

Tab 1	SB 146 by Bean (CO-INTRODUCERS) Bradley ; (Identical to H 00057) Appointment of Attorneys for Dependent Children with Special Needs
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Tab 2	CS/SB 152 by JU, Steube (CO-INTRODUCERS) Grimsley ; (Identical to CS/H 00055) Sale of Firearms
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Tab 3	SB 222 by Bean ; (Identical to H 00275) Guardian Ad Litem Direct-support Organization
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Tab 4	CS/SB 484 by CJ, Bradley ; Sentencing
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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
APPROPRIATIONS SUBCOMMITTEE ON CRIMINAL AND
CIVIL JUSTICE
Senator Brandes, Chair
Senator Bracy, Vice Chair

MEETING DATE: Thursday, December 7, 2017
TIME: 9:00 a.m.—12:00 noon
PLACE: Mallory Horne Committee Room, 37 Senate Office Building

MEMBERS: Senator Brandes, Chair; Senator Bracy, Vice Chair; Senators Baxley, Bean, Flores, Perry, and Rodriguez

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 146 Bean (Identical H 57)	Appointment of Attorneys for Dependent Children with Special Needs; Designating this act as the "Pro Bono Matters Act of 2018"; requiring the payment of due process costs of litigation of all pro bono attorneys appointed to represent dependent children with certain special needs, subject to appropriations and review for reasonableness, etc. JU 09/13/2017 JU 10/24/2017 Favorable ACJ 12/07/2017 Favorable AP	Favorable Yeas 6 Nays 0
2	CS/SB 152 Judiciary / Steube (Identical CS/H 55)	Sale of Firearms; Requiring Department of Law Enforcement procedures to allow the payment or transmittal of processing fees for criminal history checks of potential firearms buyers by electronic means; providing that criminal history check requests by licensed importers, manufacturers, and dealers to the department may be made by electronic means, etc. JU 11/07/2017 Fav/CS ACJ 12/07/2017 Favorable AP	Favorable Yeas 6 Nays 0
3	SB 222 Bean (Identical H 275, H 6021)	Guardian Ad Litem Direct-support Organization; Abrogating the future repeal of provisions related to the guardian ad litem direct-support organization, etc. CF 10/09/2017 Favorable ACJ 12/07/2017 Favorable AP	Favorable Yeas 6 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Appropriations Subcommittee on Criminal and Civil Justice
Thursday, December 7, 2017, 9:00 a.m.—12:00 noon

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	CS/SB 484 Criminal Justice / Bradley	Sentencing; Authorizing a court to sentence offenders to a county jail for up to 24 months under certain circumstances for offenses committed after a specified date; prohibiting an offender from receiving gain-time or other sentence credit that would result in the offender serving less than 85 percent of his or her sentence; providing that contracts are contingent upon an appropriation, etc. CJ 11/13/2017 Fav/CS ACJ 12/07/2017 Fav/CS AP	Fav/CS Yeas 6 Nays 0
5	Presentation of the Policy Recommendations from the Crime and Justice Institute		Presented
6	Discussion of the report by the Project on Accountable Justice (Florida State University): "Florida Criminal Justice Reform: Understanding the Challenges and Opportunities"		Presented
7	Presentation on Governor's Fiscal Year 2018-2019 Budget Recommendations: -The Department of Corrections -The Department of Juvenile Justice -The Department of Law Enforcement -The Department of Legal Affairs/Attorney General -The Florida Commission on Offender Review -State Courts -Public Defenders -State Attorneys -Regional Conflict Counsels -Statewide Guardian Ad Litem -Capital Collateral Regional Counsels -Justice Administrative Commission		Presented
Other Related Meeting Documents			

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 Appropriations Subcommittee on Criminal and Civil Justice

BILL: SB 146

INTRODUCER: Senators Bean and Bradley

SUBJECT: Appointment of Attorneys for Dependent Children with Special Needs

DATE: December 5, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Davis</u>	<u>Cibula</u>	<u>JU</u>	Favorable
2.	<u>Harkness</u>	<u>Sadberry</u>	<u>ACJ</u>	Recommend: Favorable
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 146 authorizes the payment of certain due process costs when a court-appointed pro bono¹ attorney represents a dependent child with special needs. These due process costs are the costs of court reporting and transcriptions, expert witnesses, mental health professionals, reasonable pretrial consultation fees and costs, and certain travel expenses.

Currently, a court-appointed pro bono attorney is not entitled to funds for due process costs. In contrast, a private court-appointed attorney who is paid for his or her services in these cases is permitted to access due process costs. Under the bill, the Justice Administrative Commission will review and pay due process costs for pro bono attorneys as it does for compensated attorneys under current law.

The bill is expected to increase the need for funding for due process costs associated with children with special needs represented by pro bono attorneys. Indirectly, this bill may reduce the need for funding relating to attorney fees if more pro bono attorneys are willing to represent children with special needs when due process costs are borne by the state.

The bill will take effect upon becoming law.

II. Present Situation:

Legal Representation for Dependent Children with Special Needs

In 2014, the Legislature determined that a dependent child with certain special needs is entitled to legal representation during all phases of a dependency case. This legal representation begins as early as when the child is removed from the home or the initial appointment is made and

¹ Pro bono is from the Latin phrase *pro bono publico* meaning “for the public good” and has come to mean uncompensated legal services performed for the public good. BLACK’S LAW DICTIONARY 1220 (10th ed. 2014).

continues through any appellate proceedings. The continuous legal representation permits the attorney to address the child's medical and related needs and ensures that the appropriate services and supports are obtained for the child to live successfully in the community.²

Dependent Children with Special Needs³

Section 39.01305(3), F.S., requires the court to appoint an attorney to represent a dependent child with certain special needs. A child has a qualifying special need if the child:

- Resides in a skilled nursing facility or is being considered for placement in a skilled nursing home;
- Is prescribed, but does not take, a psychotropic medication;
- Is diagnosed with a developmental disability;⁴
- Is being placed or considered for placement in a residential treatment center; or
- Is a victim of human trafficking.⁵

Procedure for Appointing an Attorney

The statutes establish priorities for selecting a court-appointed attorney to represent a dependent special needs child. In an effort to minimize expenses to the state, a pro bono attorney must first be sought to represent the child before a paid attorney or organization may be requested.

The court must request initially the Statewide Guardian Ad Litem Office to recommend an attorney who is willing to serve without compensation. If a pro bono attorney is available to serve within 15 days after the court's request, the court must appoint that attorney, thereby avoiding costs.⁶ However, if the Statewide Guardian Ad Litem office is unable to recommend an attorney within the 15-day period, the court may appoint a compensated attorney within that time period.⁷ Once the court appoints an attorney, the appointment continues until the attorney is permitted to withdraw, is discharged by the court, or the case is dismissed.⁸

An attorney or legal aid organization willing to serve for compensation is selected from a registry of names maintained by the chief judge in the circuit. These attorneys and organizations must be adequately compensated and provided with access to funding for expert witnesses, depositions, and other costs of litigation. The legal fees and compensation for litigation costs are

² Section 39.01305(1)(a)2., F.S.

³ Staff attempted to determine the current number of children who are classified as a "dependent child with disabilities." The information is not available from the Department of Children and Families. This number fluctuates regularly as children come in and out of care. However, recent data, collected at various times, has stated that approximately 12 children were in skilled nursing facilities, 265 children were diagnosed with developmental disabilities, and 130 children were in residential treatment centers. Staff was unable to discern how many children were not taking prescribed psychotropic medication or were victims of human trafficking.

⁴ A developmental disability is a disorder or syndrome attributable to intellectual disability, cerebral palsy, autism, spina bifida, Down syndrome, Phelan-McDermid syndrome, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely. s. 393.063(12), F.S.

⁵ Section 787.06(2)(d), F.S., defines human trafficking as the transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining another person to exploit that person.

⁶ Section 39.01305(4)(a), F.S.

⁷ *Id.*

⁸ Section 39.01305(4)(b), F.S.

subject to appropriations and subject to review by the Justice Administrative Commission⁹ for reasonableness. The attorney fees may not exceed \$1,000 per year per child.¹⁰ There is no statutory cap on the amount of due process costs that may be expended in a particular case. However, the funds to cover those costs, along with attorney fees, is subject to legislative appropriation expressly for those purposes.¹¹

Due Process Costs

These litigation costs are often referred to as “due process costs” and are defined to include the costs of court reporting and transcripts, witnesses, mental health professionals, reasonable pretrial consultation fees and costs, and certain travel expenses.¹² The attorney who serves for compensation is paid for his or her legal services, and the accompanying due process costs are reviewed and paid by the Justice Administrative Commission. In contrast, there is no statutory authority to pay the due process costs incurred when a pro bono attorney is involved. Accordingly, the pro bono attorney is not paid for his or her legal services, and the attendant costs are not paid by the Justice Administrative Commission.

The Justice Administrative Commission¹³ reports the following fiscal year payments for due process costs and attorney fees for dependent children with special needs:

Fiscal Year	Due Process Costs	Attorney Fees
2014-2015	\$6,402	\$761,024
2015-2016	\$3,606	\$1,133,682
2016-2017	\$16,998	\$1,642,510
Total	\$27,006	\$3,537,216

III. Effect of Proposed Changes:

SB 146 authorizes a court-appointed pro bono attorney who represents a dependent child with special needs to receive funding for due process costs. Payment of the case-related due process costs is subject to appropriations and review by the Justice Administration Commission.

The bill takes effect upon becoming a law.

⁹ The Justice Administrative Commission administratively serves the offices of the state attorneys, public defenders, and other judicial-related offices. The commission processes accounting, budget, financial, and human resource transactions for these offices. The commission also processes bills for services provided by private court-appointed attorneys who represent indigent defendants as well as for associated due process service vendors such as court reporters, investigators, and expert witnesses. According to commission staff, due process costs in private court-appointed cases may either be paid directly to the due process service provider or paid by the attorney and then reimbursed by the commission.

¹⁰ Section 39.01305(5), F.S.

¹¹ Section 39.01305(9), F.S.

¹² Section 29.007(3)-(7), F.S.

¹³ Justice Administration Commission, *Children With Special Needs - Cases Appointed and Payment by Fiscal Year as of September 8, 2017* (on file with the Senate Committee on Judiciary).

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

A pro bono attorney currently paying due process costs from the attorney's own resources may enjoy savings to the extent such due process costs will now be paid by the Justice Administrative Commission.

C. Government Sector Impact:

The bill is expected to increase the need for funding for due process costs associated with children with special needs represented by pro bono attorneys.

Indirectly, this bill may reduce the need for funding relating to attorney fees if more pro bono attorneys are willing to represent children with special needs when due process costs are borne by the state.¹⁴

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 39.01305 of the Florida Statutes.

¹⁴ Justice Administrative Commission, *Bill Analysis for Senate Bill 146* (Sept. 5, 2017) (on file with the Senate Committee on Judiciary).

IX. Additional Information:

- A. **Committee Substitute – Statement of Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

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

By Senator Bean

4-00234-18

2018146__

1 A bill to be entitled
 2 An act relating to appointment of attorneys for
 3 dependent children with special needs; providing a
 4 short title; amending s. 39.01305, F.S.; requiring the
 5 payment of due process costs of litigation of all pro
 6 bono attorneys appointed to represent dependent
 7 children with certain special needs, subject to
 8 appropriations and review for reasonableness;
 9 providing an effective date.

10

11 Be It Enacted by the Legislature of the State of Florida:

12

13 Section 1. This act shall be called the "Pro Bono Matters
 14 Act of 2018."

15 Section 2. Subsection (5) of section 39.01305, Florida
 16 Statutes, is amended to read:

17 39.01305 Appointment of an attorney for a dependent child
 18 with certain special needs.—

19 (5) Unless ~~Except if~~ the attorney has agreed to provide pro
 20 bono services, an appointed attorney or organization must be
 21 adequately compensated. All appointed attorneys and
 22 organizations, including pro bono attorneys, must be provided
 23 with access to funding for expert witnesses, depositions, and
 24 other due process costs of litigation. Payment of attorney fees
 25 and case-related due process costs are to an attorney is subject
 26 to appropriations and ~~subject to~~ review by the Justice
 27 Administrative Commission for reasonableness. The Justice
 28 Administrative Commission shall contract with attorneys
 29 appointed by the court. Attorney fees may not exceed \$1,000 per

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4-00234-18

2018146__

30 child per year.

31 Section 3. This act shall take effect upon becoming a law.

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The Florida Senate

Committee Agenda Request

To: Senator Jeff Brandes, Chair
Appropriations Subcommittee on Criminal and Civil Justice

Subject: Committee Agenda Request

Date: November 6, 2017

I respectfully request that **Senate Bill # 146**, relating to Appointment of Attorneys for Dependent Children with Special Needs, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in blue ink that reads "Aaron Bean".

Senator Aaron Bean
Florida Senate, District 4

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

12-7-17

Meeting Date

146 - Pro Bono Matter

222 - 050

Bill Number (if applicable)

Topic SB146 / 50222
PRO BONO MATTERS / 050

Amendment Barcode (if applicable)

Name ALAN ABRAMOVITZ

Job Title Executive Director

Address 600 CALHOUN

Phone 850-241-3232

Street
Tallahassee FL
City State Zip

Email Alan.Abramovitz@gal.hfl.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing GUARDIAN AD CITEM PROWM

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

12-7-2017
Meeting Date

146
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Brian Pitts

Job Title Trustee

Address 1119 Newton Ave S
Street

Phone 727/897-9291

St Petersburg FL 33705
City State Zip

Email justice2jesus@yahoo.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Justice-2-Jesus

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

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 Appropriations Subcommittee on Criminal and Civil Justice

BILL: CS/SB 152

INTRODUCER: Judiciary Committee and Senator Steube

SUBJECT: Sale of Firearms

DATE: December 5, 2017 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Davis</u>	<u>Cibula</u>	<u>JU</u>	Fav/CS
2.	<u>Sadberry</u>	<u>Sadberry</u>	<u>ACJ</u>	Recommend: Favorable
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 152 requires the Florida Department of Law Enforcement (FDLE) to provide additional payment options to licensed firearm dealers, importers, and manufactures when paying for criminal history record checks. Currently, the only payment methods authorized by administrative rule are personal checks, money orders, or cashier’s checks. The bill requires FDLE to establish, by rule, procedures that permit electronic payment or transmittal by debit cards, credit cards, or electronic funds transfers, but the payment methods are not limited solely to those options.

