

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 Rules

BILL: CS/SB 1236

INTRODUCER: Rules Committee and Senator Jones

SUBJECT: County and Municipal Detention Facilities

DATE: February 15, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Siples/Hunter</u>	<u>Ryon</u>	<u>CA</u>	Favorable
2.	<u>Siples</u>	<u>Jones</u>	<u>CJ</u>	Favorable
3.	<u>Siples/Hunter</u>	<u>Phelps</u>	<u>RC</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1236 establishes the Florida Model Jail Standards (FMJS) Working Group to develop and maintain model standards for county and municipal detention facilities. The FMJS Working Group is comprised of seven members appointed by the Florida Sheriffs Association (FSA) and the Florida Association of Counties.

The bill requires every sheriff, county, city, or other entity that operates a county or municipal detention facility to adopt, at a minimum, the approved FMJS, which address the construction, equipping, maintenance, and operation of county and municipal detention facilities, as well as the confinement and classification of prisoners.

Under the bill's provisions, each county or municipal detention facility must be inspected at least twice annually. One inspection is announced and the other inspection is unannounced. The announced inspection evaluates a facility's compliance with all the FMJS and the unannounced inspection is limited to a review for serious violations. The two inspections must be at least 120 days apart.

The bill prohibits a county or municipal detention facility from refusing to be inspected or refusing access to its facility. If the officer in charge of the facility so refuses, then his or her salary must be withheld and deposited in the facility's inmate welfare fund for each day the person refuses such inspection or access. The penalty applies regardless of whether the person is elected, appointed, or an employee of a county, city, or other political division of the state.

The bill provides if, upon inspection, a facility is noncompliant with the FMJS, it has 30 days to cure the noncompliance, if it is not a serious violation. If it is a serious violation, the facility has 24 days to cure the noncompliance. For notable, or non-serious violations, the facility will be re-inspected within 10 days after the 30-day correction period. If it is still noncompliant, the facility will have 15 days to cure the noncompliance and a second re-inspection will be conducted within 48 hours thereafter. For serious violations, the facility will be re-inspected within 48 hours after the serious violation was first observed. If a facility continues to be noncompliant on a notable violation after the first and second re-inspection or on a serious violation after the re-inspection, it will be subject to penalties.

The bill assigns the following penalties for noncompliance with the FMJS:

- If an annual inspection reveals that a detention facility is noncompliant with a notable violation and the noncompliance is not corrected within the initial 30-day correction period, the facility must pay the following amount into the facility's inmate welfare fund for each day that the facility is not in compliance with the FMJS:
 - \$500 per day of noncompliance for the 31st day through the 60th day;
 - \$1,000 per day of noncompliance for the 61st day through the 90th day; and
 - \$2,000 per day of noncompliance for the 91st day and all remaining days.
- If an annual inspection reveals that a detention facility is noncompliant with a serious violation and the noncompliance is not corrected within 24 hours after its discovery, the facility must pay \$2,000 per day that the FMJS Working Group determines that the facility is noncompliant.

In addition to the above-listed penalties, if a second re-inspection for a notable violation or a re-inspection for a serious violation reveals that the detention facility continues to be noncompliant, the facility must cease operation of the detention facility within 14 days and must contract with one or more other detention facilities to house its prisoners until the facility is determined to be in compliance with the FMJS. The 14-day time period commences upon:

- The expiration of the appeal process, as provided in the FMJS;
- The facility failing to file a timely appeal; or
- The conclusion of an appeal process that results in a finding that the detention facility is noncompliant with the FMJS.

If the detention facility consists of separate detention campuses, only the campus that is determined to be noncompliant must cease operations. The receiving facility must be in compliance with the FMJS and the noncompliant facility is responsible for the costs accrued by the receiving facility for housing its prisoners.

The bill defines the terms "serious violation" and "notable violation" and revises the definitions of "county detention facility" and "municipal detention facility."

The bill may have a fiscal impact on both the private and government sector. See Section V. Fiscal Impact Statement.

The bill takes effect on July 1, 2022.

II. Present Situation:

County and Municipal Detention Facilities

A county detention facility is any county jail, stockade, work camp, 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 either a felony or misdemeanor.¹ Sheriffs operate the majority of county detention facilities, with counties operating the remainder.² County detention facilities house inmates who have been arrested and are awaiting trial, as well as inmates who have been convicted and sentenced to less than one year of incarceration or awaiting transfer to the Department of Corrections (DOC).

