

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 7109 PCB CRJ 19-05 Criminal Justice Data Transparency
SPONSOR(S): Judiciary Committee, Criminal Justice Subcommittee, Grant, J.
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Criminal Justice Subcommittee	15 Y, 0 N	Poche	Hall
1) Appropriations Committee	29 Y, 0 N	Jones	Pridgeon
2) Judiciary Committee	17 Y, 0 N, As CS	Poche	Poche

SUMMARY ANALYSIS

The criminal justice system is the network and processes established to handle a criminal case, beginning with an arrest and ending with the disposition of the case. Several departments and agencies are involved in the system, each with its own protocols and procedure. To gauge the efficiency and effectiveness of the criminal justice system, as well as identify strengths and weaknesses, data must be collected consistently and comprehensively. With accurate, valid, and structured data, policymakers can make more informed decisions regarding the criminal justice system. Open data also provides transparency and understanding for the public.

In an effort to increase the collection and reporting of accurate and valid data in criminal justice, and promote transparency, in 2018, the Legislature passed and the Governor signed SB 1392 which, in part:

- Centralized the majority of criminal justice data by requiring the clerks of court, state attorneys, public defenders, county jail operators, and the Department of Corrections (DOC) to collect specific data elements and transmit it, on a monthly basis, to the Department of Law Enforcement (FDLE).
- Required FDLE to publish the data on the department's website and make it searchable, at a minimum, by data element, county, circuit, and unique identifier.
- Established a pilot project in the 6th Judicial Circuit to allow the clerk of court, the state attorney, the public defender, or a sheriff to enter into a Memorandum of Understanding with a national, nonpartisan, not-for-profit entity which provides data and measurement for county-level criminal justice systems to establish the duties and responsibilities of a data fellow, funded by the entity, to be embedded with the office or agency. The data fellow will assist with data extraction, validation, and quality and publish such data consistent with the terms of the memorandum. The data fellow will also assist the office or agency in compiling and reporting data to FDLE.

Based on the work and recommendations of FDLE and reporting agencies since July 2018, CS/HB 7109 adds data elements which must be captured and transmitted to FDLE. In addition, the bill revises existing definitions to reflect more accurate descriptions of collected data. The bill requires the Justice Administrative Commission (JAC) and criminal conflict regional counsel to report certain data elements to FDLE. Lastly, the bill moves the date on which FDLE must publish all data from all reporting agencies from July 1, 2019, to January 1, 2020.

To further ensure reported data is standardized, accurate, and reliable, the bill requires FDLE to procure, subject to appropriation, a uniform arrest affidavit (to be used by state, county, and municipal law enforcement agencies), a uniform criminal charge and disposition statute crosswalk table (to be used by state attorneys and jail administrators), and a uniform criminal disposition and sentencing statute crosswalk table (to be used by clerks of court), by January 1, 2020. The department must provide training to each agency on how to use the affidavit and crosswalk tables, as appropriate. By July 1, 2020, the bill requires each agency to use the appropriate affidavit or table.

The bill will have an indeterminate, but likely significant, fiscal impact on state and local governments by requiring, increasing, and modifying data collection and reporting requirements for the clerks of court, state attorneys, public defenders, county jail operators, DOC, FDLE, JAC, and criminal conflict regional counsel. While the bill requires FDLE to procure a uniform arrest affidavit and statute crosswalk tables for required use by law enforcement agencies, clerks of court, state attorneys, and jail administrators, as applicable, it is subject to appropriation for that purpose. If there is no appropriation, FDLE need not procure the affidavit or tables.

The bill is effective upon becoming a law.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h7109c.JDC

DATE: 4/17/2019

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Data collection is the process of gathering and measuring information on variables of interest, in an established systematic fashion, to answer research questions, test hypotheses, and evaluate outcomes.¹ In order for data to be effective, it must be accurate, reliable, and valid.² A strong foundation in research methods and data analysis techniques allows for evidence-based decisionmaking, greater understanding, and identifying strengths, weaknesses, or potential issues.³

Data Collection by Florida's Criminal Justice Agencies

Currently, Florida does not have a publicly accessible website containing comprehensive criminal justice data. Data is collected and maintained by several state departments, local agencies and local offices, including clerks of court, state attorney's offices, public defender's offices, county jails, and the Department of Corrections (DOC). Each entity collects and maintains data in different ways and for different purposes. As a result, available criminal justice data is fractured and unstructured.