The bill also expands how firearms dealers may submit requests to FDLE for criminal history record checks. Currently, the law allows a licensed importer, manufacturer or dealer to submit requests by a toll-free telephone call. The bill allows a licensed importer, manufacturer or dealer to submit requests to FDLE by electronic means.

The FDLE indicates that it will absorb the costs it incurs implementing the provisions of this bill by diverting existing staff and resources.

II. Present Situation:

Statutory Procedure for Purchasing a Firearm

Before a potential buyer may purchase a firearm from a licensed importer, manufacturer, or dealer¹ in this state, several statutory requirements must be met.

- The potential buyer must first fill out a background check form² that is produced by the Federal Bureau of Alcohol, Tobacco, and Firearms.
- When the form is completed, the potential buyer must provide to the dealer a \$5 non-refundable processing fee for a criminal history check and also submit a valid government issued form of identification.
- The dealer submits the background information either in a toll-free phone call to an operator at the Florida Department of Law Enforcement Firearm Purchase Program or electronically to the program's website. The Firearm Purchase Program is operational from 9:00 a.m. to 9:00 p.m. each day of the year except Christmas and New Year's Day.
- FDLE makes a determination, based upon the criminal history background check, whether the potential buyer is eligible to purchase the firearm. FDLE must issue a transaction identification number to the dealer and a decision on whether the potential buyer is permitted to purchase a weapon. This dealer must then record that information on the buyer's background check form.³

Multiple weapons may be transferred in a single transaction. Accordingly, it is not necessary for a potential buyer to submit a separate form and pay an additional processing fee for each firearm transfer if several are made at that same time.

FDLE reports that there are currently 3,761 licensed firearm dealers in its database.⁴ Some dealers are large, interstate sporting goods stores, while some are small family businesses.

The \$5 Fee for Processing a Criminal History Background Check

FDLE is permitted to collect a fee of no more than \$8 from the potential buyer to cover the cost of processing the criminal history check.⁵ FDLE currently charges \$5 to process a criminal history check.⁶ Procedurally, FDLE hand processes and mails each licensed firearm dealer an invoice each month stating how much money is due. The dealer then sends a personal check, money order, or cashier's check to the Department of Revenue. There is currently no statutory authorization for a licensed dealer to pay these invoices electronically.

¹ Florida Administrative Rule 11C-6.009(1), *Sale and Delivery of Firearms*, uses the term "federally licensed firearm dealer" to include licensed firearm importers, licensed firearm manufacturers, and licensed firearm dealers. For ease of description in this analysis, the term "dealer" is used to also include importers and manufacturers.

² U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, Firearm Transaction Record (ATF F- 4473, Revised October 2016) available at <https://www.atf.gov/file/61446/download>.

³ See s. 790.065(1)(a), F.S., and Florida Department of Law Enforcement, *Firearm Purchase Process*, available at <http://www.fdle.state.fl.us/cms/FPP/FAQs1.aspx> (last visited Nov. 2, 2017).

⁴ Email from Brenda Johnson, FDLE Office of External Affairs (Nov. 1, 2017) (on file with the Senate Committee on Judiciary).

⁵ Section 790.065(1)(a)2., F.S.

⁶ Fla. Admin. Code R. 11C-6.009.

Criminal History Background Checks Performed in Recent Years

FDLE reports that 772,891 background checks were performed between January 2 and October 29, 2017. The table below shows the number of background checks⁷ performed in years 2010-2016.

Annual Background Checks Performed	
Year	Background Checks
2010	531,845
2011	606,655
2012	797,610
2013	869,560
2014	774,363
2015	885,086
2016	1,037,483

Invoices Mailed and Revenue Received

The table below shows the number of invoices mailed and the revenue received by the FDLE Firearm Purchase Program for Fiscal Year 2016-2017.⁸

Firearm Purchase Program Invoices and Revenue - Fiscal Year 2016-2017		
Month	Invoices Mailed	Revenue Received
July	2,071	\$520,092
August	2,050	487,685
September	2,020	442,541
October	2,016	376,299
November	2,069	438,117
December	2,123	336,219
January	2,021	376,710
February	2,043	484,297
March	2,084	373,384
April	2,001	390,330
May	1,999	435,183
June	1,984	462,313
	24,481	\$5,123,170

⁷ Email attachment from Brenda Johnson, FDLE Office of External Affairs (Oct. 31, 2017) (on file with the Senate Committee on Judiciary).

⁸ Email attachment from Brenda Johnson, FDLE Office of External Affairs (Oct. 31, 2017) (on file with the Senate Committee on Judiciary).

III. Effect of Proposed Changes:

This bill authorizes licensed firearm dealers, importers, and manufacturers to electronically submit payments when paying FDLE for criminal history record checks. The payment methods and associated procedures will be established by FDLE rules, but the rules must, at a minimum, allow for payments by debit and credit cards and electronic funds transfers.

The bill also allows firearms dealers to submit requests for criminal history record checks to FDLE by electronic means rather than only by calling the toll-free phone number. FDLE currently accepts the submission of electronic requests, so this statutory authorization essentially ratifies its current practice.

The bill takes effect October 1, 2018.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

By allowing licensed firearm dealers to pay their invoices electronically, the dealers will save postage and paper that are currently used for checks and envelopes.

C. Government Sector Impact:

The FDLE has indicated that it will cost \$420,000 and take 13 months to implement the provisions of this bill. However, FDLE states that it can absorb the costs by diverting existing staff and resources. By reassigning resources, existing agency project timelines will be extended.⁹

⁹ Florida Department of Law Enforcement, *2018 FDLE Legislative Bill Analysis, SB 152* (Revised November 9, 2017).

FDLE notes in its bill analysis that it will need additional time to complete the transition to accepting electronic payments and recommends that the effective date of the bill be delayed to April 1, 2019 to accommodate these changes.¹⁰

Many credit and debit card companies charge a vendor a specified percentage for completing each electronic transaction. Unless FDLE passes this convenience cost along to the dealers, FDLE may receive less money per transaction than when checks, money orders, and cashier's checks are used and no merchant fee is charged.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 790.065 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 Judiciary on November 7, 2017:

The committee substitute allows firearms dealers to submit requests for criminal history record checks to FDLE by electronic means and delays the effective date of the bill by 3 months to October 1, 2018.

- B. **Amendments:**

None.

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

¹⁰ *Id.* at 4.

By the Committee on Judiciary; and Senator Steube

590-01121-18

2018152c1

1 A bill to be entitled
 2 An act relating to the sale of firearms; amending s.
 3 790.065, F.S.; requiring Department of Law Enforcement
 4 procedures to allow the payment or transmittal of
 5 processing fees for criminal history checks of
 6 potential firearms buyers by electronic means;
 7 providing that criminal history check requests by
 8 licensed importers, manufacturers, and dealers to the
 9 department may be made by electronic means; providing
 10 an effective date.
 11
 12 Be It Enacted by the Legislature of the State of Florida:
 13
 14 Section 1. Paragraph (a) of subsection (1) of section
 15 790.065, Florida Statutes, is amended to read:
 16 790.065 Sale and delivery of firearms.—
 17 (1) (a) A licensed importer, licensed manufacturer, or
 18 licensed dealer may not sell or deliver from her or his
 19 inventory at her or his licensed premises any firearm to another
 20 person, other than a licensed importer, licensed manufacturer,
 21 licensed dealer, or licensed collector, until she or he has:
 22 1. Obtained a completed form from the potential buyer or
 23 transferee, which form shall have been promulgated by the
 24 Department of Law Enforcement and provided by the licensed
 25 importer, licensed manufacturer, or licensed dealer, which shall
 26 include the name, date of birth, gender, race, and social
 27 security number or other identification number of such potential
 28 buyer or transferee and has inspected proper identification
 29 including an identification containing a photograph of the

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590-01121-18

2018152c1

30 potential buyer or transferee.
 31 2. Collected a fee from the potential buyer for processing
 32 the criminal history check of the potential buyer. The fee shall
 33 be established by the Department of Law Enforcement and may not
 34 exceed \$8 per transaction. The Department of Law Enforcement may
 35 reduce, or suspend collection of, the fee to reflect payment
 36 received from the Federal Government applied to the cost of
 37 maintaining the criminal history check system established by
 38 this section as a means of facilitating or supplementing the
 39 National Instant Criminal Background Check System. The
 40 Department of Law Enforcement shall, by rule, establish
 41 procedures for the fees to be transmitted by the licensee to the
 42 Department of Law Enforcement. Such procedures must provide that
 43 fees may be paid or transmitted by electronic means, including,
 44 but not limited to, debit cards, credit cards, or electronic
 45 fund transfers. All such fees shall be deposited into the
 46 Department of Law Enforcement Operating Trust Fund, but shall be
 47 segregated from all other funds deposited into such trust fund
 48 and must be accounted for separately. Such segregated funds must
 49 not be used for any purpose other than the operation of the
 50 criminal history checks required by this section. The Department
 51 of Law Enforcement, each year ~~before~~ ~~prior to~~ February 1, shall
 52 make a full accounting of all receipts and expenditures of such
 53 funds to the President of the Senate, the Speaker of the House
 54 of Representatives, the majority and minority leaders of each
 55 house of the Legislature, and the chairs of the appropriations
 56 committees of each house of the Legislature. In the event that
 57 the cumulative amount of funds collected exceeds the cumulative
 58 amount of expenditures by more than \$2.5 million, excess funds

Page 2 of 3

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590-01121-18

2018152c1

59 may be used for the purpose of purchasing soft body armor for
60 law enforcement officers.

61 3. Requested, by means of a toll-free telephone call or
62 other electronic means, the Department of Law Enforcement to
63 conduct a check of the information as reported and reflected in
64 the Florida Crime Information Center and National Crime
65 Information Center systems as of the date of the request.

66 4. Received a unique approval number for that inquiry from
67 the Department of Law Enforcement, and recorded the date and
68 such number on the consent form.

69 Section 2. This act shall take effect October 1, 2018.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Judiciary, *Chair*
Banking and Insurance, *Vice Chair*
Agriculture
Appropriations Subcommittee on Finance and Tax
Appropriations Subcommittee on Pre-K - 12 Education
Children, Families, and Elder Affairs
Regulated Industries

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR GREG STEUBE

23rd District

November 7, 2017

The Honorable Jeff Brandes
Florida Senate
416 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Senator Brandes,

I am writing this letter because my bill, SB 152: Sale of Firearms, has been referred to the Senate Appropriations Subcommittee on Criminal and Civil Justice. I am respectfully requesting that you place the bill on your committee's calendar for the next committee week.

Thank you for your consideration. Please contact me if you have any questions.

Very respectfully yours,

A handwritten signature in blue ink, appearing to read "W. Gregory Steube".

W. Gregory Steube, District 23

REPLY TO:

- 6230 University Parkway, Suite 202, Sarasota, Florida 34240 (941) 342-9162
- 326 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5023

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

12/07/2017

Meeting Date

CS/SB-152

Bill Number (if applicable)

Topic Sale of Firearms

Amendment Barcode (if applicable)

Name Marion P. Hammer

Job Title _____

Address PO Box 1387

Phone 850-222-9518

Street

Tallahassee

FL

32302

Email _____

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing National Rifle Association & Unified Sportsmen of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

12-7-2017

Meeting Date

162

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name BRIAN PITS

Job Title Trustee

Address 1119 Newton Ave S

Phone 727/897-9291

Street

St Petersburg

FL

33705

Email justice2jesus@yahoo.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Justice-2-Jesus

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

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 Appropriations Subcommittee on Criminal and Civil Justice

BILL: SB 222

INTRODUCER: Senator Bean

SUBJECT: Guardian Ad Litem Direct-support Organization

DATE: December 5, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Preston</u>	<u>Hendon</u>	<u>CF</u>	Favorable
2.	<u>Harkness</u>	<u>Sadberry</u>	<u>ACJ</u>	Recommend: Favorable
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 222 removes the scheduled repeal date for the law governing the Guardian ad Litem Foundation. The Foundation serves as a direct-support organization for the Statewide Guardian ad Litem Office.

The bill has no impact on state revenues or expenditures.

The bill takes effect upon becoming law.

II. Present Situation:

Citizen-Support Organizations and Direct-Support Organizations

Citizen-support organizations (CSOs) and direct-support organizations (DSOs) are statutorily created non-profit organizations¹ authorized to carry out specific tasks in support of public entities or public causes. The function and purpose of a CSO or DSO are prescribed by an enacting statute and a written contract with the agency the CSO or DSO was created to support.²

CSO and DSO Transparency and Reporting Requirements

In 2014, the Legislature created s. 20.058, F.S., establishing a comprehensive set of transparency and reporting requirements for CSOs and DSOs.³ Specifically, the law requires each CSO and DSO to annually submit the following information to the appropriate agency by August 1:⁴

¹ Chapter 617, F.S.

² See ss. 14.29(9)(a), 16.616(1), and 258.015(1), F.S. See also Rules of the Florida Auditor General, *Audits of Certain Nonprofit Organizations* (effective June 30, 2017), Rule 10.720(1)(b) and (d) available at https://flauditor.gov/pages/pdf_files/10_700.pdf (last visited October 2, 2017).

³ Section 3, ch. 2014-96, L.O.F

⁴ Section 20.058(1), F.S.