The DOC reports that approximately 53,658 inmates were incarcerated in the state's county detention facilities during the month of December 2021.³

A municipal detention facility is a city jail, stockade, prison camp, or any other place except a county detention facility used by a municipality or municipal officer for the detention of persons charged with or convicted of a violation of municipal laws or ordinances.⁴

Florida Model Jail Standards

Prior to 1996, the Department of Corrections was responsible for the standards and inspection process for local jails.⁵ In 2006, the Legislature enacted legislation that established a five-person workgroup, consisting of three persons appointed by the Florida Sheriffs Association (FSA) and two persons appointed by the Florida Association of Counties, to develop model standards for county and municipal detention facilities.⁶ The model standards developed by the workgroup must address:

- The construction, equipping, maintenance, and operation of county and municipal detention facilities, including the:
 - Cleanliness and sanitation;
 - Number of prisoners who may be housed per specified unit of floor space;
 - Quality, quantity, and diversity of food served and the manner in which food is served;
 - Furnishing of medical attention and health and comfort items; and
 - Disciplinary treatment which may be meted out to prisoners.

¹ Section 951.23(1)(a), F.S.

² For example, the county commissions operate the county detention facilities in Escambia, Gulf, Jackson, Miami-Dade, Okaloosa, Orange, Osceola, and Volusia counties (see <https://myescambia.com/our-services/corrections/community-detention>; http://www.gulfcounty-fl.gov/county_government/detention_facility; <https://jacksoncountyfl.gov/services/correctional-facility/>; <https://www.miamidade.gov/global/corrections/home.page>; <http://www.co.okaloosa.fl.us/corrections/history>; http://www.ocfl.net/tabid/367/default.aspx#.X_MzJthKiUI; <https://www.osceola.org/agencies-departments/corrections/about/>; and <https://www.volusia.org/services/public-protection/corrections/>; respectively (all websites last visited February 15, 2022)).

³ Department of Corrections, *Florida County Detention Facilities Average Inmate Population*, December 2021, p. 2, available at <http://www.dc.state.fl.us/pub/jails/2021/jails-2021-12.pdf> (last visited February 15, 2022).

⁴ Section 951.23(1)(d), F.S.

⁵ Florida Sheriffs Association, *Florida Model Jail Standards: What is FMJS?*, available at <https://www.flsheriffs.org/law-enforcement-programs/training/florida-model-jail-standards> (last visited February 15, 2022).

⁶ Section 951.23(4)(a), F.S. See also s. 31, ch. 96-312, Laws of Fla.

- The confinement of prisoners by classification and providing, whenever possible, for classifications that separate males from females, juveniles from adults, felons from misdemeanants,⁷ and those awaiting trial from those convicted. Additionally, it should provide for the separation of special risk prisoners, such as the mentally ill, suicide risks, drug and alcohol addicts, sex deviants, and any other classification the local unit deems necessary.⁸

The Florida Model Jail Standards (FMJS) are minimum standards that county and municipal detention facilities in Florida must meet to ensure the constitutional rights of those incarcerated are upheld.⁹ The FMJS Committee, the group created to comply with s. 951.23, F.S., develops the FMJS and enforces the model standards it has adopted.¹⁰ The FSA provides support to the FMJS Committee, but is a separate entity. The FMJS Committee has six subcommittees, each with a distinct mission and objective:

- Quality Assurance and Improvement Subcommittee, which monitors and reviews the status of the FMJS program and its effectiveness;
- Standards Review Subcommittee, which maintains a professional manual consistent with the most current practices in the corrections industry for adult and youth detention facilities;
- Medical Subcommittee, which fosters the effectiveness of the medical care and health of individuals incarcerated in county detention facilities;
- Compliance Review Subcommittee, which objectively conducts reasonable reviews of facility inspection results and remains unbiased while reviewing facility grievances and presenting clear and concise evidence to the full FMJS Committee;
- Training Subcommittee, which establishes a training curriculum for the Jail Inspectors and Jail Medical Inspectors certification program;
- PREA Subcommittee, which establishes a set of minimum model jail standards as required by the Prison Rape Elimination Act of 2003 (PREA); and
- Technical Support Subcommittee, which responds to, reviews, and makes recommendations of issues that are directly related to corrections as directed by the full FMJS Committee.¹¹

Once the FMJS were adopted by the FSA and the Florida Association of Counties, they were filed with the Department of State.¹² The FMJS Committee performs a biannual review of all existing standards.¹³ Amendment or repeal of any provision of the FMJS is within the discretion of the FMJS Committee.¹⁴

The FMJS Committee provides notice of all its proceedings, as well as any adoption, amendment, or repeal of provisions of the FMJS, to all county and municipal detention

⁷ However, non-dangerous felons may be housed with misdemeanants.