Florida law currently requires some inter-agency data collection and data reporting requirements. However, the requirements do not apply to all agencies or cover the entire criminal justice process from arrest to disposition.

In 2018, the Legislature passed SB 1392 to standardize and consolidate the collection and reporting of criminal justice data and promote transparency. The law requires the clerks of court, state attorneys, public defenders, county jail operators, and the DOC to collect certain data elements and transmit them monthly to the Department of Law Enforcement (FDLE).⁴ FDLE must create a unique identifier for each criminal case, which identifies the person involved, and tracks that person's experience in the criminal justice system. Additionally, FDLE must publish the data on its department website and make it searchable by specified categories.⁵

Clerks of Court

The clerks of court use a secured single point-of-search database portal for statewide court case information, the Comprehensive Case Information System (CCIS).⁶ CCIS was implemented in 2002 as an initiative to view court case information across county and circuit lines.⁷ All clerks are statutorily required to participate in CCIS and submit data for criminal, civil, juvenile, probate and traffic cases.⁸ Section 28.24(12)(e), F.S. directs the clerks to maintain CCIS as the custodian of records generated by the system.

¹ Responsible Conduct of Research, Northern Illinois University, available at: https://ori.hhs.gov/education/products/n_illinois_u/dfont.html (last visited April 17, 2019).

² *Id.*

³ Kristie R. Blevings, Ph.D., Eastern Kentucky University, March 26, 2013, available at: <http://plsonline.eku.edu/insidelook/importance-research-and-analysis-policing> (last visited April 17, 2019).

⁴ S. 900.05, F.S.

⁵ *Id.* and s. 943.6871, F.S.

⁶ Comprehensive Case Information System access site, available at: <https://www.flccis.com/ocrs/login.xhtml> (last visited April 17, 2019).

⁷ Upgraded versions of this system have since been implemented in 2009 and again in 2016.

⁸ S. 28.2405, F.S.

CCIS collects the following data, searchable by name or case information:

- Individual name demographic information
- Case/charge information.
- Court events.
- Progress dockets.
- Financial (assessments/collections).
- Warrant/summons information.
- Sentencing information.
- Document images.⁹

CCIS contains approximately 150 million cases and 400 million names.¹⁰

There are approximately 80 governmental organizations that use CCIS, with over 45,000 active users.¹¹ These organizations include federal, state, and local level entities.¹² Each user or organization is assigned a security level that allows them to view certain data available on CCIS.¹³ For example, an assistant public defender may not have the same level of access as a deputy sheriff. Not all data elements are available to all users, and CCIS is not publicly available.

A government organization granted access to CCIS may use the database to search information on past or present cases. A user may search for information by using a person's name, social security number or date of birth.¹⁴ There is also an option to narrow the search field results to within a date range or specific county.¹⁵ In order to search by case number, the user will need to know the county where the case originated, the court case type, and the year.¹⁶ A user may also enter a party name to see if any active warrants are issued in a case.¹⁷

CCIS is limited to person and court case information, and allows a user to search a person's case history and the information within each case. However, CCIS is not interactive, meaning a user cannot search data using other elements, such as offense charges or race and ethnicity.

Below is a chart of organizations with over 100 users currently using CCIS:¹⁸

CCIS Users	
Organization	Active Users
Department of Children and Families	6825
County Sheriff	3650
Department of Corrections	3211
State Attorney	2349
Local Police	1972
U.S. Department of Homeland Security	1777
Department of Revenue	1665
Public Defender	1527
Judicial Circuits	928
Department of Juvenile Justice	706
Department of Law Enforcement	576

⁹ Florida Court Clerks & Comptrollers, *Criminal Court Case Data Collection*, power point presentation to House Judiciary Committee on November 14, 2017.

¹⁰ Id.

¹¹ Email from the Association of Court Clerks & Comptrollers, January 26, 2018.

¹² Supra, FN 7.

¹³ Id.

¹⁴ CCIS User Guide, February 21, 2017.

¹⁵ Id. at 5.

¹⁶ Id. at 9.

¹⁷ Id. at 10.

¹⁸ Supra, FN 9.