- The name, mailing address, telephone number, and website address of the organization;
- The statutory authority or executive order that created the organization;
- A brief description of the mission of, and results obtained by, the organization;
- A brief description of the organization's plans for the next three fiscal years;
- A copy of the organization's code of ethics; and
- A copy of the organization's most recent Internal Revenue Service (IRS) Form 990.⁵

Additionally, the information submitted annually by a CSO or DSO must be available on the respective agency's website along with a link to the CSO or DSO's website, if one exists.⁶ Any contract between an agency and a CSO or DSO must be contingent upon the CSO or DSO submitting the required information to the agency and posting the information on the agency's website.⁷ The contract must include a provision for ending operations and returning state-issued funds to the state if the authorizing statute is repealed, the contract is terminated, or the organization is dissolved.⁸ If a CSO or DSO fails to submit the required information to the agency for two consecutive years, the agency head must terminate its contract with the CSO or DSO.⁹

By August 15 of each year, the agency must report to the Governor, President of the Senate, Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability the information submitted by each CSO or DSO along with the agency's recommendation and supporting rationale to continue, terminate, or modify the agency's association with the CSO or DSO.¹⁰

Any law creating, or authorizing the creation of a CSO or DSO must state that the authorization for the organization repeals on October 1 of the 5th year after enactment unless reviewed and reenacted by the Legislature. CSOs and DSOs in existence prior to July 1, 2014, must be reviewed by the Legislature by July 1, 2019.¹¹

CSO and DSO Audit Requirements

Section 215.981, F.S., requires each CSO and DSO with annual expenditures in excess of \$100,000 to provide for an annual financial audit of its accounts and records.¹² The audit must be conducted by an independent certified public accountant in accordance with rules adopted by the Auditor General and the state agency that created, approved, or administers the DSO or CSO. The audit report must be submitted within nine months after the end of the fiscal year to the Auditor General and to the state agency the CSO or DSO supports. Additionally, the Auditor

⁵ The IRS Form 990 is an annual information return required to be filed with the IRS by most organizations exempt from federal income tax under 26 U.S.C. 501. 26 C.F.R. 1.6033-2.

⁶ Section 20.058(2), F.S.

⁷ Section 20.058(4), F.S.

⁸ Chapter 2017-75, L.O.F.

⁹ Section 20.058(4), F.S.

¹⁰ Section 20.058(3), F.S.

¹¹ Section 20.058(5), F.S.

¹² The independent audit requirement does not apply to a CSO or DSO for a university, district board of trustees of a community college, or district school board. Additionally, the expenditure threshold for an independent audit is \$300,000 for a CSO or DSO for the Department of Environmental Protection and the Department of Agriculture and Consumer Services.

General may, pursuant to his or her own authority, or at the direction of the Legislative Auditing Committee, conduct audits or other engagements of a CSO's or DSO's accounts and records.¹³

CSO and DSO Ethics Code Requirement

Section 112.3251, F.S., requires a CSO or DSO to adopt a code of ethics. The code of ethics must contain the specified standards of conduct and disclosures provided in ss. 112.313 and 112.3143(2), F.S.¹⁴ A CSO or DSO may adopt additional or more stringent standards of conduct and disclosure requirements and must post its code of ethics on its website.¹⁵

The Guardian ad Litem Program

Florida's Guardian ad Litem Program (GAL Program) advocates for the best interests of children alleged to be abused, neglected, or abandoned who are involved in court proceedings. The GAL Program uses a team approach to represent children: GAL volunteers, Child Advocacy Managers (CAMs) and Child Best Interest (CBIs) Attorneys.¹⁶

Florida Statutes require that a guardian ad litem (GAL) be appointed at the earliest possible time in an abuse or neglect proceeding.¹⁷ The GAL is required to review all disposition recommendations and changes in placements, and must be present at all critical stages of the dependency proceeding or submit a written report of recommendations to the court.¹⁸ The GAL Program advocates on behalf of the child and monitors the child's safety and well-being, as well as significant changes in the parents' lives that could affect the child's safety.

Currently, there are more than 10,000 GAL volunteers, 175 CBI attorneys, 350 CAMs, 20 Circuit Directors and GAL staff representing the needs of thousands of dependent children. In the last 35 years, the GAL Program has had over 30,000 volunteers who have represented more than 250,000 children.¹⁹

The Guardian ad Litem Foundation

In 2007, the Legislature authorized the GAL Program to create a direct-support organization for the direct or indirect benefit of the Statewide Guardian ad Litem Office by conduct programs and activities; raising funds; request and receive grants, gifts, and bequests of moneys; and making expenditures to or for the direct or indirect benefit of the Statewide Guardian Ad Litem Office.²⁰

The GAL Program established the Florida Guardian ad Litem Foundation (Foundation) as its direct-support organization. The executive director of the Statewide GAL Office appoints the

¹³ Section 11.45(3), F.S.

¹⁴ Some of the standards of conduct and disclosures in ss. 112.313 and 112.3143(2), F.S., include misuse of public position, solicitation or acceptance of gifts, unauthorized compensation, and voting conflicts.

¹⁵ Section 112.3251, F.S.

¹⁶ Florida Guardian ad Litem Program, Annual Report, 2016, *A Voice Heard: Visualizing a Hopeful Future*, available at <http://guardianadlitem.org/wp-content/uploads/2014/08/GAL-Annual-Report-for-Print4.pdf>. (last visited October 2, 2017).

¹⁷ Section 39.822(1), F.S.

¹⁸ Section 39.822(4), F.S.

¹⁹ Florida Guardian ad Litem Program, Annual Report, 2016, *A Voice Heard: Visualizing a Hopeful Future*, available at <http://guardianadlitem.org/wp-content/uploads/2014/08/GAL-Annual-Report-for-Print4.pdf>. (last visited October 2, 2017).

²⁰ Section 39.8298, F.S.

members of the board of directors. The board of directors serves at the pleasure of the executive director in carrying out the mission of the DSO to provide additional resources for the GAL Program, its volunteers, and its affiliated circuit nonprofit organizations²¹ in order to promote guardian ad litem representation for abused, neglected and abandoned children in Florida's dependency system.²² The DSO is repealed on October 1, 2018 unless reviewed and saved from repeal by the legislature.²³

According to the Statewide GAL Program, the Foundation continues to provide support to the GAL Program and serves the critical function of soliciting and receiving grants and resources from private and philanthropic organizations for the Program and the children it represents. In addition, the Foundation conducts the following activities that further the Program's mission:

- Developing statewide partnerships;²⁴
- Publicizing the Program's mission to represent the best interests of children;
- Coordinating with and serving as a resource to the twenty non-profit organizations affiliated with the local GAL Programs;
- Enhancing opportunities for recruitment and retention of volunteers; and
- Offering supplemental training opportunities for volunteers.

For the tax period beginning July 1, 2016 and ending June 30, 2017, the Foundation reported total revenue of \$178,092 and total expenditures of \$153,467.²⁵

The Statewide Guardian ad Litem Program has stated that without the Foundation, the GAL Program would have fewer opportunities to educate, advocate, and support the needs of dependent children and the Program recommends the continuation of the Foundation as its Direct Support Organization.²⁶ The Foundation meets all of the statutory requirements.

III. Effect of Proposed Changes:

The bill removes the scheduled repeal date for the law governing the Guardian ad Litem Foundation. The Foundation serves as a direct-support organization for the Statewide Guardian ad Litem Office.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

²¹ Many of Florida's judicial circuits have non-profit organizations that raise money and sponsor activities for the local guardian ad litem program. Those include, but are not limited to, Northwest Guardian ad Litem Foundation, Guardian ad Litem Foundation – 20th Judicial Circuit, Guardian ad Litem Foundation of Florida's First Coast, Child Advocates II of Tallahassee, and Voices for Children.

²² Guardian ad Litem Foundation, Bylaws 2016, *available at*: <http://flgal.org/about/> (last visited October 3, 2017).

²³ Section 39.8298, F.S.

²⁴ Florida Statewide Guardian ad Litem Program, Annual Report of the Florida Guardian ad Litem foundation, August 10, 2017, *available at*: <http://flgal.org/wp-content/uploads/2017/07/GAL-Program-Report-to-Governor-re-Foundation-FINAL.pdf>. (last visited October 3, 2017).

²⁵ Internal Revenue Service, Form 990, Return of Organization Exempt From Income Tax, 2016.

²⁶ *Id.*

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Funding raised through the DSO will further the Guardian ad Litem Program's mission to represent the best interests of abused, abandoned, and neglected children.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends section 39.8298 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By Senator Bean

4-00290-18

2018222__

1 A bill to be entitled
 2 An act relating to the guardian ad litem direct-
 3 support organization; amending s. 39.8298, F.S.;
 4 abrogating the future repeal of provisions related to
 5 the guardian ad litem direct-support organization;
 6 providing an effective date.
 7
 8 Be It Enacted by the Legislature of the State of Florida:
 9
 10 Section 1. Subsection (8) of section 39.8298, Florida
 11 Statutes, is amended, and subsections (1) through (7) of that
 12 section are republished, to read:
 13 39.8298 Guardian ad litem direct-support organization.—
 14 (1) AUTHORITY.—The Statewide Guardian Ad Litem Office
 15 created under s. 39.8296 is authorized to create a direct-
 16 support organization.
 17 (a) The direct-support organization must be a Florida
 18 corporation not for profit, incorporated under the provisions of
 19 chapter 617. The direct-support organization shall be exempt
 20 from paying fees under s. 617.0122.
 21 (b) The direct-support organization shall be organized and
 22 operated to conduct programs and activities; raise funds;
 23 request and receive grants, gifts, and bequests of moneys;
 24 acquire, receive, hold, invest, and administer, in its own name,
 25 securities, funds, objects of value, or other property, real or
 26 personal; and make expenditures to or for the direct or indirect
 27 benefit of the Statewide Guardian Ad Litem Office.
 28 (c) If the executive director of the Statewide Guardian Ad
 29 Litem Office determines the direct-support organization is

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

4-00290-18

2018222__

30 operating in a manner that is inconsistent with the goals and
 31 purposes of the Statewide Guardian Ad Litem Office or not acting
 32 in the best interest of the state, the executive director may
 33 terminate the contract and thereafter the organization may not
 34 use the name of the Statewide Guardian Ad Litem Office.
 35 (2) CONTRACT.—The direct-support organization shall operate
 36 under a written contract with the Statewide Guardian Ad Litem
 37 Office. The written contract must, at a minimum, provide for:
 38 (a) Approval of the articles of incorporation and bylaws of
 39 the direct-support organization by the executive director of the
 40 Statewide Guardian Ad Litem Office.
 41 (b) Submission of an annual budget for the approval by the
 42 executive director of the Statewide Guardian Ad Litem Office.
 43 (c) The reversion without penalty to the Statewide Guardian
 44 Ad Litem Office, or to the state if the Statewide Guardian Ad
 45 Litem Office ceases to exist, of all moneys and property held in
 46 trust by the direct-support organization for the Statewide
 47 Guardian Ad Litem Office if the direct-support organization
 48 ceases to exist or if the contract is terminated.
 49 (d) The fiscal year of the direct-support organization,
 50 which must begin July 1 of each year and end June 30 of the
 51 following year.
 52 (e) The disclosure of material provisions of the contract
 53 and the distinction between the Statewide Guardian Ad Litem
 54 Office and the direct-support organization to donors of gifts,
 55 contributions, or bequests, as well as on all promotional and
 56 fundraising publications.
 57 (3) BOARD OF DIRECTORS.—The executive director of the
 58 Statewide Guardian Ad Litem Office shall appoint a board of

Page 2 of 4

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

4-00290-18

2018222__

59 directors for the direct-support organization. The executive
60 director may designate employees of the Statewide Guardian Ad
61 Litem Office to serve on the board of directors. Members of the
62 board shall serve at the pleasure of the executive director.

63 (4) USE OF PROPERTY AND SERVICES.—The executive director of
64 the Statewide Guardian Ad Litem Office:

65 (a) May authorize the use of facilities and property other
66 than money that are owned by the Statewide Guardian Ad Litem
67 Office to be used by the direct-support organization.

68 (b) May authorize the use of personal services provided by
69 employees of the Statewide Guardian Ad Litem Office. For the
70 purposes of this section, the term "personal services" includes
71 full-time personnel and part-time personnel as well as payroll
72 processing.

73 (c) May prescribe the conditions by which the direct-
74 support organization may use property, facilities, or personal
75 services of the office.

76 (d) Shall not authorize the use of property, facilities, or
77 personal services of the direct-support organization if the
78 organization does not provide equal employment opportunities to
79 all persons, regardless of race, color, religion, sex, age, or
80 national origin.

81 (5) MONEYS.—Moneys of the direct-support organization may
82 be held in a separate depository account in the name of the
83 direct-support organization and subject to the provisions of the
84 contract with the Statewide Guardian Ad Litem Office.

85 (6) ANNUAL AUDIT.—The direct-support organization shall
86 provide for an annual financial audit in accordance with s.
87 215.981.

4-00290-18

2018222__

88 (7) LIMITS ON DIRECT-SUPPORT ORGANIZATION.—The direct-
89 support organization shall not exercise any power under s.
90 617.0302(12) or (16). No state employee shall receive
91 compensation from the direct-support organization for service on
92 the board of directors or for services rendered to the direct-
93 support organization.

94 ~~(8) REPEAL.—This section is repealed October 1, 2018,~~
95 ~~unless reviewed and saved from repeal by the Legislature.~~

96 Section 2. This act shall take effect upon becoming a law.



The Florida Senate

Committee Agenda Request

To: Senator Jeff Brandes, Chair
Appropriations Subcommittee on Criminal and Civil Justice

Subject: Committee Agenda Request

Date: October 12, 2017

I respectfully request that **Senate Bill # 222**, relating to Guardian Ad Litem Direct-support Organization, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in blue ink that reads "Aaron Bean".