⁸ *Supra* note 6.

⁹ *Supra* note 5.

¹⁰ *Id.*

¹¹ *Id.*

¹² Florida Sheriffs Association and Florida Association of Counties, *Florida Model Jail Standards*, pg. 10 (Eff. Apr. 1, 2021), available at https://www.flsheriffs.org/uploads/docs/FMJS_Manual_Eff_04_01_21.pdf (last visited February 15, 2022).

¹³ *Id.*, at pg. 74.

¹⁴ *Id.*, at pg. 10.

facilities.¹⁵ Notice of any official FMJS Committee business is available, upon request, to the public.

FMJS Certified Inspectors

FMJS Certified Jail Inspectors have successfully completed the FMJS Inspector Certification Course and are recognized by the FMJS Committee to conduct correctional operations inspections.¹⁶ To qualify as a FMJS Certified Jail Inspector, an individual must:

- Be actively employed or a retired certified correctional officer with five years' experience in the care, custody, and control of inmates or a civilian employee with eight years of experience in jail operations; and
- Have written endorsement(s) from the candidate's Sheriff. If the candidate is not employed by a Sheriff's office, written endorsement must be submitted by the Chief Executive Officer of the correctional facility with which the candidate is employed.¹⁷

Certified Jail Inspectors must be re-certified every four years and successfully pass the certification exam prior to a new certification being issued. Each FMJS Certified Jail Inspector must complete one jail inspection each year in order to maintain his or her certification. The FMJS Certified Jail Inspectors must report their inspection activity to the FMJS Committee Chair and the FSA each year for compliance.¹⁸

FMJS Certified Medical Inspectors have successfully completed the FMJS Medical Inspector Certification Course and are recognized by the FMJS Committee to conduct medical compliance inspections.¹⁹ To qualify as a FMJS Certified Medical Inspector, an individual must:

- Be a Florida-licensed physician, nurse, advanced practice registered nurse, physician assistant, emergency medical technician, or paramedic;
- Be actively employed or retired from active employment in a jail or prison setting for a minimum of three years; and
- Have written endorsement(s) from the candidate's Sheriff, and if services are contracted, an endorsement from the candidate's employing Chief Executive Officer. If the candidate is not employed by a Sheriff's office, written endorsement must be submitted by the Chief Executive Officer of the correctional facility with which the candidate is employed.²⁰

Certified Medical Inspectors must be re-certified every four years and to recertify, the Certified Medical Inspector must complete a classroom re-certification course and successfully pass the test, and successfully complete a refresher course every four years.²¹ Each FMJS Certified Medical Inspector must complete one medical inspection each year in order to maintain his or her certification. The FMJS Certified Medical Inspectors must report their inspection activity to the FMJS Committee Chair and the FSA each year for compliance.²²

¹⁵ *Id.*, at pg. 74.

¹⁶ *Id.*, at pgs. 10-11.

¹⁷ *Id.*, at pg. 11.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*, at pgs. 11-12.

²¹ *Id.*, at pg. 12.

²² *Id.*, at pg. 11.

Currently, there are 180 Certified Jail Inspectors and 54 Certified Medical Inspectors.²³

Inspections

The officer-in-charge²⁴ of a facility must contract with or arrange for a FMJS Certified Inspector(s) to inspect all county and municipal jail facilities, at least annually.²⁵ The cost of the inspection is absorbed by the sheriff or the county, in the case of a county-operated jail.²⁶ The inspection is comprised of two components: correctional operations and medical compliance.²⁷

The FMJS Certified Jail or Medical Inspector must report his or her findings to the officer-in-charge, within 14 days of the inspection.²⁸ If the report indicates one or more violations, the officer-in-charge must develop a corrective action plan, which specifies the corrective action to be taken, the timetable for such corrective action, and the resources to be used. The officer-in-charge must forward a copy of the corrective action plan to the FMJS Chairperson within 30 days after receipt of the inspection report. The inspection report, responses, and other documents prepared by the FMJS inspector(s) or officer-in-charge are public records and subject to review under ch. 119, F.S.²⁹