Department of Highway Safety and Motor Vehicles	504
Fish and Wildlife Commission	474
U.S. Probation Office	461
Attorney General	433
County Office	304
Department of Financial Services	297
Justice Administrative Commission	268
Department of Health	267
Highway Patrol	215
Department of Education	196
Department of Agriculture and Consumer Services	191
Guardian Ad Litem	180
Department of Business and Profession Regulation	178
FL District Court of Appeals	135
Offices of Criminal Conflict and Civil Regional Council	114
Commission on Offender Review	112

County Detention Facilities

A county detention facility is a 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 a crime.¹⁹

There are 67 county jail facilities in Florida:

- 59 jail facilities are operated by the sheriff's office.²⁰
- 7 jail facilities are operated by the county.²¹
- 1 jail facility is operated by a private company.²²

Data collection and storage by jail facilities varies greatly from county to county.²³ Larger jails, such as Miami-Dade and Duval, have data systems allowing for direct data input and report generation.²⁴ Smaller jails have created databases using Microsoft Access or other commercially available templates.²⁵

Administrators of county detention facilities are required by statute to collect and report to the Department of Corrections (DOC) the following information:

- The number of persons housed per day, admitted per month, and housed on the last day of the month, by age, race, and sex, who are:
 - Felons sentenced to cumulative sentences of incarceration of 364 days or less.
 - Felons sentenced to cumulative sentences of incarceration of 365 days or more.
 - Sentenced misdemeanants.
 - Awaiting trial on at least one felony charge.
 - Awaiting trial on misdemeanor charges only.
 - Convicted felons and misdemeanants who are awaiting sentencing.
 - Juveniles.
 - State parole violators.
 - State inmates who were transferred from a state correctional facility to a county detention facility.

¹⁹ S. 951.23(1)(a), F.S.

²⁰ Email from Florida Sheriffs Association, October 10, 2017.

²¹ Escambia, Gulf, Jefferson, Miami-Dade, Okaloosa, Orange, Osceola, and Volusia. Id.

²² Citrus county. Id.

²³ Florida Sheriffs Association, *Criminal Justice Data Collection*, Power Point presentation to Judiciary Committee on November 14, 2017.

²⁴ Id.

²⁵ Id.

- The number of persons housed per day, admitted per month, and housed on the last day of the month, by age, race, sex, county of citizenship, country of birth, and immigration status, classified as one of the following:
 - Permanent legal resident of the United States.
 - Legal visitor.
 - Undocumented or illegal alien.
 - Unknown status.
- The number of persons housed per day, and admitted per month by age, ace, and sex under part I of chapter 394, "The Florida Mental Health Act," or pursuant to chapter 397, "Substance Abuse Services."²⁶

DOC uses such data to analyze and evaluate county detention facilities.²⁷

Many jails also collect data relating to jail capacity, per diems, demographic data, criminal charges, custody levels, and medical information for internal purposes.²⁸ This data can be used to manage daily operations, including custody level and safety trends, verifying total jail costs and budgets, and ensuring proper staffing and training.²⁹

State Attorneys and Public Defenders

The roles, duties and obligations of state attorneys and public defenders are prescribed in parts II and III of ch. 27, F.S., respectively. 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, may collect data elements for internal purposes. However, this data is not publicly available or consistently shared among agencies.

Department of Corrections

The Offender Based Information System (OBIS) is the DOC data system.³⁰ OBIS is maintained by the Agency for State Technology's State Data Center and accessed by employees around the state.³¹ The data collected includes sentencing information and scoresheets from the clerks of court, the criminal history information from FDLE, and background information self-reported by inmates.³²

The data maintained in OBIS includes:

- **Sentencing Information:** offense of conviction, offense data, imposed date, presentence credit, sentence length, special provisions, county of conviction and scoresheet calculated points.
- **Criminal History Information:** arrest history, offense dates and dispositions.
- **Demographic and Background Information:** marital status, employment history and education.
- **Operational Information:** gang affiliation, substance abuse treatment needs, Tests of Adult Basic Education, spectrum assessment, job assignments, program participation, disciplinary reports and employer (for probationers).³³

²⁶ S. 951.23(2), F.S.

²⁷ S. 951.23(3), F.S.

²⁸ Supra, FN 21.

²⁹ Id.

³⁰ S. 20.315(10), F.S.

³¹ Florida Department of Corrections, *Overview of FDC Criminal Justice Data*, Power Point presentation to Judiciary Committee on November 14, 2017.

³² Id.

³³ Supra, FN 29.