Senator Aaron Bean
Florida Senate, District 4



The Florida Senate

Committee Agenda Request

To: Senator Jeff Brandes, Chair
Appropriations Subcommittee on Criminal and Civil Justice

Subject: Committee Agenda Request

Date: November 15, 2017

I respectfully request that **Senate Bill # 222**, relating to Guardian Ad Litem Direct-support Organization, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in blue ink that reads "Aaron Bean".

Senator Aaron Bean
Florida Senate, District 4

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

146 - Pro Bond Matter

222 - 050

Bill Number (if applicable)

12-7-17

Meeting Date

SB146 / 50222

Topic

Pro Bond Matters / 050

Name

ALAN ABRAMOVITZ

Job Title

Executive Director

Address

600 CALIFORNIA

Street

Tallahassee

City

State

FL

Zip

Phone

850-241-3232

Email

Alan.Abramovitz@gal.hi.gov

Speaking:

For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing

GUARDIAN AD CITEM PROVERB

Appearing at request of Chair:

Yes No

Lobbyist registered with Legislature:

Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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 Appropriations Subcommittee on Criminal and Civil Justice

BILL: PCS/CS/SB 484 (452514)

INTRODUCER: Appropriations Subcommittee on Criminal and Civil Justice; Criminal Justice Committee; and Senator Bradley

SUBJECT: Housing of State Inmates

DATE: December 7, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cox</u>	<u>Jones</u>	<u>CJ</u>	<u>Favorable</u>
2.	<u>Forbes</u>	<u>Sadberry</u>	<u>ACJ</u>	<u>Favorable</u>
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 484 authorizes a court to sentence an offender to a term of imprisonment in the county jail, in the county where the offense was committed, for up to twenty-four months. A court can order such a sentence for offenses committed on or after July 1, 2018, if the offender's:

- Total sentence points score is more than 44 points, but less than or equal to 60 points;
- Primary offense is not a forcible felony, unless the primary offense is a third-degree felony under ch. 810, F.S. (burglary and trespass); and
- Primary offense is not subject to a minimum mandatory sentence of more than 24 months.

The bill authorizes the Department of Corrections (DOC) to transfer an inmate to a county jail if the inmate:

- Has less than 24 months remaining on his or her sentence; or
- Is a terminally ill inmate with less than 12 months to live.

The bill specifies that an inmate housed in a county jail is under the jurisdiction of the DOC and will be transferred to a DOC facility if the contract expires, terminates, or is not renewed. An inmate housed in a county jail can request to be transferred to a DOC facility if he or she is not receiving substantially similar services and programming as provided in a DOC facility.

The bill specifies contractual terms that must be included in a contract to house an inmate in a county jail. The contractual terms include, but are not limited to:

- Establishing the maximum number of beds and validated per diem rate;
- Providing a per diem reimbursement rate for the days an inmate is in the custody of the county jail, not to exceed \$60 per inmate;
- Requiring substantially similar services and programming for an inmate housed in a county jail as received by an inmate in a state facility;
- Establishing regular intervals for the county jail and the DOC to communicate information related to an inmate housed in a county jail; and
- Requiring the county jail to provide documentation to verify the expenses related to an inmate sentenced to the county jail.

The bill provides that a contract to house an inmate is contingent upon an appropriation by the legislature for the specific purpose of funding inmates housed in a county jail. Contracts are awarded on a first-come, first-served basis up to the maximum appropriation allowable.

The bill requires the DOC to transfer funds, consistent with the requirements of ch. 216, F.S., each time a contract to house inmates in a county jail is executed or ends. Prior to any transfers, the DOC must estimate the obligations of the contracted county beds to house inmates in a county jail to estimate that amount in which these obligations exceed the DOC per diems. The DOC must assume the maximum annual value of all contracts to house inmates in a county jail when determining the full use of funds.

To the extent the DOC contracts with counties to house inmates in a county jail and the average costs of those contracts exceed the average per diem costs incurred by the DOC to house the inmates in state facilities, the DOC will incur higher costs. Counties contracting with the DOC will experience an indeterminate fiscal impact, with higher revenues based on contract payments and higher costs based on the costs to house the inmates. See Section V. Fiscal Impact Statement.

The bill is effective October 1, 2018.

II. Present Situation:

Criminal Punishment Code

The Criminal Punishment Code¹ applies to sentencing for felony offenses committed on or after October 1, 1998. Criminal offenses are ranked in the “offense severity ranking chart” from level one (least severe) to level ten (most severe) and are assigned points based on the severity of the offense as determined by the Legislature.² If an offense is not listed in the ranking chart, it defaults to a ranking based on the degree of the felony.³

A defendant’s sentence is calculated based on points assigned for factors including: the offense for which the defendant is being sentenced; injury to the victim; additional offenses that the

¹ Sections 921.002-921.0027, F.S. See chs. 97-194 and 98-204, L.O.F. The Code is effective for offenses committed on or after October 1, 1998.

² Section 921.0022, F.S.

³ Section 921.0023, F.S.

defendant committed at the time of the primary offense; the defendant's prior record; and other aggravating factors. The points are added in order to determine the "lowest permissible sentence" for the offense.⁴ A judge cannot impose a sentence below the lowest permissible sentence unless the judge makes written findings that there are mitigating "circumstances or factors that reasonably justify the downward departure."⁵

The permissible sentence (absent a downward departure) for an offense ranges from the calculated lowest permissible sentence to the statutory maximum for the primary offense. The statutory maximum sentence for a first-degree felony is 30 years, for a second-degree felony is 15 years, and for a third degree felony is 5 years.⁶ The lowest permissible sentence in which total sentence points equal to or are less than 44 points is any nonstate prison sanction.⁷ If total sentence points exceed 44 points, the lowest permissible sentence in prison months is calculated by subtracting 28 points from the total sentence points and decreasing the remaining total by 25 percent.⁸

The lowest permissible sentence for a person who scores between 45 and 60 points ranges from 12.75 months to 24 months, respectively.

Placement of State Inmates in Local Detention Facilities

Section 921.188, F.S., permits the court to sentence an offender to a local detention facility as a condition of probation or community control for a felony offense if the offender scores between 40 and 52 points, or if the presumptive sentence is between 366 days and 22 months,⁹ and there is a contract between the DOC and the chief correctional officer for the applicable county.¹⁰ Section 921.188, F.S., provides that the contract:

- May include all operational functions or only housing (such as staffing and medical) costs;
- Must include the per diem or partial per diem reimbursement payable by the DOC; and
- Per diem must not exceed the per diem published in the DOC's most recent annual report.

⁴ Section 921.0024, F.S.

⁵ Section 921.0026, F.S.

⁶ Section 775.082, F.S.

⁷ Section 921.0042(2), F.S.

⁸ Florida Department of Corrections and the Office of State Courts Administrator, *Florida Criminal Punishment Code Scoresheet Preparation Manual*, July 1, 2016, at p. 20, available at http://www.dc.state.fl.us/pub/sen_cpcm/cpc_manual.pdf (last visited on November 6, 2017).

⁹ Section 921.188, F.S., went into effect on June 17, 1993, when the revised sentencing guidelines were established, but prior to the enactment of the Criminal Punishment Code in 1998. The 1994 revised sentencing guidelines assigned a point score to felony offenses and the presumptive sentence was determined by the total number of points. Section 921.188, F.S., authorizes a judge to sentence a person convicted of a felony offense, as defined in the former sentencing guidelines categories five through nine, to a local detention facility for the period of time equal to the offender's presumptive sentence.

¹⁰ Section 921.188, F.S.

Alternative Sentencing

An offender with a state prison sentence in excess of one year typically serves his or her sentence in a state correctional facility operated by the DOC;¹¹ however, other options are statutorily authorized and sometimes available. These include placement in a:

- Prison diversion program for offenders who meet certain criteria, including a requirement to have no more than 54 total sentence points;¹²
- Imprisonment in county jail if the total of the prisoner's cumulative sentences is not more than one year;¹³ or
- County work camp operated under a contractual agreement between the county and the state.¹⁴

Inmates Sentenced to the Department of Corrections

Contracting with Counties to House Inmates

Section 944.171, F.S., authorizes the DOC to contract with counties or other states to house inmates that have been committed to the DOC.¹⁵ Contracts must be competitively procured in accordance with s. 287.057, F.S.,¹⁶ and are entered into after the parties mutually agree upon the terms of the contract. The following contract terms must be considered by the county and the DOC include, but are not limited to, a contract termination date, provisions concerning the cost of inmate maintenance and extraordinary medical or dental expenses, provisions related to inmate employment, and waiver of extradition for inmates transferred out of Florida.¹⁷ Inmates placed in a county facility remain under the jurisdiction of the DOC.

The DOC does not currently have any contracts to house inmates with counties.¹⁸

Services and Programming Provided to Inmates

Chapter 944, F.S., requires the DOC to provide a variety of services and programming to inmates committed to the custody of the DOC, including:

- Substance abuse treatment programs;¹⁹

¹¹ Section 921.0024(2), F.S.

¹² Section 921.00241, F.S. The court may sentence the offender to a term of probation, community control, or community supervision with mandatory participation in a prison diversion program of the DOC.

¹³ Section 922.051, F.S.

¹⁴ Section 950.002, F.S.

¹⁵ Section 944.171(1) and (2), F.S.

¹⁶ Section 287.057, F.S., provides for the competitive solicitation processes to be used by the state of Florida in conducting state business. Specifically, s. 287.057(1), F.S., provides for invitations to bid, requests for proposals, and invitations to negotiate.

¹⁷ Section 944.171(2)(a), F.S.

¹⁸ Florida Department of Corrections, *Senate Bill 484 Analysis*, at p. 3 (November 8, 2017) (on file with the Senate Committee on Criminal Justice)(hereinafter cited as "The DOC SB 484 Analysis").

¹⁹ Section 944.473(2), F.S., requires each inmate to be assessed to determine if he or she qualifies to receive mandated substance-abuse treatment while incarcerated. The DOC provides four levels of inmate substance abuse programming, including intensive outpatient, residential therapeutic community, program centers, and work release centers. In FY 2015-16, a total of 12,234 inmates participated in some form of substance abuse treatment. See Department of Corrections, *Annual*

- Transitional services;²⁰
- Educational and vocational programs;²¹ and
- Faith- and character-based programs.²²

These services and programs provide inmates with skills and tools to assist with an inmate's successful transition into the community upon release.²³

Determining an Inmate's Classification Level

Section 944.1905, F.S., requires each inmate placed in the custody of the DOC to be classified or reclassified based upon the inmate's risk level. An inmate's initial classification is determined by a number of factors including, but not limited to, length of sentence, criminal history, any history of violence, and escape history.²⁴

Classification levels impact the facility placement and programming that an inmate is eligible to participate in while incarcerated.²⁵

Conditional Medical Release

Conditional Medical Release (CMR) is a discretionary release of inmates who are "terminally ill" or "permanently incapacitated" and who are not a danger to others.²⁶ The Commission on Offender Review (commission) reviews eligible inmates for release under the CMR program. Eligible inmates include inmates that are designated by the DOC as a:

- "Permanently incapacitated inmate," which is an inmate who has a condition caused by injury, disease, or illness which, to a reasonable degree of medical certainty, renders the inmate permanently and irreversibly physically incapacitated to the extent that the inmate does not constitute a danger to herself or himself or others; or
- "Terminally ill inmate," which is an inmate who has a condition caused by injury, disease, or illness which, to a reasonable degree of medical certainty, renders the inmate terminally ill to

Report, Fiscal Year 2015-2016, p. 21, http://www.dc.state.fl.us/pub/annual/1516/FDC_AR2015-16.pdf (last visited December 7, 2017)(hereinafter cited as "Annual Report").

²⁰ Sections 944.701-944.708, F.S., provide for a variety of transitional services that are used to increase the likelihood that an inmate will not recidivate upon release from prison. Some of the transitional services include: release orientation programming, including, but not limited to, employment skills, and money management skills; basic support services upon release; a 100-hour transition course that covers job readiness and life management skills; and post release services such as substance abuse counseling, family counseling, and employment support programs.

²¹ Section 944.801, F.S., requires the DOC to operate the Correctional Education Program, which oversees the educational and vocational training for the DOC. In FY 2015-16, the DOC had 24,053 inmates participating in educational programs (18,734 in academic programs and 5,319 in vocational programs); 5,563 inmates were enrolled in General Education Development (GED) classes and 1,312 GED diplomas were awarded. Annual Report, at p. 9.

²² Section 944.803, F.S., encourages the DOC to operate faith- and character-based facilities, which emphasize the importance of personal responsibility, meaningful work, education, substance abuse treatment, and peer support.

²³ Annual Report at p. 21.

²⁴ Florida Department of Corrections, *Inmate Orientation Handbook, Reception Center Processing*, revised December 2, 2016, p. 8, <http://www.dc.state.fl.us/pub/files/Inmate%20Orientation%20Handbook.pdf> (last visited December 5, 2017)(hereinafter referenced as "Inmate Handbook") See also Section 944.1905(1)-(3), F.S.

²⁵ Inmate Handbook at p. 7.

²⁶ Florida Commission on Offender Review, *Release Types, Post Release*, <https://www.fc.or.state.fl.us/postrelease.shtml#conditionalMedicalRelease> (last visited December 7, 2017).

the extent that there can be no recovery and death is imminent, so that the inmate does not constitute a danger to herself or himself or others.²⁷

The release of an inmate on CMR is for the remainder of the inmate's sentence and requires that periodic medical evaluations at intervals determined by the commission at the time of release.²⁸ If an inmate's medical condition changes improves to the extent that he or she no longer qualifies for CMR, the commission can order that the inmate be transferred back to a DOC facility to serve the remainder of the sentence.²⁹

III. Effect of Proposed Changes:

The bill creates two new provisions that allow inmates that otherwise qualify for placement in a DOC facility to be housed in a county jail.

Sentencing of Specified Felony Offenders to a County Jail under s. 921.188, F.S.