If action is not taken to correct violations, a facility may be subject to s. 951.23(6), F.S. Under this provision, if a court finds that a county or municipal detention facility does not meet minimum standards, it may order all or some of the prisoners to be removed and confined to another facility within the same county or municipality or in some other county or municipality. In such cases, the costs of maintaining the removed prisoners is borne by the county or municipality from which the prisoners have been removed.³⁰

Violations

Under the FMJS, there are two categories of violations: serious violations and notable violations. A serious violation is a violation or condition that appears to pose a substantial and immediate danger to the life, health, or safety of one or more prisoner or employee.³¹ A notable violation is any deficiency to the standards that is not a “serious violation.”³²

If a FMJS Certified Inspector observes a serious violation, he or she must immediately notify the officer-in charge of the violation and the duty to correct. The officer-in-charge must ensure corrective action be taken within 24 hours and must submit a report in response to the violation.

²³ Email from Matt Dunagan, Deputy Director of Operations, Florida Sheriffs Association (Jan. 21, 2022) (on file with the Senate Committee on Community Affairs).

²⁴ The “officer-in-charge” is the Sheriff, Chief Correctional Officer, or any correctional administrator appointed by a City or County Board of Commissioners.

²⁵ *Supra* note 12, at pg. 12. The annual inspection must be completed by December 31st each year.

²⁶ Email correspondence from Matt Dunagan, Deputy Executive Director of Operations, Florida Sheriffs Association, (Jan. 28, 2022) (on file with the Senate Committee on Criminal Justice).

²⁷ The units may not be self-inspected.

²⁸ *Supra* note 12, at pg. 14.

²⁹ *Id.*

³⁰ Section 951.23(6)(b), F.S.

³¹ *Id.*, at pgs. 8 and 14.

³² *Id.*, at pgs. 7 and 16.

A re-inspection must be completed within 48 hours of the time when the serious violation was first observed to determine whether it has been corrected. Examples of a serious violation include:

- Failure of the policy and procedure directives to contain emergency plans and tool, knife, and firearms control;
- Persons assigned to food service areas known to have or suspected of having communicable diseases, open wounds, sores, or respiratory infections;
- Failure to provide a modified diet when ordered by the health authority, if such denial would be immediately detrimental to the health and wellbeing of prisoner(s);
- Failure to provide separate storage for poisons and hazardous chemicals away from food;
- Failure to establish agreement with one or more health providers to provide emergency services;
- Failure to maintain first aid supplies on premises;
- Failure to have at least one staff member on duty trained in the delivery of first aid care and CPR;
- Permitting firearms and ammunition in secure areas of the facility except in the case of an emergency, and approved by the officer-in-charge;
- Failure to meet fire, safety, and prevention standards by a state certified fire inspector as being life threatening; and
- Failure to comply with the FMJS provisions related to restrictive housing of pregnant prisoners, a secondary means of egress or fire exit from each housing area and floor where inmates are housed, and prohibition on prisoners from supervising, controlling, exerting, or assuming any authority over other prisoners.³³

Inmate Commissary and Welfare Fund

Section 951.23(9), F.S., authorizes commissaries to be operated in detention facilities. If a commissary is established, an inmate welfare fund must also be established. Profits from the commissary must be used for overall inmate welfare, and an inmate welfare fund committee must recommend the expenditures that are to be made.³⁴ However, profits may also be used to pay for expenses related to such operation, including compensation for commissary employees and gratuities for prisoners who assist such employees.³⁵

III. Effect of Proposed Changes:

Definitions

The bill amends s. 951.23, F.S., to revise the definition of “county detention facility” to include facilities operated by either a board of county commissioners, a sheriff, or another entity. Similarly, the bill revises the definition of “municipal detention facility” to include facilities operated by a city or other entity.

³³ *Id.*, at pgs. 15-16.

³⁴ Section 951.23(9)(d), F.S.

³⁵ Section 951.23(9)(c), F.S.

Model Jail Standards

The bill repeals the current five-person workgroup, and establishes the seven-member Florida Model Jail Standards Working Group as the entity responsible for developing and maintaining model standards for county and municipal detention facilities. The FMJS Working Group is to be comprised of:

- Three currently elected sheriffs appointed by the Florida Sheriffs Association;
- A Florida-licensed physician with at least two years' experience in correctional health care appointed by the Florida Sheriffs Association;
- A currently elected county commissioner appointed by the Florida Association of Counties;
- An experienced jail administrator of a Florida county jail operated by a county, appointed by the Florida Association of Counties; and
- A Florida-licensed psychiatrist with at least two years' experience in correctional psychiatry, appointed by the Florida Association of Counties.