The information in OBIS is shared with law enforcement and other state and federal agencies per statute, federal law or other directives, such as Memoranda of Understanding or Data Sharing Agreements.³⁴

The Bureau of Research and Data Analysis (Bureau) at DOC analyzes OBIS data to generate information for the department, staff, the Governor's office, the Legislature and other state agencies.³⁵ One of the reports issued by the Bureau is the recidivism rate.³⁶ DOC defines recidivism as a return to prison due to a new conviction or a violation of post-prison supervision, within three years of an inmate's prison release date.³⁷ DOC uses the data on recidivism to analyze factors that influence an inmate's likelihood to recidivate, as well as recidivism based on gender, race, and primary offenses.³⁸ A report issued in December 2017 examined recidivism from 2009 to 2015 and found:

- Female inmates' recidivism rate was 13.2% compared to male inmates' recidivism rate at 27.1%.
- Inmates with the primary offense of burglary were most likely to recidivate at 31%.
- Inmates with the primary offense of murder/manslaughter were least likely to recidivate at 18%.
- Inmates less than twenty-five years old were most likely to recidivate at a rate of 31%.
- Other factors that increases recidivism include homelessness, gang membership, and supervision following prison time.³⁹

Other reports and statistical information published by the Bureau include reports on the most common primary offenses committed by imprisoned inmates, inmate population by primary offense, and the per diem cost of each inmate.⁴⁰ Reports and statistics are updated on a yearly basis and the reports are publicly accessible; however, users are only able to download and view these reports.⁴¹ Users cannot search the data DOC collects to create the reports.

Data Transparency in Other Industries

Healthcare Industry

In 2016, the Legislature passed HB 1175, which promoted greater consumer access to health care price and quality information by requiring certain health care providers, insurers and health maintenance organizations (HMOs) to give that information to patients. The bill was in response to record numbers of newly-insured persons enrolling in both public and private health insurance and bearing a greater share of the health care costs associated with higher deductible health plans.⁴² Clear, factual information about the cost and quality of health care was necessary for consumers to select value driven health care options and for consumers and providers to be involved in and accountable for decisions about health and health care services⁴³. In order to reach this goal and promote consumer involvement, the bill required health care pricing and other data to be free, timely, reliable, and reflect individual health care needs and insurance coverage.⁴⁴

The bill created pre-treatment transparency obligations for hospitals, ambulatory surgical centers, health care practitioners providing non-emergency services in these facilities, and insurers and HMOs. Facilities must post online the average payments and payment ranges received for bundles of health care services defined by the Agency of Health Care Administration (AHCA).⁴⁵ The information must be

³⁴ Id.

³⁵ Florida Department of Corrections, *Bureau of Research and Data Analysis*.

³⁶ Florida Department of Corrections, *Florida Prison Recidivism Study*, December 2017.

³⁷ Id.

³⁸ Florida Department of Corrections, *Florida Prison Recidivism Report: Releases from 2009 to 2015*, December 2017.

³⁹ Id.

⁴⁰ Florida Department of Corrections, *Quick Facts about the Florida Department of Corrections*, December 2017.

⁴¹ Florida Department of Corrections, *Index to Statistics & Publications*.

⁴² Final Analysis of HB 1175, Florida House of Representatives Committee on Health & Human Services, April 15, 2016, at 2.

⁴³ Id.

⁴⁴ Id.

⁴⁵ Id. at 1.

searchable by consumers.⁴⁶ The facilities must also provide, within 7 days of a request, a written, good faith, personalized estimate of charges, including facility fees, using either bundles of health care services defined by AHCA or patient-specific information.⁴⁷ Facilities must inform patients of health care practitioners providing their nonemergency care in hospitals and these practitioners must publish information on their financial assistance policies and procedures.⁴⁸

A website is now available for all consumers to research and compare the cost of health care services and procedures in Florida.⁴⁹ Patients can search the information without a password or registration requirement.⁵⁰ As a result of the data collection and the requirement for public access, consumers now have access to a database that provides the average cost of health care service bundles for procedures and treatment.⁵¹ This tool empowers consumers to plan for health care and negotiate prices for medical services and treatment.