The bill amends s. 921.188, F.S., authorizing a court to sentence an offender to a term of imprisonment in the county jail, in the county where the offense was committed, for up to twenty-four months. A court can order such a sentence for offenses committed on or after July 1, 2018, if the offender's:

- Total sentence points score is more than 44 points, but less than or equal to 60 points;
- Primary offense is not a forcible felony, unless the primary offense is a third degree felony under ch. 810, F.S. (burglary and trespass); and
- Primary offense is not subject to a minimum mandatory sentence of more than 24 months.

As a condition of the offender's sentence to a county jail, the court must order that the offender:

- Is placed under the jurisdiction of the DOC while in the county jail;
- Must serve the remainder of his or her sentence in a DOC facility if the contract expires, terminates, or is not renewed; and
- May request to be transferred to a DOC facility if he or she is not receiving services and programming that are substantially similar to those provided in a DOC facility.

The bill also provides that a felony offense for which an inmate is sentenced to a county jail be considered to be a prior felony commitment at a state or federal correctional institution for the purposes of ss. 944.291, 947.1405, and 948.12, F.S.

Transferring of Specified Inmates from the DOC to a County Jails under s. 944.172, F.S.

The bill creates s. 944.172, F.S., authorizing the DOC to transfer an inmate to a county jail if the inmate:

- Has less than 24 months remaining on his or her sentence; or
- Is a terminally ill inmate with less than 12 months to live.

²⁷ Section 947.149(1), F.S.

²⁸ Section 947.149(4), F.S.

²⁹ Section 947.149(5), F.S.

An inmate who has less than 24 months remaining on his or her sentence is eligible to be transferred to a county jail in the county where he or she will reside upon release. A terminally ill inmate can be transferred to a county jail in the county where his or her family resides for the remainder of his or her imprisonment or life, whichever occurs first.

The bill defines “terminally ill inmate” as an inmate who has a condition caused by injury, disease, or illness, which, to a reasonable degree of medical certainty, renders the inmate terminally ill to the extent that there can be no recovery and death is expected within 12 months. A terminally ill inmate transferred to a DOC facility does not have to be reviewed and approved by the commission as required by CMR and regardless of the amount of time remaining on the sentence. A terminally ill inmate that is transferred to a county jail is eligible to be subsequently released on CMR in accordance with s. 947.149, F.S.

The DOC must transfer an inmate if the inmate is eligible under one of the above-listed criteria and qualifies under the contractual agreement between the DOC and the designated county of release. Additionally, an inmate transferred from the DOC to a county jail:

- Remains under the jurisdiction of the DOC;
- Must serve the remainder of his or sentence in a DOC facility if the contract expires, terminates, or is not renewed; and
- May request to be transferred back to a DOC facility if he or she is not receiving services and programming that are substantially similar to those provided in a DOC facility.

The bill provides the DOC with rule making authority to implement s. 944.172, F.S.

Contracts to House Inmates in a County Jail under ss. 921.188 and 944.172, F.S.

The court may only sentence an offender and the DOC may only transfer an inmate to a county jail if there is a contractual agreement between the chief correctional officer of the county and the DOC. The bill requires the DOC to enter into a contract to house inmates in the county jail if the county requests such a contract. A contract entered into between the county and the DOC must include specified contract terms:

- Establishing the maximum number of beds and validated per diem rate;
- Providing a per diem reimbursement rate for the days an inmate is in the custody of the county jail based on specified county annual per diem rates, not to exceed \$60 per inmate;
- Requiring substantially similar services and programming for an inmate sentenced to the county jail as received by an inmate in a state facility;
- Specifying the services and programming the county will provide to an inmate;
- Authorizing the county jail to contract with private providers to provide required services and programming;
- Establishing regular intervals for the county jail and the DOC to communicate information related to an inmate, including confinement status and relevant information related to calculating a tentative release date; and
- Requiring the county jail to provide documentation to verify the expenses related to an inmate housed in a county jail.

The bill provides that inmates housed in a county jail are able to earn gain-time and other sentence credit in a substantially similar manner as he or she would in a DOC facility. However, these inmates cannot earn gain-time or other sentence in a manner that would result in his or her release, before serving a minimum of 85 percent of the sentence imposed.

A contract to house an inmate in a county jail is contingent upon an appropriation by the legislature for the specific purpose of funding inmates housed in a county jail. Contracts must be awarded by the DOC on a first-come, first-served basis up to the maximum appropriation allowable. The "maximum appropriation allowable" means the sum of the appropriations made by the legislature to fund inmates housed in a county jail and the net amount of appropriations transferred to or from the State Inmates Housed in County Jail appropriation category for these contracts.

The bill requires the DOC to transfer funds from other appropriation categories within the Adult Male Custody Operations or the Adult and Youthful Offender Female Custody Operations budget entities to the State Inmates Housed in County Jail appropriation category each time the DOC executes a contract to house inmates in a county jail. These transfers must be consistent with the requirements of ch. 216, F.S., and in an amount necessary to satisfy the requirements of each executed contract, but not to exceed the DOC's average total per diem published for the preceding fiscal year for adult male custody or adult and youthful offender female custody inmates.

Prior to the transfer of any funds, the DOC is required to estimate the appropriation amount that is obligated for the county jail beds contracted under each provision to estimate the amount in which these obligations exceed the DOC's per diem for adult male and female inmates.

When an executed contract ends, the DOC is required to transfer funds from the State Inmates Housed in County Jail appropriation category to the other appropriation categories within the Adult Male Custody Operations or the Adult and Youthful Offender Female Custody Operations budget entities. These transfers are also prohibited from exceeding the DOC's average total per diem published for the preceding fiscal year for adult male custody or adult and youthful offender female custody inmates for each county jail bed contracted.

The bill requires the DOC to assume maximum annual value of each executed contract to house inmates in a county jail when determining the full use of funds appropriated to ensure that the maximum appropriation allowable is not exceeded. All contractual per diem rates to house an inmate in a county jail and all per diem rates used by the DOC must be validated by the Auditor General before payments are made.

Additionally, contracts entered into transfer state inmates from the DOC to a county jail must:

- Specify whether the county will accept the transfer of terminally ill inmates;
- Designate the classification levels that the county will accept for transfer; and
- Provide for the delivery and retaking of inmates.

The bill is effective October 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Local Governments

It is unknown to what extent county jails have available capacity to house additional inmates. It is also unknown how many counties will elect to contract with the state to house inmates that have sentences greater than 366 days.

To the extent county jails have available capacity and counties elect to contract with the state, the counties will receive funds to house the inmates, potentially resulting in some savings for the counties.

State Government Expenditures

To the extent counties contract with the state to provide housing for state inmates and the costs paid under such contracts exceed the DOC per diem rate, the costs incurred by the DOC to incarcerate new inmates will increase due to the higher per diem for community placements. In addition, upon execution of a contract, it is anticipated the funds would be transferred from other appropriation categories within the Adult Male and Adult and Youthful Female budget entities to cover the departmental per diem for these inmates and the difference would be provided through a new appropriation in the, "State Inmates Housed in County Jail" category.

The Criminal Justice Impact Conference (CJIC) met on March 2, 2017 and reviewed SB 1068 (2017), which is similar to this bill, and found that the bill will result in an

unquantifiable decrease in prison beds operated by the DOC.³⁰ The CJIC further commented that given the specific provisions of the bill, the budgetary impact (increased costs to house offenders in county jails) will potentially exceed the capital and operating impact costs for the DOC (decreased number of prison beds needed) adopted by the CJIC.³¹

State Government Revenues

- The bill authorizes a county jail to contract with a privately operated community release and transition center to provide the required services to transferred inmates. This should not affect the community release centers' contracts.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill requires the contract between a county and the DOC to establish a per diem rate not to exceed \$60 per inmate. The DOC's average adult male custody per diem is \$48.17 and the average female custody per diem is \$58.37.³² This "full" per diem includes expenditures for security and other support staff, utilities, maintenance, insurance, medical, and education. However, when changes that impact the inmate population do not require the opening or closure of an additional housing unit, the "variable" per diem rate of \$15.91 more accurately reflects the cost associated with housing an inmate.³³ The variable per diem rate includes costs more directly aligned with individual inmate care such as medical, food, inmate clothing, and personal care items.³⁴

The bill does not provide for the use of these different per diem rates and only allows for a contracted per diem rate that does not exceed \$60. Therefore, if the number of inmates housed in a county jail has a minimal impact on state inmate populations, the DOC will be responsible for paying the county jails the contracted per diem rate rather than the "variable" per diem rate of \$15.91 it would pay for the inmate to be housed in a state facility. Additionally, the bill requires the DOC to transfer funds to the State Inmates Housed in County Jail appropriation category from other appropriation categories in an amount up to the full per diem rate. If the bill's prison bed impact does not cause the closure of a dorm or facility, the DOC could be required to transfer the full per diem rate even though the DOC would only be expending the variable or dorm per diem rate with the inmate remaining in a DOC facility.

³⁰ See Office of Economic and Demographic Research, <http://edr.state.fl.us/Content/conferences/criminaljusticeimpact/adoptedimpacts.cfm> (last visited November 8, 2017). The Criminal Justice Impact Conference defines a "negative indeterminate bed impact" to mean an unquantifiable decrease in prison beds.

³¹ *Id.*

³² *Id.*

³³ *Id.* at p. 6.

³⁴ *Id.* at p. 7.

The DOC found, based on FY 2016-17 inmate admissions, that approximately 4,200 inmates would be eligible to be sentenced to a county jail. Of that 4,200 inmates, seven percent are work release inmates. The per diem rate for the DOC-operated community release centers for FY 2015-16 was \$34.35.³⁵

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 921.188 and 947.149.

This bill creates section 944.172 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.)

Recommended CS/CS by Appropriations Subcommittee on Criminal and Civil Justice on December 7, 2017:

The committee substitute:

- Creates s. 944.172, F.S., authorizing an inmate with less than 24 months left on his or her sentence or an terminally ill inmate to be transferred a county jail;
- Requires an inmate eligible for the transfer to a county jail be transferred if he or she is also eligible under the terms of the contract;
- Specifies that an inmate may only be housed in a county jail if there is a contractual agreement between the DOC and the county;
- Defines the terms “terminally ill inmate” and “maximum appropriation allowable;”
- Excludes terminally ill inmates transferred to a county jail from the requirements of s. 947.149, F.S.;
- Specifies that an inmate transferred to a county jail remains under the jurisdiction of the DOC;
- Provides an inmate housed in a county jail is eligible to substantially similar opportunities to earn gain time or other sentence credit as an inmate in a state facility;
- Permits an inmate housed in a county jail to request to be transferred to a DOC facility if he or she is not receiving substantially similar services as an inmate in a state facility;
- Requires an inmate housed in a county jail be transferred to a DOC facility if the contract between the DOC and the county is terminated for any reason;
- Specifies that a felony offense for which an offender is sentenced to county jail is considered a prior felony commitment at a state or federal correctional institution for the purposes of ss. 944.291, 947.1405, and 948.12, F.S.;
- Requires specific terms in a contract to house inmates in a county jail;
- Provides contracts to house inmates in a county jail are contingent upon an appropriation by the legislature;

³⁵ *Id.*

- Requires the DOC to transfer funds, consistent with the requirements of ch. 216, F.S., each time a contract to house inmates in a county jail is executed or ends;
- Specifies, prior to any transfers, the DOC must estimate the obligations of the contracted county beds to house inmates in a county jail to estimate that amount in which these obligations exceed the DOC per diems; and
- Requires the DOC to assume the maximum annual value of all contracts to house inmates when determining the full use of funds.

CS by Criminal Justice on November 13, 2017:

For offenses committed on or after July 1, 2018, the committee substitute amends s. 921.188, F.S.:

- Authorizing a court to sentence an offender to a county jail for up to 24 months if the offender's:
 - Total sentence points score is more than 44 points, but less than or equal to 60 points;
 - Primary offense is not a forcible felony, unless the primary offense is a third degree felony burglary or trespass; and
 - Primary offense is not subject to a mandatory minimum sentence of more than 24 months.
- Providing that a court may only sentence an offender to a county jail if the DOC and the county have a contractual agreement;
- Requiring an offender to be under the jurisdiction of the DOC as a condition of the sentence;
- Requiring an offender to be transferred to a DOC facility if the contract between the DOC and the county is terminated for any reason prior to the completion of the sentence;
- Requiring the DOC to enter into a contract with the county if the county requests a contract;
- Specifying that the contract must establish the maximum number of beds and the validated per diem rate;
- Creating a new appropriation category and requires funds to be appropriated in or transferred to the category to cover the costs of the contract; and
- Requiring that per diem rates be validated by the Auditor General prior to payments being made.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
12/07/2017	.	
	.	
	.	
	.	

Appropriations Subcommittee on Criminal and Civil Justice
(Brandes) recommended the following:

Senate Amendment (with title amendment)

Delete lines 67 - 123

and insert:

Corrections;

2. Serve the remainder of his or her sentence in a
Department of Corrections facility in the event a contract
between the chief correctional officer and the Department of
Corrections expires, terminates, or is not renewed during an
offender's sentence term; and



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11 3. May request to be transferred to a Department of
12 Corrections facility if he or she is not receiving services and
13 programming that are substantially equivalent to those that are
14 available in a Department of Corrections facility, including,
15 but not limited to, educational programing, vocational training,
16 faith and character based programming, health services, mental
17 health treatment and counseling, substance abuse treatment and
18 counseling, and transitional services.

19 (c) An offender sentenced to a county jail under this
20 section shall be afforded the same or substantially equivalent
21 opportunity to earn gain-time or other sentence credit, but may
22 not receive gain-time or other sentence credit in an amount that
23 would cause his or her sentence to expire, end, or terminate, or
24 that would result in his or her release, before serving a
25 minimum of 85 percent of the sentence imposed.

26 (d) A felony offense for which an inmate is sentenced to a
27 county jail under this section is considered to be a prior
28 felony commitment at a state or federal correctional institution
29 for the purposes of ss. 944.291, 947.1405, and 948.12.

