuance of the citation. The work assignment shall be~~
276 ~~accomplished at a rate of not less than 5 hours per week. The~~
277 ~~monitor shall advise the intake office immediately upon~~
278 ~~reporting by the child to the monitor, that the child has in~~
279 ~~fact reported and the expected date upon which completion of the~~
280 ~~work assignment will be accomplished.~~

281 ~~(5) If the child fails to report timely for a work~~
282 ~~assignment, complete a work assignment, or comply with assigned~~
283 ~~intervention services within the prescribed time, or if the~~
284 ~~juvenile commits a subsequent misdemeanor, the law enforcement~~
285 ~~officer shall issue a report alleging the child has committed a~~
286 ~~delinquent act, at which point a juvenile probation officer~~
287 ~~shall process the original delinquent act as a referral to the~~
288 ~~department and refer the report to the state attorney for~~
289 ~~review.~~

290 ~~(6) At the time of issuance of the citation by the law~~
291 ~~enforcement officer, such officer shall advise the child that~~
292 ~~the child has the option to refuse the citation and to be~~
293 ~~referred to the intake office of the department. That option may~~
294 ~~be exercised at any time before completion of the work~~
295 ~~assignment.~~

296 Section 3. Effective October 1, 2017, paragraph (b) of
297 subsection (3) of section 943.051, Florida Statutes, is amended
298 to read:

299 943.051 Criminal justice information; collection and
300 storage; fingerprinting.—

301 (3)



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302 (b) A minor who is charged with or found to have committed
303 the following offenses shall be fingerprinted and the
304 fingerprints shall be submitted electronically to the
305 department, unless the minor participates in ~~is issued~~ a civil
306 citation or similar diversion program pursuant to s. 985.12:

- 307 1. Assault, as defined in s. 784.011.
- 308 2. Battery, as defined in s. 784.03.
- 309 3. Carrying a concealed weapon, as defined in s. 790.01(1).
- 310 4. Unlawful use of destructive devices or bombs, as defined
311 in s. 790.1615(1).
- 312 5. Neglect of a child, as defined in s. 827.03(1)(e).
- 313 6. Assault or battery on a law enforcement officer, a
314 firefighter, or other specified officers, as defined in s.
315 784.07(2)(a) and (b).
- 316 7. Open carrying of a weapon, as defined in s. 790.053.
- 317 8. Exposure of sexual organs, as defined in s. 800.03.
- 318 9. Unlawful possession of a firearm, as defined in s.
319 790.22(5).
- 320 10. Petit theft, as defined in s. 812.014(3).
- 321 11. Cruelty to animals, as defined in s. 828.12(1).
- 322 12. Arson, as defined in s. 806.031(1).
- 323 13. Unlawful possession or discharge of a weapon or firearm
324 at a school-sponsored event or on school property, as provided
325 in s. 790.115.

326 Section 4. Effective October 1, 2017, paragraph (b) of
327 subsection (1) of section 985.11, Florida Statutes, is amended
328 to read:

329 985.11 Fingerprinting and photographing.—

330 (1)



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331 (b) Unless the child is participating in ~~is issued~~ a civil
332 citation or ~~is participating in a~~ similar diversion program
333 pursuant to s. 985.12, a child who is charged with or found to
334 have committed one of the following offenses shall be
335 fingerprinted, and the fingerprints shall be submitted to the
336 Department of Law Enforcement as provided in s. 943.051(3)(b):
337 1. Assault, as defined in s. 784.011.
338 2. Battery, as defined in s. 784.03.
339 3. Carrying a concealed weapon, as defined in s. 790.01(1).
340 4. Unlawful use of destructive devices or bombs, as defined
341 in s. 790.1615(1).
342 5. Neglect of a child, as defined in s. 827.03(1)(e).
343 6. Assault on a law enforcement officer, a firefighter, or
344 other specified officers, as defined in s. 784.07(2)(a).
345 7. Open carrying of a weapon, as defined in s. 790.053.
346 8. Exposure of sexual organs, as defined in s. 800.03.
347 9. Unlawful possession of a firearm, as defined in s.
348 790.22(5).
349 10. Petit theft, as defined in s. 812.014.
350 11. Cruelty to animals, as defined in s. 828.12(1).
351 12. Arson, resulting in bodily harm to a firefighter, as
352 defined in s. 806.031(1).
353 13. Unlawful possession or discharge of a weapon or firearm
354 at a school-sponsored event or on school property as defined in
355 s. 790.115.
356
357 A law enforcement agency may fingerprint and photograph a child
358 taken into custody upon probable cause that such child has
359 committed any other violation of law, as the agency deems



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360 appropriate. Such fingerprint records and photographs shall be
361 retained by the law enforcement agency in a separate file, and
362 these records and all copies thereof must be marked "Juvenile
363 Confidential." These records are not available for public
364 disclosure and inspection under s. 119.07(1) except as provided
365 in ss. 943.053 and 985.04(2), but shall be available to other
366 law enforcement agencies, criminal justice agencies, state
367 attorneys, the courts, the child, the parents or legal
368 custodians of the child, their attorneys, and any other person
369 authorized by the court to have access to such records. In
370 addition, such records may be submitted to the Department of Law
371 Enforcement for inclusion in the state criminal history records
372 and used by criminal justice agencies for criminal justice
373 purposes. These records may, in the discretion of the court, be
374 open to inspection by anyone upon a showing of cause. The
375 fingerprint and photograph records shall be produced in the
376 court whenever directed by the court. Any photograph taken
377 pursuant to this section may be shown by a law enforcement
378 officer to any victim or witness of a crime for the purpose of
379 identifying the person who committed such crime.