Transportation

The transportation industry continually collects and analyzes data in order to improve safety. In Florida, the Department of Transportation houses the Transportation Data and Analytics Office, which offers highway, traffic, multimodal, and freight and passenger data information.⁵² The goal of the office is to provide lawmakers and community leaders with evidence-based information to make transportation decisions and improve safety.⁵³ For example, the website offers a web-based mapping application that provides real-time traffic count information during emergencies such as hurricanes and wildfires.⁵⁴

Efforts to collect data are not limited to ground transportation. In 2015, Boeing donated \$7.5 million to establish a data analytics lab at Carnegie Mellon,⁵⁵ with the goal of improving flight experience and aircraft maintenance and design. Using data, a maintenance schedule for aircrafts can be based on actual flight history and component performance instead of historic norms.⁵⁶ This allows for automatic analysis of written reports for the evidence-based predictive maintenance of aircrafts.⁵⁷

Education

Many schools and education facilities have expanded the ways they use student data information to inform them on needed changes and ways to improve the education system.⁵⁸ Student data, as part of the education record from each student's school experience, is an important tool for teachers, administrators, districts and states to identify trends, show patterns, and evaluate the success of educational changes to ensure that new programs or services achieve the desired results.⁵⁹ Schools are using data to identify which students might be at risk of dropping out of school, or what groups of students may need more help in particular learning areas.⁶⁰ The information gathered from data can

⁴⁶ Id.

⁴⁷ Id.

⁴⁸ Id.

⁴⁹ Agency for Health Care Administration, Florida Health Price Finder, available at: <https://pricing.floridahealthfinder.gov/#>! (last visited April 12, 2019).

⁵⁰ Supra, FN 40 at 19.

⁵¹ Supra, FN 40 at 20.

⁵² The Florida Department of Transportation, *Transportation Data and Analytics Office*.

⁵³ Id.

⁵⁴ Id.

⁵⁵ Carnegie Mellon, *Boeing Join Forces on New Aerospace Data Analytics Lab*, September 30, 2015, available at: <https://www.lti.cs.cmu.edu/news/carnegie-mellon-boeing-join-forces-new-aerospace-data-analytics-lab> (last visited April 17, 2019).

⁵⁶ Aerospace Manufacture and Design, *Boeing establishes analytics lab at Carnegie Mellon*, October 7, 2015, available at: <http://www.aerospacemanufacturinganddesign.com/article/boeing-establishes-analytics-lab-carnegie-100715/> (last visited April 17, 2019).

⁵⁷ Supra, FN 2.

⁵⁸ Allie Bidwell, *More States are Collecting and Using Student Data to Improve Education*, November 19, 2013, available at: <https://www.usnews.com/news/articles/2013/11/19/more-states-are-collecting-and-using-student-data-to-improve-education> (last visited April 17, 2019).

⁵⁹ Elana Zeide, *19 Times Data Analysis Empowered Students and Schools*, March 2016.

⁶⁰ Id.

assist teachers in adjusting their plans and teaching style.⁶¹ Through data collection and analysis, policymakers can predict trends throughout the school year. For example, students score lower on standardized tests at the end of summer vacation than they do on the same test at the beginning of summer.⁶²

Data-Driven Decision Making in Other States and Organizations

Data-driven decision making in criminal justice is the objective, evidence-based decision process based on data collection. Data allows the public, as well as lawmakers, researchers, and analysts, to track how criminal cases are handled from arrest to post-conviction.⁶³ It allows users to break down data by race and ethnicity, gender, indigent status, age, offense type and attorney type. In addition to tracking the experience of offenders, data collection provides information on victims.⁶⁴ Data can project what demographic or age group is more likely to be targeted, which can assist lawmakers in developing preventative and safety measures for the community.⁶⁵

Hot Spot Policing

Data collection can also assist cities and municipalities in identifying "hot-spot" or high crime areas to focus on crime prevention and better policing.⁶⁶ Using accessible data, crime-mapping technologies can collect and analyze crime statistics so that police districts can produce information about the level, rate, and geographic location of crimes in any given area.⁶⁷ The data can assist law enforcement in formulating plans to reduce crime in certain areas and possibly even prevent crime before it occurs.⁶⁸

Police Data Initiative

Accessible and open data can also create trust among criminal justice agencies and the public. For example, since 2016, over 129 law enforcement agencies across the nation have adopted the Police Data Initiative (PDI).⁶⁹ The PDI supports local police departments in their efforts to increase transparency and accountability in order to build trust in their communities.⁷⁰ Jurisdictions participating in the PDI commit to releasing at least three policing datasets to the public.⁷¹ The datasets may include data on stops and searches, uses of force, officer-involved shootings, or other police actions.⁷² The following Florida jurisdictions are listed as participating in the PDI: Jacksonville Sheriff's Department, Gainesville Police Department, Orlando Police Department, Ft. Lauderdale Police Department, Doral Police Department, and Miami Beach Police Department.⁷³

⁶¹ Id.