30 (e)1. A court may only sentence an offender to a county
31 jail pursuant to this section if there is a contractual
32 agreement between the chief correctional officer of that county
33 and the Department of Corrections.

34 2. The Department of Corrections shall enter into a
35 contract that allows offenders to be sentenced to a county jail
36 pursuant to this section if the chief correctional officer of a
37 county requests the department to enter into such contract.

38 3. The contract must:

39 a. Establish the maximum number of beds and the validated



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40 per diem rate;

41 b. Provide a per diem reimbursement rate for the days an
42 inmate is in the custody of the county jail based on the
43 contracting county's most recent annual adult male custody or
44 adult female custody per diem rates, not to exceed \$60 per
45 inmate;

46 c. Require that inmates sentenced to a county jail receive
47 substantially equivalent services and programming as are
48 provided by the Department of Corrections in accordance with
49 chapter 944, including, but not limited to, educational
50 programming, vocational training, faith and character based
51 programming, health services, mental health treatment and
52 counseling, substance abuse treatment and counseling, and
53 transitional services;

54 d. Specify the services and programming the county will
55 provide to the inmates in accordance with sub-subparagraph c.;

56 e. Authorize a county jail to contract with a privately
57 operated community release and transition center to provide the
58 required services and programming to any inmates sentenced to a
59 county jail;

60 f. Establish regular intervals that the county jail and
61 Department of Corrections must share information related to an
62 inmate sentenced to a county jail under this section, including,
63 but not limited to, an inmate's confinement status and any
64 information related to the calculation of a tentative release
65 date; and

66 g. Require the county jail provide documentation to verify
67 the expenses related to an inmate sentenced to a county jail
68 under this section, including, but not limited to, the number of



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69 days an inmate is in the custody of the county jail.

70 (f) A contract executed under this section is contingent
71 upon an appropriation by the legislature for the specific
72 purpose of funding state inmates housed in county facilities.
73 Contracts must be awarded by the Department of Corrections on a
74 first-come, first-served basis up to the maximum appropriation
75 allowable. For purposes of this section, "maximum appropriation
76 allowable" means the sum of the appropriations made by the
77 legislature to fund state inmates housed in county facilities
78 and the net amount of appropriations transferred to or from the
79 State Inmates Housed in County Jail appropriation category for
80 contracts entered into under this section and s. 944.172.

81 (g) Each time the Department of Corrections executes a
82 contract pursuant to this section, the Department of Corrections
83 shall transfer funds, consistent with the requirements of
84 chapter 216, from other appropriation categories within the
85 Adult Male Custody Operations or the Adult and Youthful Offender
86 Female Custody Operations budget entities to the State Inmates
87 Housed in County Jail appropriation category in an amount
88 necessary to satisfy the requirements of each executed contract,
89 but not to exceed the Department of Corrections' average total
90 per diem published for the preceding fiscal year for adult male
91 custody or adult and youthful offender female custody inmates
92 for each county jail bed contracted. Before any appropriation is
93 transferred to the State Inmates Housed in County Jail
94 appropriation category, the Department of Corrections shall
95 estimate the appropriation amount that is obligated for the
96 county jail beds contracted under this section and s. 944.172 to
97 estimate the amount in which these obligations exceed the



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98 Department of Corrections' per diem for adult male and female
99 inmates.

100 (h) Each time a contract executed pursuant to this section
101 ends, the Department of Corrections shall transfer funds,
102 consistent with the requirements of chapter 216, from the State
103 Inmates Housed in County Jail appropriation category to the
104 other appropriation categories within the Adult Male Custody
105 Operations or the Adult and Youthful Offender Female Custody
106 Operations budget entities. Such transfer may not exceed the
107 Department of Corrections' average total per diem published for
108 the preceding fiscal year for adult male custody or adult and
109 youthful offender female custody inmates for each county jail
110 bed contracted.

111 (i) The Department of Corrections shall assume maximum
112 annual value of each contract entered into under this section
113 and s. 944.172 when determining the full use of funds
114 appropriated to ensure that the maximum appropriation allowable
115 is not exceeded.

116 (j) All contractual per diem rates under this section and
117 all per diem rates used by the Department of Corrections must be
118 validated by the Auditor General before payments are made.

119 Section 2. Section 944.172, Florida Statutes, is created to
120 read:

121 944.172 Housing of an inmate in a county jail.-

122 (1) (a) An inmate committed to the custody of the department
123 who has less than 24 months remaining on his or her sentence may
124 be transferred for the remainder of the term of imprisonment to
125 a county jail in the county where he or she will reside upon
126 release.



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127 (b)1. Notwithstanding s. 947.149 and regardless of the
128 length of imprisonment remaining on an inmate's sentence, a
129 terminally ill inmate that has less than 12 months to live may
130 be transferred to a county jail in the county where his or her
131 family resides for the remainder of the term of his or her
132 imprisonment or life, whichever occurs first. For purposes of
133 this section, "terminally ill inmate" means an inmate who has a
134 condition caused by injury, disease, or illness which, to a
135 reasonable degree of medical certainty, renders the inmate
136 terminally ill to the extent that there can be no recovery and
137 death is expected within 12 months.

138 2. A terminally ill inmate transferred to a county jail
139 does not have to be reviewed and approved by the Florida
140 Commission on Offender Review in accordance with s. 947.149.
141 However, an inmate transferred under this paragraph is still
142 eligible to be subsequently released from the county jail on
143 conditional medical release pursuant to s. 947.149.

144 (c) Any inmate transferred to a county jail under this
145 section remains under the jurisdiction of the department.

146 (2) Except as provided for in s. 947.149, an inmate
147 transferred to a county jail under this section shall be
148 afforded the same or substantially equivalent opportunity to
149 earn gain-time or other sentence credit, but may not receive
150 gain-time or other sentence credit in an amount that would cause
151 the inmate's sentence to expire, end, or terminate, or that
152 would result in the inmate's release, prior to serving a minimum
153 of 85 percent of the sentence imposed.

154 (3) (a) An inmate may only be transferred to a county jail
155 under this section if there is a contractual agreement between



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156 the chief correctional officer of that county and the
157 department.

158 (b) The department shall enter into a contract that allows
159 inmates to be transferred to a county jail pursuant to this
160 section if the chief correctional officer of a county requests
161 the department to enter into such contract.

162 (c) The contract must:

163 1. Establish the maximum number of beds and the validated
164 per diem rate;

165 2. Provide a per diem reimbursement rate for the days an
166 inmate is in the custody of the county jail based on the
167 contracting county's most recent annual adult male custody or
168 adult female custody per diem rates, not to exceed \$60 per
169 inmate;

170 3. Specify whether the county will accept the transfer of a
171 terminally ill inmate;

172 4. Designate the categories of inmate classification or
173 security level that will be accepted for transfer;

174 5. Provide for the delivery and retaking of inmates;

175 6. Require that inmates transferred to a county jail
176 receive substantially equivalent services and programming as are
177 provided by the department in accordance with chapter 944,
178 including, but not limited to, educational programing,
179 vocational training, faith and character based programming,
180 health services, mental health treatment and counseling,
181 substance abuse treatment and counseling, and transitional
182 services;

183 7. Specify the services and programming the county will
184 provide to the inmates in accordance with subparagraph 6.;



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185 8. Authorize a county jail to contract with a privately
186 operated community release and transition center to provide the
187 required services and programming to any inmates transferred to
188 a county jail;

189 9. Establish regular intervals that the county jail and the
190 department must share information related to an inmate
191 transferred to a county jail under this section, including, but
192 not limited to, an inmate's confinement status and any
193 information related to the calculation of a tentative release
194 date; and

195 10. Require the county jail to provide documentation to
196 verify expenses related to an inmate transferred to a county
197 jail under this section, including, but not limited to, the
198 number of days an inmate is in the custody of the county jail.

199 (4) The department shall transfer any inmate that is
200 eligible under subsection (1) if the inmate also qualifies under
201 the contractual terms mutually agreed to by the department and
202 the designated county of release.

203 (5) An inmate may request to be transferred back to a
204 department facility if he or she is not receiving the services
205 and programming that are substantially equivalent to those that
206 are available in a department facility, including, but not
207 limited to, educational programing, vocational training, faith
208 and character based programming, health services, mental health
209 treatment and counseling, substance abuse treatment and
210 counseling, and transitional services.

211 (6) The inmate shall be transferred back to a department
212 facility to serve the remainder of his or her sentence in the
213 event a contract between the chief correctional officer and the



214 department expires, terminates, or is not renewed during an
215 inmate's imprisonment in the county jail.

216 (7) (a) A contract executed under this section is contingent
217 upon an appropriation by the legislature for the specific
218 purpose of funding state inmates housed in county facilities.
219 Contracts must be awarded by the department on a first-come,
220 first-served basis up to the maximum appropriation allowable.
221 For purposes of this section, "maximum appropriation allowable"
222 means the sum of the appropriations made by the legislature to
223 fund state inmates housed in county facilities and the net
224 amount of appropriations transferred to or from the State
225 Inmates Housed in County Jail appropriation category for
226 contracts entered into under this section and s. 921.188.

227 (b) Each time the department executes a contract pursuant
228 to this section, the department shall transfer funds, consistent
229 with the requirements of chapter 216, from other appropriation
230 categories within the Adult Male Custody Operations or the Adult
231 and Youthful Offender Female Custody Operations budget entities
232 to the State Inmates Housed in County Jail appropriation
233 category in an amount necessary to satisfy the requirements of
234 each executed contract, but not to exceed the department's
235 average total per diem published for the preceding fiscal year
236 for adult male custody or adult and youthful offender female
237 custody inmates for each county jail bed contracted. Before any
238 appropriation is transferred to the State Inmates Housed in
239 County Jail appropriation category, the department shall
240 estimate the appropriation amount that is obligated for the
241 county jail beds contracted under this section and s. 921.188 to
242 estimate the amount in which these obligations exceed the



600470

243 department's per diem for adult male and female inmates.

244 (c) Each time a contract executed pursuant to this section
245 ends, the department shall transfer funds, consistent with the
246 requirements of chapter 216, from the State Inmates Housed in
247 County Jail appropriation category to the other appropriation
248 categories within the Adult Male Custody Operations or the Adult
249 and Youthful Offender Female Custody Operations budget entities.
250 Such transfer may not exceed the department's average total per
251 diem published for the preceding fiscal year for adult male
252 custody or adult and youthful offender female custody inmates
253 for each county jail bed contracted.

254 (d) The department shall assume maximum annual value of
255 each contract entered into under this section and s. 921.188
256 when determining the full use of funds appropriated to ensure
257 that the maximum appropriation allowable is not exceeded.

258 (e) All contractual per diem rates under this section and
259 all per diem rates used by the department must be validated by
260 the Auditor General before payments are made.

261 (8) The department may adopt rules to administer this
262 section.

263 Section 3. Subsection (6) of section 947.149, Florida
264 Statutes, is renumbered as subsection (7), and a new subsection
265 (6) is added to that section, to read:

266 (6) An inmate transferred to a county jail pursuant to s.
267 944.172(1)(b) does not have to be reviewed and approved by the
268 commission in accordance with this section and such transfer
269 does not exclude the inmate from subsequently being released
270 from imprisonment in accordance with this section.

271 Section 4. This act shall take effect October 1, 2018.



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

And the title is amended as follows:

Delete lines 2 - 14

and insert:

An act relating to housing of state inmates; amending s. 921.188, F.S.; authorizing a court to sentence offenders to a county jail for up to 24 months under certain circumstances for offenses committed after a specified date; requiring sentencing conditions; prohibiting an offender from receiving gain-time or other sentence credit that would result in the offender serving less than 85 percent of his or her sentence; providing applicability for inmates sentenced to a county jail; providing that contracts are contingent upon an appropriation; providing contractual requirements; requiring specific appropriations; providing for such appropriations; requiring the validation of per diem rates before payments are made; creating s. 944.172, F.S.; requiring the Department of Corrections to transfer state inmates who have less than 24 months remaining on a term of imprisonment to county jail under certain circumstances; defining a terminally ill inmate; requiring the department to transfer a terminally ill inmate to county jail under certain circumstances; ensuring an inmate earns substantially equivalent opportunities for gain-time or sentence credit; prohibiting an inmate from receiving gain-time or



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301 other sentence credit that would result in the inmate
302 serving less than 85 percent of his or her sentence;
303 providing that contracts are contingent upon an
304 appropriation; providing contractual requirements;
305 requiring specific appropriations; providing for such
306 appropriations; requiring the validation of per diem
307 rates before payments are made; amending s. 947.149,
308 F.S.; excluding a terminally ill inmate transferred to
309 a county jail from the review and approval process
310 conducted by the Commission on Offender Review;
311 renumbering sections; providing an effective date.