The bill requires every sheriff, county, city, or other entity that operates a county or municipal detention facility to adopt, at a minimum, the Working Group-approved FMJS, with respect to:

- The construction, equipping, maintenance, and operation of county and municipal detention facilities;
- The cleanliness and sanitation of the facilities;
- The number of prisoners who may be housed per specified unit of floor space;
- The quality, quantity, and supply of bedding;
- The quality, quantity, and diversity of food served and the manner in which food is served;
- The furnishing of medical attention and health and comfort items;
- The disciplinary treatment which may be meted out to prisoners;
- The confinement of prisoners by classification and providing, whenever possible, for classifications that separate males from females, juveniles from adults, and felons from misdemeanants.³⁶ Additionally, it should provide for the separation of special risk prisoners, such as the mentally ill, suicide risks, drug and alcohol addicts, sex deviants, and any other classification the local unit deems necessary. Special consideration must be given to the appropriate housing of pregnant women; and
- Additional standards relating to inspections, as discussed below.

The bill removes the criteria that those awaiting trial be separated from those who have been convicted.

Inspections

The bill establishes a system for municipal and county detention facilities to be inspected for compliance with the FMJS. The bill requires that the FMJS Working Group identify standards or conditions for which noncompliance is a serious or notable violation.

Under the bill, each county and municipal detention facility must be inspected biannually for compliance with the FMJS. One inspection must be announced, with reasonable advance notice of the date on which the inspection is to occur, and the other must be a limited, unannounced

³⁶ However, non-dangerous felons may be housed with misdemeanants.

inspection, with no advanced notice. The announced annual inspection must examine compliance with all of the FMJS. The unannounced inspection is limited to a review for serious violations. The inspections must be at least 120 days apart.

The bill prohibits a facility from refusing to be inspected or refusing access to the facility by FMJS inspectors. If a person in charge of a facility refuses to allow inspection or provide access to the facility, then his or her salary must be withheld for each day he or she refuses such inspection or access. The monies withheld must be deposited into the facility's inmate welfare fund. This penalty applies to any person refusing such inspection or access, regardless of whether the person is elected, appointed, or an employee of a county, city, or other political subdivision of the state.

If, during one of the inspections, a detention facility is found to be noncompliant with the FMJS for a notable violation, the facility must correct the noncompliance within 30 days. After the 30-day correction period or upon the facility notifying the FMJS Working Group that it has corrected its noncompliance, whichever is earlier, the facility must be re-inspected within 10 days. If upon re-inspection, the facility continues to be noncompliant, the facility has 15 days to correct the noncompliance and have a second re-inspection within 48 hours thereafter. If the facility continues to be noncompliant after the first and second re-inspection, then it will be subject to the penalties discussed below.

The bill requires a serious violation to be corrected within 24 hours and a re-inspection must occur within 48 hours after the serious violation was first observed. A re-inspection may occur prior to the expiration of the 24-hour period if the facility notifies the FMJS Working Group that it has cured the noncompliance. If upon re-inspection, the facility continues to be noncompliant, then it will be subject to the penalties discussed below.

Penalties for Noncompliance

The bill assigns the following penalties for noncompliance with the FMJS:

- If an annual inspection reveals that a detention facility is noncompliant with a notable violation and the noncompliance is corrected within the initial 30-day correction period, there is no penalty.
- If an annual inspection reveals that a detention facility is noncompliant with a notable violation and the noncompliance is not corrected within the initial 30-day correction period, the facility must pay the following amount into the facility's inmate welfare fund for each day that the facility is not in compliance with the FMJS:
 - \$500 per day of noncompliance for the 31st day through the 60th day;
 - \$1,000 per day of noncompliance for the 61st day through the 90th day; and
 - \$2,000 per day of noncompliance for the 91st day and all remaining days.
- If an annual inspection reveals that a detention facility is noncompliant with a serious violation and the noncompliance is corrected within 24 hours after its discovery, there is no penalty.
- If an annual inspection reveals that a detention facility is noncompliant with a serious violation and the noncompliance is not corrected within 24 hours after its discovery, the facility must pay \$2,000 per day that the facility remains noncompliant.