⁶² Lindsey Ravis, *Curriculum News: Data Collection and Its Importance in the Classroom*, May 2013, available at: http://ensc.ss5.sharpschool.com/UserFiles/Servers/Server_3056961/File/Migration/Curriculum/Newsletters/Curriculum_Newsletter_-_May_2013.pdf (last visited April 17, 2019).

⁶³ MacArthur Foundation, *Enhancing Transparency in the Criminal Justice System*, May 23, 2017, available at: <https://www.macfound.org/press/publications/enhancing-transparency-criminal-justice-system/> (last visited April 17, 2019).

⁶⁴ Ryan Sibley, *The benefits of criminal justice data: Beyond policing*, Sunlight Foundation, available at: <https://sunlightfoundation.com/2015/05/01/the-benefits-of-criminal-justice-data-beyond-policing/> (last visited April 17, 2019).

⁶⁵ Bureau of Justice Statistics, *Data Collection: National Crime Victimization Survey (NCVS)*, available at: <https://www.bjs.gov/index.cfm?ty=dcdetail&iid=245> (last visited April 17, 2019).

⁶⁶ Andrew Guthrie Ferguson, *Crime Mapping and the Fourth Amendment: Redrawing "High-Crime Areas,"* 63 Hastings L.J. 179 (Dec. 2011).

⁶⁷ Id.

⁶⁸ Anthony Braga, Andrew Papachristos, David Hureau, *Hot spots policing effects on crime*.

⁶⁹ The Police Data Initiative, *Public Safety Open Data Portal*, available at: <https://www.policedatainitiative.org/> (last visited April 17, 2019).

⁷⁰ Id.

⁷¹ Id.

⁷² Id.

⁷³ Supra, FN 51.

North Carolina Jail Data

North Carolina recently highlighted the lack of a centralized database for jail operations and public awareness.⁷⁴ Without uniform collection of data across counties, the state found that the public and lawmakers were unable to determine the number of people in jail due to their inability to post bond, or the number of people pleading guilty to be released for time served.⁷⁵ To obtain this information, several state agencies are acting independently to track, and make publicly accessible, the data.⁷⁶

Criminal Conflict Regional Counsel

The Office of Criminal Conflict and Civil Regional Counsel (regional counsel's office) serves indigent clients who are entitled by law to taxpayer-funded legal representation in criminal or civil cases. The office of the public defender represents indigent criminal defendants. However, if the office determines that it cannot represent a defendant because of a conflict of interest, it must move the court to withdraw as counsel. If the court grants the motion, it will appoint the regional counsel's office to represent the client.

There are five regional counsel offices, one in each district of the district courts of appeal. Each regional counsel's office is headed by a regional counsel and includes several assistant regional counsel. Each regional counsel is appointed by the Governor to a 4-year term, subject to Senate confirmation, from a list of nominees provided by the Supreme Court Judicial Nominating Commission.

Justice Administrative Commission

The Justice Administrative Commission (JAC), created in 1965, provides administrative services on behalf of 49 judicial related offices (JROs), including the offices of state attorney and public defender, the offices of Criminal Conflict and Civil Regional Counsel and Capital Collateral Regional Counsel, and the Statewide Guardian ad Litem Program. The JAC provides accounting, budget, financial, and human resources services. The JAC also provides compliance and financial review of billings for services provided by private court-appointed attorneys representing indigent citizens and associated due process vendors.

The JAC is comprised of two state attorneys, appointed by the President of the Florida Prosecuting Attorneys Association, and two public defenders, appointed by the President of the Florida Public Defender Association, and is led by an Executive Director. As part of its service, the JAC maintains a registry of private attorneys willing to represent indigent clients in criminal court if the public defender and the office of criminal conflict regional counsel is unable to do so due to a conflict of interest.

Effect of Proposed Changes

Criminal Justice Data Collection and Transparency

Data Definitions

HB 7109 amends s. 900.05, F.S., to define new data elements and revise existing ones, and assigns each new data element to be collected and reported by certain state agencies or local offices or entities. The bill defines the following:

- "Annual felony conflict caseload" means the total number of felony cases the public defender or office of regional counsel has withdrawn from in the previous calendar year.

⁷⁴ Jordan Wilkie, *Media Hub: Holding Jails Accountable*, November 27, 2017, available at: <http://mediahub.unc.edu/housing-jails-accountable-wheres-data/> (last visited April 17, 2019).

⁷⁵ Id.

⁷⁶ Id.