By the Committee on Criminal Justice; and Senator Bradley

591-01284A-18

2018484c1

1 A bill to be entitled
 2 An act relating to sentencing; amending s. 921.188,
 3 F.S.; authorizing a court to sentence offenders to a
 4 county jail for up to 24 months under certain
 5 circumstances for offenses committed after a specified
 6 date; requiring sentencing conditions; prohibiting an
 7 offender from receiving gain-time or other sentence
 8 credit that would result in the offender serving less
 9 than 85 percent of his or her sentence; providing that
 10 contracts are contingent upon an appropriation;
 11 providing contractual requirements; requiring specific
 12 appropriations; providing for such appropriations;
 13 requiring the validation of per diem rates before
 14 payments are made; providing an effective date.
 15
 16 Be It Enacted by the Legislature of the State of Florida:
 17
 18 Section 1. Section 921.188, Florida Statutes, is amended to
 19 read:
 20 921.188 Placement of certain state inmates in local
 21 detention facilities.-
 22 (1) For offenses committed on or after ~~Effective~~ June 17,
 23 1993 and before July 1, 2018, notwithstanding the provisions of
 24 ss. 775.08, former 921.001, 921.002, 921.187, 944.02, and
 25 951.23, or any other law to the contrary, a person whose
 26 presumptive sentence is 1 year and 1 day up to 22 months in a
 27 state correctional institution may be placed by the court into
 28 the custody of a local detention facility as a condition of
 29 probation or community control for a felony offense contained in

Page 1 of 5

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

591-01284A-18

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30 sentencing guidelines categories five through nine contained in
 31 Rules 3.701 and 3.988, Florida Rules of Criminal Procedure, or
 32 similar levels described in s. 921.0022, except for such person
 33 whose total sentence points are greater than 52 or less than 40.
 34 The court may place such person for the duration of the
 35 presumptive sentence. The court may only place a person in a
 36 local detention facility pursuant to this section if there is a
 37 contractual agreement between the chief correctional officer of
 38 that county and the Department of Corrections. The contract may
 39 include all operational functions, or only housing wherein the
 40 department would provide staffing and medical costs. The
 41 agreement must provide for a per diem or partial per diem
 42 reimbursement for each person placed under this section, which
 43 is payable by the Department of Corrections for the duration of
 44 the offender's placement in the facility. The full per diem
 45 reimbursement may not exceed the per diem published in the
 46 Department of Corrections' most recent annual report for total
 47 department facilities. This section does not limit the court's
 48 ability to place a person in a local detention facility for less
 49 than 1 year.
 50 (2) (a) For offenses committed on or after July 1, 2018,
 51 notwithstanding ss. 775.08 and 921.0024 or any other provision
 52 of law, a court may sentence an offender to a term in the county
 53 jail in the county where the offense was committed for up to 24
 54 months if the offender meets all of the following criteria:
 55 1. The offender's total sentence points score, as provided
 56 in s. 921.0024, is more than 44 points but no more than 60
 57 points.
 58 2. The offender's primary offense is not a forcible felony

Page 2 of 5

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

591-01284A-18 2018484c1

59 as defined in s. 776.08, except that an offender whose primary
 60 offense is a felony of the third degree under chapter 810 is
 61 eligible to be sentenced to a county jail under this subsection.

62 3. The offender's primary offense is not punishable by a
 63 minimum mandatory sentence of more than 24 months.

64 (b) As a condition of the sentence, the court shall order
 65 that the offender:

66 1. Be placed under the jurisdiction of the Department of
 67 Corrections; and

68 2. Serve the remainder of his or her sentence in a
 69 Department of Corrections facility in the event a contract
 70 between the chief correctional officer and the Department of
 71 Corrections expires, terminates, or is not renewed during an
 72 offender's sentence term.

73 (c) An offender sentenced to county jail under this section
 74 may not receive gain-time or other sentence credit in an amount
 75 that would cause his or her sentence to expire, end, or
 76 terminate, or that would result in his or her release, before
 77 -serving a minimum of 85 percent of the sentence imposed.

78 (d)1. A court may only sentence an offender to a county
 79 jail pursuant to this section if there is a contractual
 80 agreement between the chief correctional officer of that county
 81 and the Department of Corrections.

82 2. If the chief correctional officer of a county requests
 83 the Department of Corrections to enter into a contract that
 84 allows offenders to be sentenced to the county jail pursuant to
 85 paragraph (a), subject to the restrictions imposed in this
 86 paragraph and paragraphs (e) and (h), the Department of
 87 Corrections must enter into such a contract. The contract must

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88 specifically establish the maximum number of beds and the
 89 validated per diem rate. The contract must provide for per diem
 90 reimbursement for occupied inmate days based on the contracting
 91 county's most recent annual adult male custody or adult female
 92 custody per diem rates, not to exceed \$60 per inmate.

93 (e) A contract under this section is contingent upon a
 94 specific appropriation in the General Appropriations Act.
 95 Contracts must be awarded by the Department of Corrections on a
 96 first-come, first-served basis up to the maximum appropriation
 97 allowable in the General Appropriations Act for this purpose.
 98 The maximum appropriation allowable consists of funds
 99 appropriated in or transferred to the specific appropriation in
 100 the Inmates Sentenced to County Jail appropriation category.
 101 Before any transferred appropriation under this section, the
 102 Inmates Sentenced to County Jail appropriation category provides
 103 for estimated incremental appropriation for county jail beds
 104 contracted under this section in excess of the Department of
 105 Corrections' per diem for adult male and female inmates.

106 (f) The Department of Corrections shall transfer funds
 107 pursuant to s. 216.177 from other appropriation categories
 108 within the Adult Male Custody Operations or the Adult and
 109 Youthful Offender Female Custody Operations budget entities to
 110 the Inmates Sentenced to County Jail appropriation category in
 111 an amount necessary to satisfy the requirements of each executed
 112 contract, but not to exceed the Department of Corrections'
 113 average total per diem published for the preceding fiscal year
 114 for adult male custody or adult and youthful offender female
 115 custody inmates for each county jail bed contracted.

116 (g) The Department of Corrections shall assume maximum

591-01284A-18

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117 annual value of each contract when determining the full use of
118 funds appropriated to ensure that the maximum appropriation
119 allowable is not exceeded.

120 (h) All contractual per diem rates under this section and
121 all per diem rates used by the Department of Corrections must be
122 validated by the Auditor General before payments are made.

123 Section 2. This act shall take effect July 1, 2018.



The Florida Senate

Committee Agenda Request

To: Senator Jeff Brandes, Chair
Appropriations Subcommittee on Criminal and Civil Justice

Subject: Committee Agenda Request

Date: November 20, 2017

I respectfully request that **Senate Bill #484**, relating to Sentencing, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in black ink, appearing to read "Rob Bradley", written over a horizontal line.

Senator Rob Bradley
Florida Senate, District 5

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

12/7/17

Meeting Date

484

Bill Number (if applicable)

600470

Amendment Barcode (if applicable)

Topic _____

Name Nancy Daniels

Job Title Legislative Consultant

Address 103 N. Gadsden St

Street

Phone 850 488-6850

Tallahassee FL 32301

City

State

Zip

Email ndaniels@flpda.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Public Defender Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

12/7/17
Meeting Date

CS/SB 484
Bill Number (if applicable)

Topic Sentencing

Amendment Barcode (if applicable)

Name Phil Archer

Job Title State Attorney

Address 2725 Judge Fran Jamison

Phone (321) 637-5525

Viera Fl.
City State Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing State Attorney - 18th Judicial Circuit

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

12-7-2017
Meeting Date

484
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name BRIAN PITTS

Job Title Trustee

Address 1119 Newton Ave S.
Street

Phone 727/897-9291

St Petersburg FL 33705
City State Zip

Email justice2jesus@yahoo.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Justice-2-Jesus

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

12/7/17

Meeting Date

CS/SB 484

Bill Number (if applicable)

Topic Sentencing

Amendment Barcode (if applicable)

Name Scott McCoy

Job Title Senior Policy Counsel

Address P.O. Box 10788
Street

Phone 334-224-4309

Tally FL 32302
City State Zip

Email Scott.McCoy@splcenter.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Southern Poverty Law Center

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

Criminal Justice Policy Analysis

Appropriations Subcommittee on Criminal and
Civil Justice

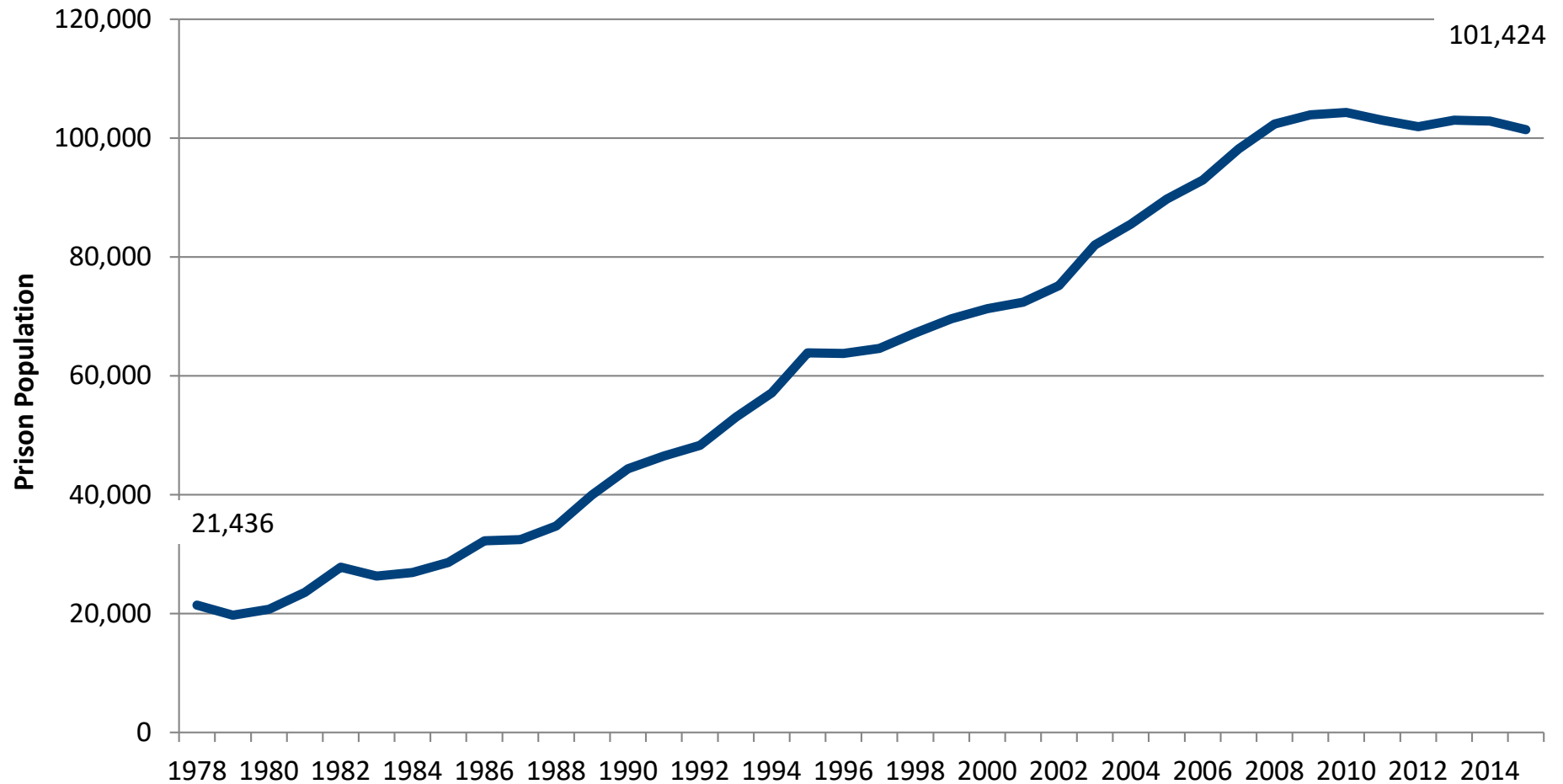
December 2017

Agenda

- The presentation will focus on three areas of Florida's criminal justice system:
 - Sentencing
 - Release
- Follow-up questions
- Data and current policy review
- Research on what does and does not work
- Examples from other states
- Policy options for Florida

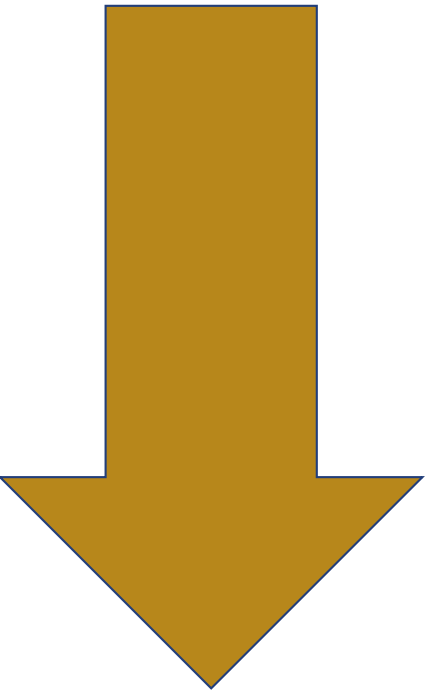
Florida's Prison Population Grew 373% Since 1978