In addition to the above-listed penalties, if a second re-inspection for a notable violation or a re-inspection for a serious violation reveals that the detention facility continues to be noncompliant, the facility must cease operation of the detention facility within 14 days and must contract with one or more other detention facilities to house its prisoners until the facility is determined to be in compliance with the FMJS. The 14-day time period commences upon:

- The expiration of the appeal process, as provided in the FMJS;
- The facility failing to file a timely appeal; or
- The conclusion of an appeal process that results in a finding that the detention facility is noncompliant with the FMJS.

If the detention facility consists of separate detention campuses, only the campus that is determined to be noncompliant must cease operations. The receiving facility must be in compliance with the FMJS and the noncompliant facility is responsible for the costs accrued by the receiving facility for housing its prisoners. The bill provides that the penalty for noncompliance during a second re-inspection for a notable violation or a re-inspection for a serious violation may not be deemed to limit or prevent any other remedies or causes of action against a facility or an entity that operates a facility that may be brought under any other law, ordinance, or rule.

The bill provides the following definitions related to the FMJS:

- “County detention facility” has the same meaning as in s. 951.23, F.S.
- “Jail standards” means the Florida Model Jail Standards, established by the Working Group, as set forth in s. 951.23(4)(a), F.S.
- “Municipal detention facility” has the same meaning as in s. 951.23, F.S.
- “Notable violation” is any violation of the FMJS that is not a serious violation.
- “Serious violation” is any violation of the FMJS or other conditions or practices that appear to pose a substantial and immediate danger to the life, health, or safety of one or more inmates or employees.
- “Working Group” means the Florida Model Jail Standards Working Group, as provided in s. 951.23(4)(a), F.S.

The bill takes effect July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, section 18 (a) of the Florida Constitution provides in part that a county or municipality may not be bound by a general law requiring a county or municipality to spend funds or take an action that requires the expenditure of funds unless certain specified exemptions or exceptions are met. Under the bill, a county or municipality may need to expend funds to make improvements to a local detention facility in order to comply with the standards developed by the FMJS Working Group. Additionally, a county or municipality may be responsible for the cost of each inspection of a facility, which will occur biannually. Laws having an “insignificant fiscal impact” are exempt

from the mandate requirements, which for Fiscal Year 2021-2022 is forecast at approximately \$2.3 million.^{37, 38, 39}

If the bill does qualify as a mandate, in order to be binding upon cities and counties, the bill must contain a finding of important state interest and be approved by a two-thirds vote of the membership of each house.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The FMJS Working Group may incur administrative and operational costs related to the inspection of county and municipal detention facilities and the enforcement of the FMJS. Individuals who refuse to comply with the bill's inspection or access requirements, will be subject to a loss of wages.

C. Government Sector Impact:

County or municipal detention facilities who are not in compliance with the FMJS may incur costs associated with complying with the standards. According to the FSA, the sheriff offices and county-operated jails will continue to bear the costs of the

³⁷ FLA. CONST. art. VII, s. 18(d).

³⁸ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited February 15, 2022).

³⁹ Based on the Florida Demographic Estimating Conference's December 13, 2021 population forecast for 2022 of 22,247, 451. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited February 15, 2022).

inspections.⁴⁰ Since the bill requires biannual inspections, rather than the annual inspections under the current FJMS, the costs to these entities will likely increase.

VI. Technical Deficiencies:

It is unclear how the penalties assessed under the bill will be enforced if a county or municipal entity refuses or is unable to pay the fines, or refuses to withhold the wages of an individual who refuses to allow inspection or access to the detention facility.

VII. Related Issues:

Employers that fail to pay the earned wages of an employee in a timely manner may be subject to legal action under applicable state and federal wage laws.⁴¹ An employer who withholds an individual's wages may also be subject to a civil theft action.⁴²

VIII. Statutes Affected:

This bill substantially amends section 951.23 of the Florida Statutes.

This bill creates section 951.2302 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 Rules on February 15, 2022:

The committee substitute:

- Renames the Florida Model Jail Standards Commission as the Florida Model Jail Standards Working Group.
- Defines the terms “serious violation” and “notable violation.”
- Makes other non-substantive, technical, and organizational changes for clarity and readability.

- B. **Amendments:**

None.

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

⁴⁰ *Supra* note 26.

⁴¹ *See generally*, pt. I, ch. 448, F.S., and Fair Labor Standards Act, 29 U.S.C. s. 201, et.al.

⁴² *See* s. 772.11, F.S.