- "Annual misdemeanor conflict caseload" means the total number of misdemeanor cases the public defender or office of regional conflict counsel has withdrawn from in the previous calendar year.
- "Charge disposition" means the final adjudication for each charged crime, including but not limited to dismissal by state attorney, dismissal by judge, acquittal, no contest plea, guilty plea, or guilty finding at trial.
- "Habitual violent offender flag" means an indication that a defendant is a habitual violent offender as defined in s. 775.084.
- "Prison releasee reoffender flag" means an indication that the defendant is a prison releasee reoffender as defined in s. 775.084 or any other statute.
- "Tentative release date" means the anticipated date that an inmate will be released from incarceration after the application of adjustments for any gain-time earned or credit for time served.
- "Three-time violent felony offender flag" means an indication that the defendant is a three-time violent felony offender as defined in s. 775.084 or any other statute.
- "Violent career criminal flag" means an indication that the defendant is a violent career criminal flag as defined in s. 775.084 or any other statute.

Data Collection—Justice Administrative Counsel and Criminal Conflict Regional Counsel

Section 900.05, F.S., centralizes the majority of criminal justice data by requiring the clerks of court, state attorneys, public defenders, administrators of county detention facilities, and DOC to collect specific data and transmit it to FDLE on a monthly basis. The bill requires JAC and each office of criminal conflict regional counsel to report the following data elements:

- JAC must collect the following data:
 - Number of private registry contract attorneys representing indigent adult defendants.
 - Annual felony caseload.
 - Annual misdemeanor caseload.
- Each office of criminal conflict regional counsel must report the following data:
 - Number of full-time and part-time assistant conflict regional counsel handling criminal cases.
 - Number of contract attorneys representing indigent adult defendants.
 - Annual felony caseload assigned to contract attorneys.
 - Annual misdemeanor caseload assigned to contract attorneys.
 - Annual felony and misdemeanor conflict caseload.
 - Annual felony and misdemeanor caseload declined or not accepted by criminal conflict regional counsel due to lack of qualified assistant conflict regional counsel or excessive caseload.

The bill revises several existing data element definitions, reflecting input and suggestions from FDLE, reporting agencies, and other stakeholders, to ensure accurate and comprehensive criminal justice data collection. The following are revised data definitions:

- "Annual felony caseload" and "annual misdemeanor caseload" must be reported by the criminal conflict regional counsel, and must be calculated at the end of the fiscal year and reported once at the beginning of the next fiscal year.
- "Case number" means the uniform case number assigned to a criminal case. The prior definition required the clerk of court to assign an identification case number. The uniform case number is a more standardized number that conveys additional information, such as the county where the case filed, and can be tracked across courts.

The bill requires the clerk of court to report the charge disposition for each criminal case. It also requires the clerk to collect and report following additional information:

- Charge disposition and disposition type.
- For a formal charge against a defendant, qualification for the following designations:

- Habitual violent felony offender flag.
- Prison releasee reoffender flag.
- Three-time violent felony offender flag.
- Violent career criminal flag.
- Deferred prosecution or pretrial diversion hearing dates.
- Sentence type and length, in years, months, and days.
- Tentative release date of an offender.

The PCB requires the state attorney to collect and report the deferred prosecution or pretrial diversion agreement data. It requires both the state attorney and public defender to collect and report the number of felony and misdemeanors cases in which each is conflicted out from participating in the case.

The bill requires a county detention facility to report identifying information for each inmate, including name, date of birth, race, ethnicity, gender, and the identification number assigned by the facility. DOC is required to collect each inmate's gender, highest education level, and the date he or she was incarcerated for the current term of incarceration.

Lastly, the bill requires the DOC to report, for each inmate, the digitized sentencing scoresheet prepared in accordance with s. 921.0024, F.S.

Noncompliance

Section 900.05, F.S., penalizes a clerk of court and a county detention facility that fails to collect and report data to FDLE. A clerk or facility that does not comply with the collection and reporting requirements is ineligible for state appropriations and any state grant program administered by FDLE or any other state agency for five years after the date of noncompliance. The bill applies the penalties to any reporting agency, including a state attorney, a public defender, DOC, JAC, and criminal conflict regional counsel, that fails to collect and report data to FDLE under the law.

Confidentiality

The bill confirms that all information collected by a reporting agency that is confidential and exempt when it is collected remains confidential and exempt when it is reported to FDLE under s. 900.05, F.S., and maintained by FDLE under s. 943.6871, F.S.