380 Section 5. Subsection (5) is added to section 985.557,
381 Florida Statutes, to read:

382 985.557 Direct filing of an information; discretionary and
383 mandatory criteria.—

384 (5) DATA COLLECTION RELATING TO DIRECT FILE.—

385 (a) Beginning March 1, 2018, the department shall collect
386 data relating to children who qualify to be prosecuted as adults
387 under this section and s. 985.556 regardless of the outcome of
388 the case, including, but not limited to:



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- 389 1. Age.
- 390 2. Race and ethnicity.
- 391 3. Gender.
- 392 4. Circuit and county of residence.
- 393 5. Circuit and county of offense.
- 394 6. Prior adjudications or adjudications withheld.
- 395 7. Prior periods of probation including any violations of
396 probation.
- 397 8. Previous contacts with law enforcement agencies or the
398 court which resulted in a civil citation, arrest, or charges
399 being filed with the state.
- 400 9. Initial charges.
- 401 10. Charges at disposition.
- 402 11. Whether child codefendants were involved who were
403 transferred to adult court.
- 404 12. Whether the child was represented by counsel or whether
405 the child waived counsel.
- 406 13. Risk assessment instrument score.
- 407 14. The child's medical, mental health, substance abuse, or
408 trauma history.
- 409 15. The child's history of mental impairment or disability-
410 related accommodations.
- 411 16. The child's history of abuse or neglect.
- 412 17. The child's history of foster care placements,
413 including the number of prior placements.
- 414 18. Whether the child has below-average intellectual
415 functioning.
- 416 19. Whether the child has received mental health services
417 or treatment.



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418 20. Whether the child has been the subject of a child-in-
419 need-of-services or families-in-need-of-services petition or a
420 dependency petition.

421 21. Whether the child was transferred for criminal
422 prosecution as an adult.

423 22. The case resolution in juvenile court.

424 23. The case resolution in adult court.

425 (b) Beginning March 1, 2018, for a child transferred for
426 criminal prosecution as an adult, the department shall also
427 collect:

428 1. Disposition data, including, but not limited to, whether
429 the child received adult sanctions, juvenile sanctions, or
430 diversion and, if sentenced to prison, the length of the prison
431 sentence or the enhanced sentence; and

432 2. Whether the child was previously found incompetent to
433 proceed in juvenile court.

434 (c) For every juvenile case transferred between July 1,
435 2016, and June 30, 2017, the department shall work with the
436 Office of Program Policy Analysis and Government Accountability
437 to generate a report analyzing the aggregated data. The
438 department must provide this report to the Governor, the
439 President of the Senate, and the Speaker of the House of
440 Representatives by January 31, 2018.

441 (d) The department must work with the Office of Program
442 Policy Analysis and Government Accountability to generate a
443 report analyzing the aggregated data collected under paragraphs
444 (a) and (b) on an annual basis. The department must provide this
445 report annually to the Governor, the President of the Senate,
446 and the Speaker of the House of Representatives no later than



447 January 31 of the following calendar year.

448 Section 6. If any provision of this act or its application
449 to any person or circumstance is held invalid, the invalidity
450 does not affect other provisions or applications of the act
451 which can be given effect without the invalid provision or
452 application, and to this end the provisions of this act are
453 severable.

454 Section 7. Except as otherwise expressly provided in this
455 act, this act shall take effect July 1, 2017.

456
457 ===== T I T L E A M E N D M E N T =====

458 And the title is amended as follows:

459 Delete everything before the enacting clause
460 and insert:

461 A bill to be entitled
462 An act relating to judicial resources; creating s.
463 25.052, F.S.; requiring the Supreme Court to issue an
464 annual report regarding certain cases; specifying data
465 to be included in such report; providing for future
466 legislative review and repeal; amending s. 985.12,
467 F.S.; requiring the establishment of civil citation or
468 similar diversion programs for juveniles in each
469 county; providing definitions; specifying program
470 eligibility, participation, and implementation
471 requirements; providing exceptions; providing
472 applicability; requiring the Department of Juvenile
473 Justice to generate annual reports; requiring reports
474 by specified dates; amending ss. 943.051 and 985.11,
475 F.S.; conforming provisions to changes made by the



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476 act; amending s. 985.557, F.S.; requiring the
477 department, beginning on a certain date, to collect
478 specified information relating to children who qualify
479 for prosecution as adults and for children who are
480 transferred for criminal prosecution as adults;
481 requiring the department to work with the Office of
482 Program Policy Analysis and Government Accountability
483 to generate a report analyzing the data of juveniles
484 transferred for prosecution as adults during a certain
485 period; requiring the department to provide the report
486 to the Governor and the Legislature by a certain date;
487 requiring the department to work with the Office of
488 Program Policy Analysis and Government Accountability
489 to generate an annual report to include certain
490 information and provide it to the Governor and the
491 Legislature by a specified date; providing
492 severability; providing effective dates.