Data Reporting by FDLE

Section 900.05(4), F.S., requires FDLE to make publicly available all data received from reporting agencies by July 1, 2019. The bill extends the publishing date to January 1, 2020 to give FDLE and the reporting agency additional time to establish the database and make preparation to transmit and receive data as required under the law.

Uniform Arrest Affidavit and Uniform Crosswalk Tables

The bill requires FDLE to assist the Criminal and Juvenile Justice Information Systems Council to develop specifications by October 1, 2019, for a uniform arrest affidavit (to be used by each state, county, and municipal law enforcement agency), uniform criminal charge and disposition statute crosswalk table (to be used by each law enforcement agency, state attorney, and jail administrator), and a uniform criminal disposition and sentencing statute crosswalk table (to be used by each clerk of court). The uniform arrest affidavit must include, at a minimum, the following:

- Identification of the arrestee;
- Details of the arrest, including each charge;
- Details of each vehicle and item seized at the time of the arrest;
- Juvenile arrestee information; and

- Release information.

By January 1, 2020, subject to appropriation, FDLE must procure the uniform arrest affidavit and crosswalk tables. Following procurement and prior to implementation, the department must provide training to each law enforcement agency, clerk of court, state attorney, and jail administrator on using the affidavit and crosswalk tables, as appropriate.

By July 1, 2020, each law enforcement agency, clerk of court, state attorney, and jail administrator must use the uniform arrest affidavit and crosswalk tables, as applicable.

The bill provides an effective date of upon becoming a law.

B. SECTION DIRECTORY:

Section 1: Amends s. 900.05, F.S., relating to criminal justice data collection.

Section 2: Amends s. 943.6871, F.S., relating to criminal justice data transparency.

Section 3: Provides an effective date of upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill may have an indeterminate significant impact on state government agencies required to collect data due to the increased demand of transmitting data to FDLE. The department and agencies collect the majority of information required under the bill already. However, the fiscal impact may vary by agency based on its technical capabilities to meet the monthly transmission requirements. The additional data and transmission may require more workforce with the department and agencies, as well as updated or new technology.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill will have an indeterminate impact on county detention facilities due to the data elements required to be reported to FDLE that have been added or modified by the bill.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill requires counties or municipalities to take an action requiring the expenditure of funds. However, the bill is excepted from applicability of the municipality/county mandate provision in Article VII, section 18 of the State Constitution because the Legislature has specifically found an important state interest in implementing a uniform data collection process and promoting criminal justice data transparency.⁷⁷

2. Other:

None.

B. RULE-MAKING AUTHORITY:

FDLE has sufficient rule-making authority to implement the provisions of the bill that require the JAC and the offices of criminal conflict regional counsel to report certain data elements, and require other state and local agencies or departments to report additional data.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 26, 2019, the Criminal Justice Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment:

- Refined existing data elements based on continued input from stakeholders and reporting agencies.
- Deleted data elements as duplicative collection points, based on other sources of information identified by the stakeholders and the pilot program.
- Made non-substantive grammatical corrections and improved readability.

On April 16, 2019, the Judiciary Committee adopted a strike-all amendment and reported the bill favorable as a committee substitute. The strike-all amendment:

- Refined existing data elements based on continued input from stakeholders and reporting agencies.
- Added data elements for reporting agencies to collect, allowing for more comprehensive data reporting.
- Deleted certain data elements as duplicative collection points, based on other sources of information identified by the stakeholders and the pilot program over the past six months.
- Required FDLE and the Criminal and Juvenile Justice Information Systems Council to develop specifications by October 1, 2019, for a:
 - Uniform arrest affidavit, to be used by all state, county, and municipal law enforcement agencies;
 - Uniform criminal charge and disposition statute crosswalk table, to be used by all state attorneys and jail administrators; and
 - Uniform criminal disposition and sentencing statute crosswalk table, to be used by all clerks of court.

⁷⁷ S. 900.05(1), F.S.
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- Required FDLE to procure the affidavit and crosswalk tables by January 1, 2020, subject to appropriation.
- Made FDLE responsible for training each reporting agency on using the affidavit or crosswalk tables, as appropriate.
- Required each law enforcement agency, clerk of court, state attorney, and jail administrator to use the affidavit or crosswalk table, as appropriate, by July 1, 2020.
- Made non-substantive grammatical corrections and improved the readability of the statute.

This analysis is drafted to the committee substitute as passed by the Judiciary Committee.