Florida Prison Population, 1978-2015

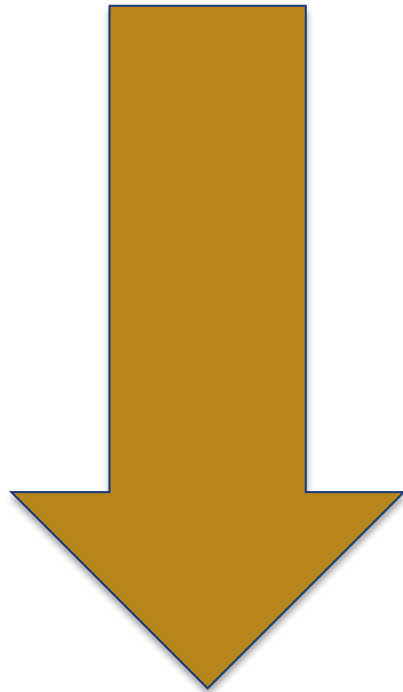


Summary of Changes

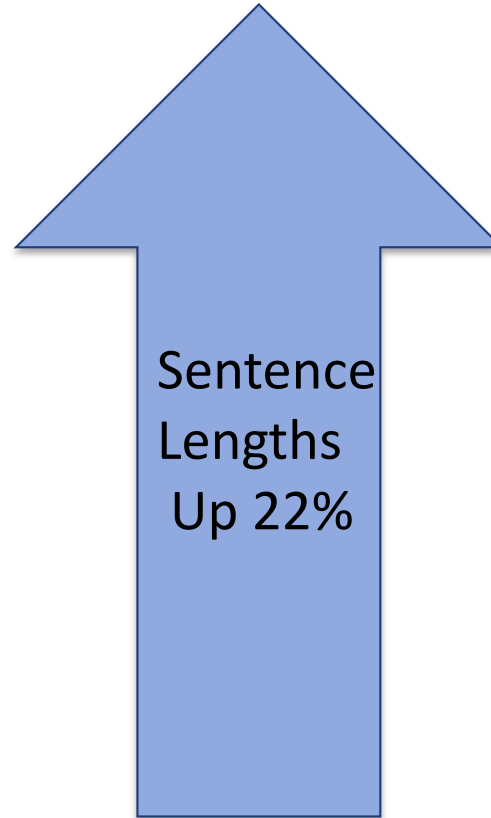
Revocations
Down 39%



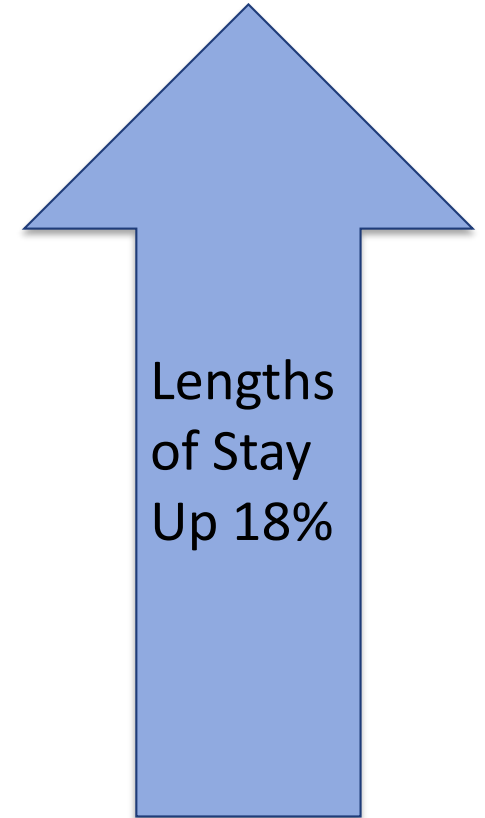
Admissions
Down 28%



Sentence
Lengths
Up 22%

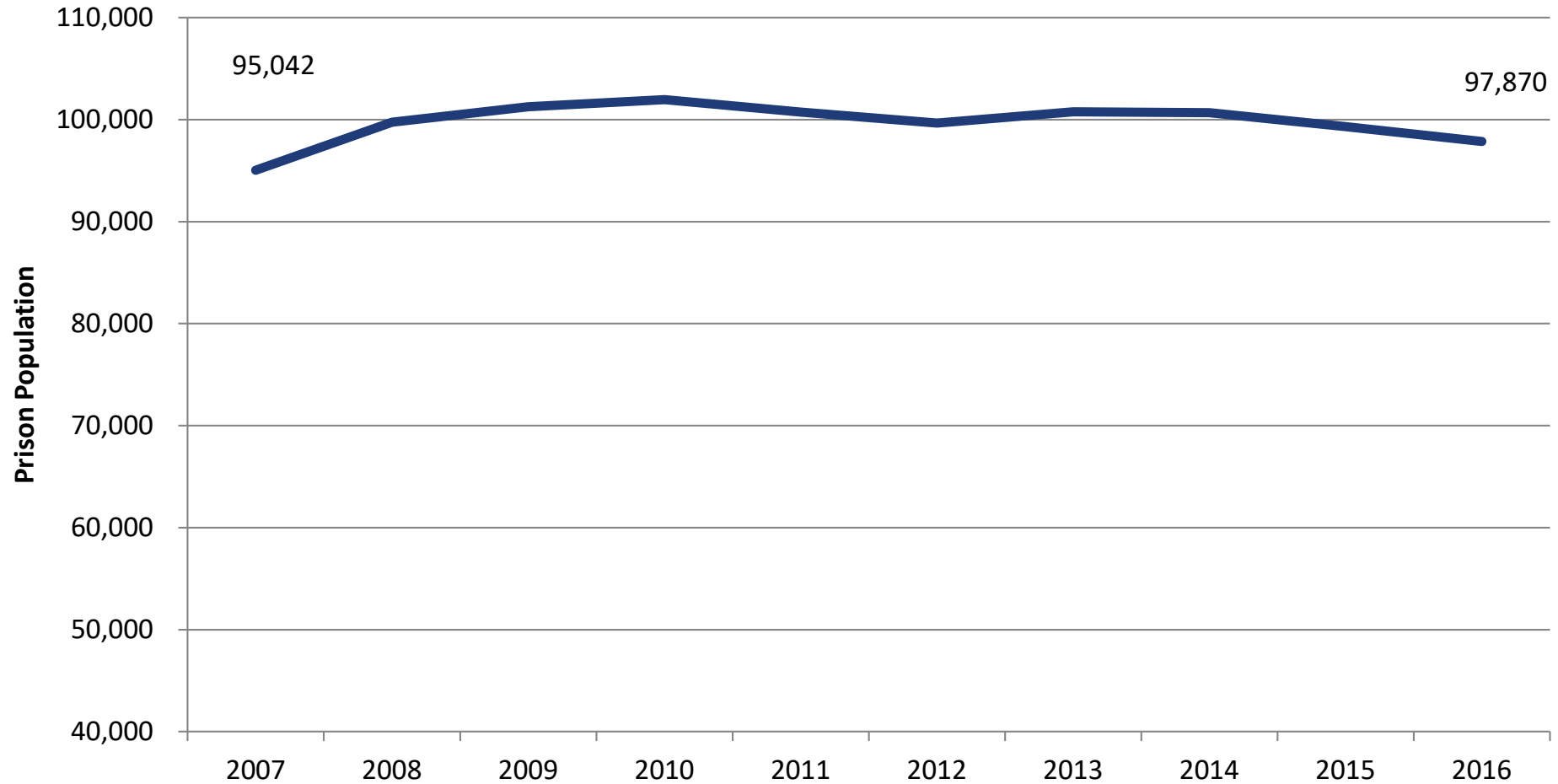


Lengths
of Stay
Up 18%



Florida Prison Population Mostly Steady Over Last Decade

Florida Prison Population, 2007-2016

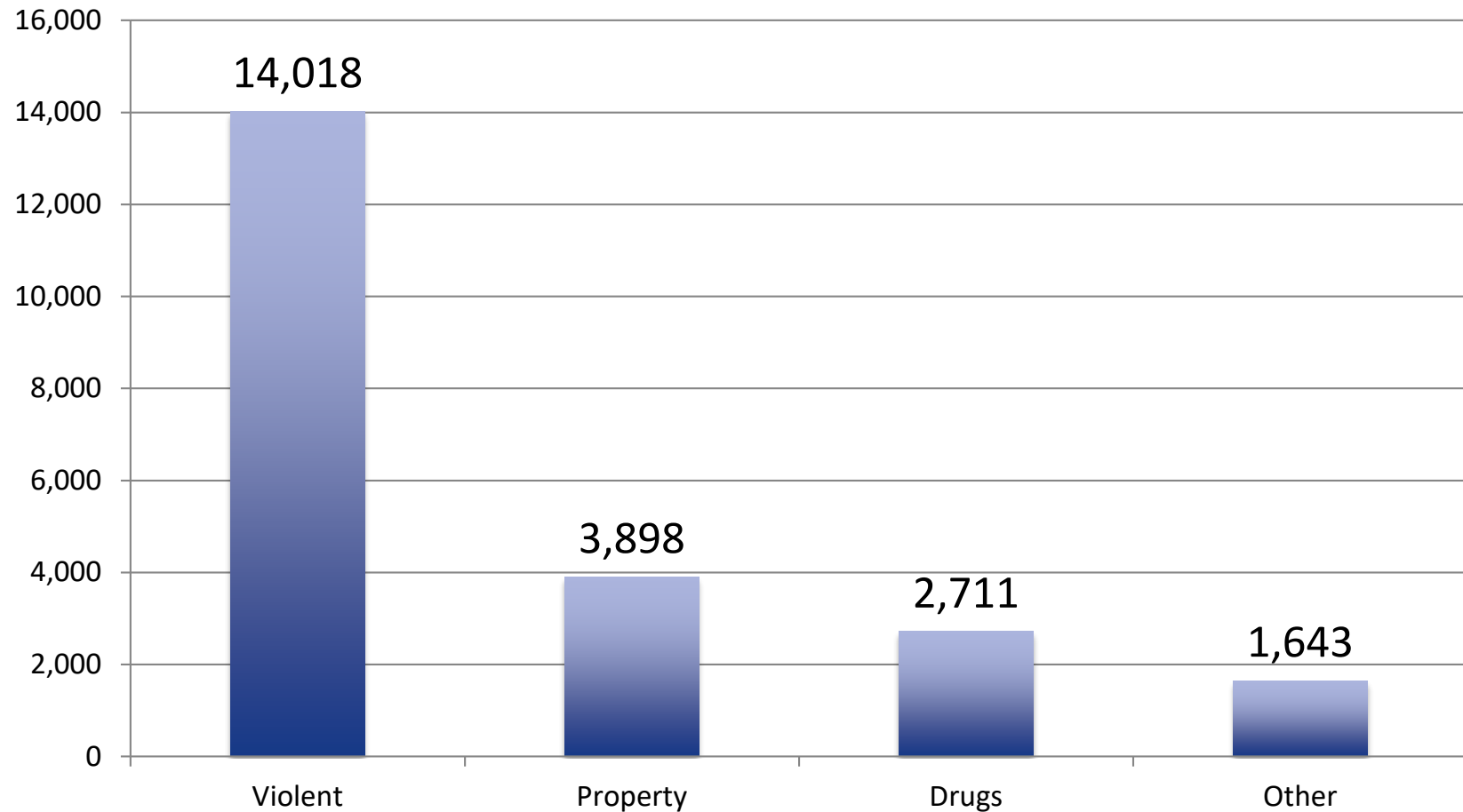


Follow-up Questions

- Offenses committed by over-50 population
- Incarceration rate by county size
- Length of stay by offense degree
- Enhancement use by county

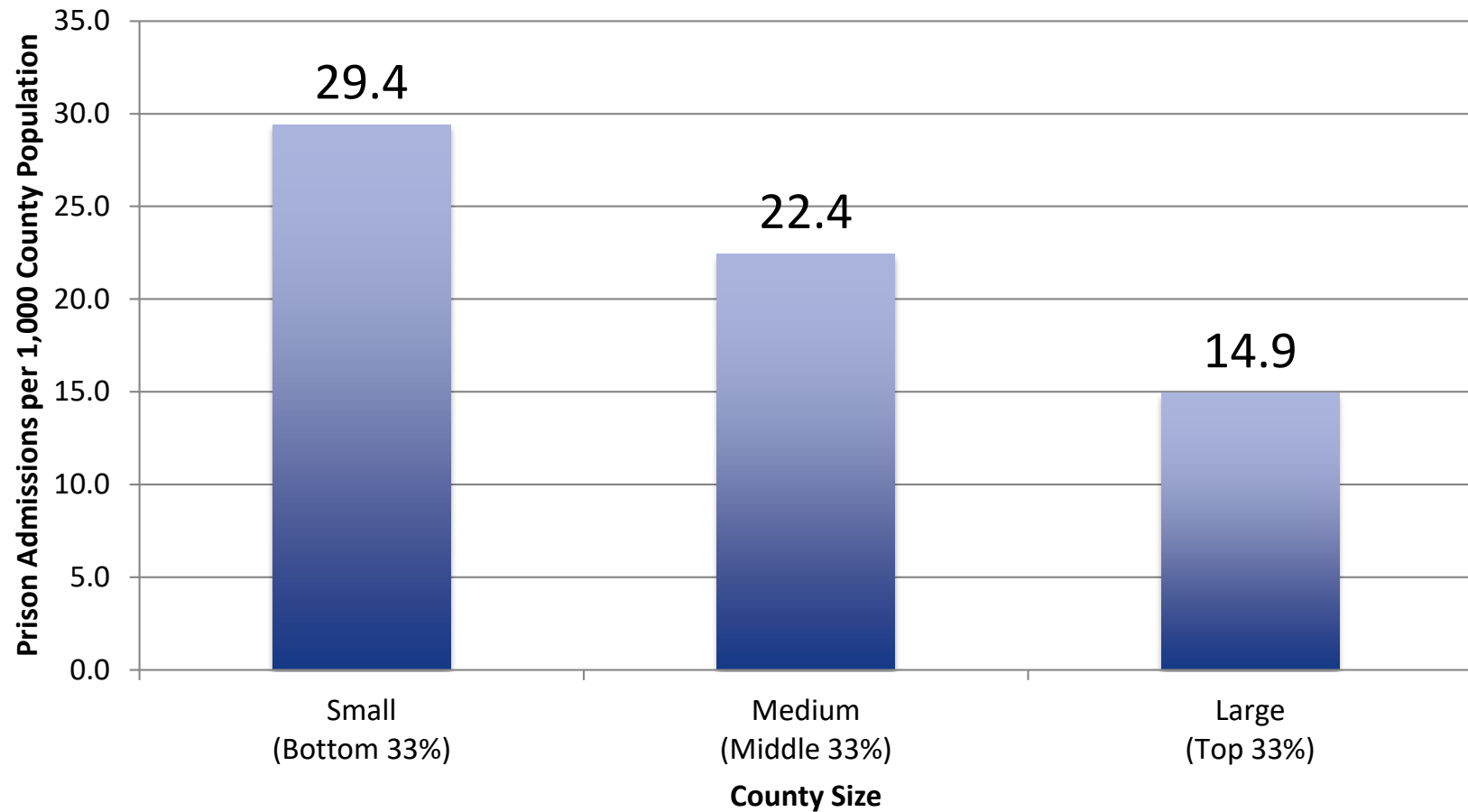
37% of 50+ Population Incarcerated for Non-violent Offenses

50+ Prison Population by Offense Type, 2016



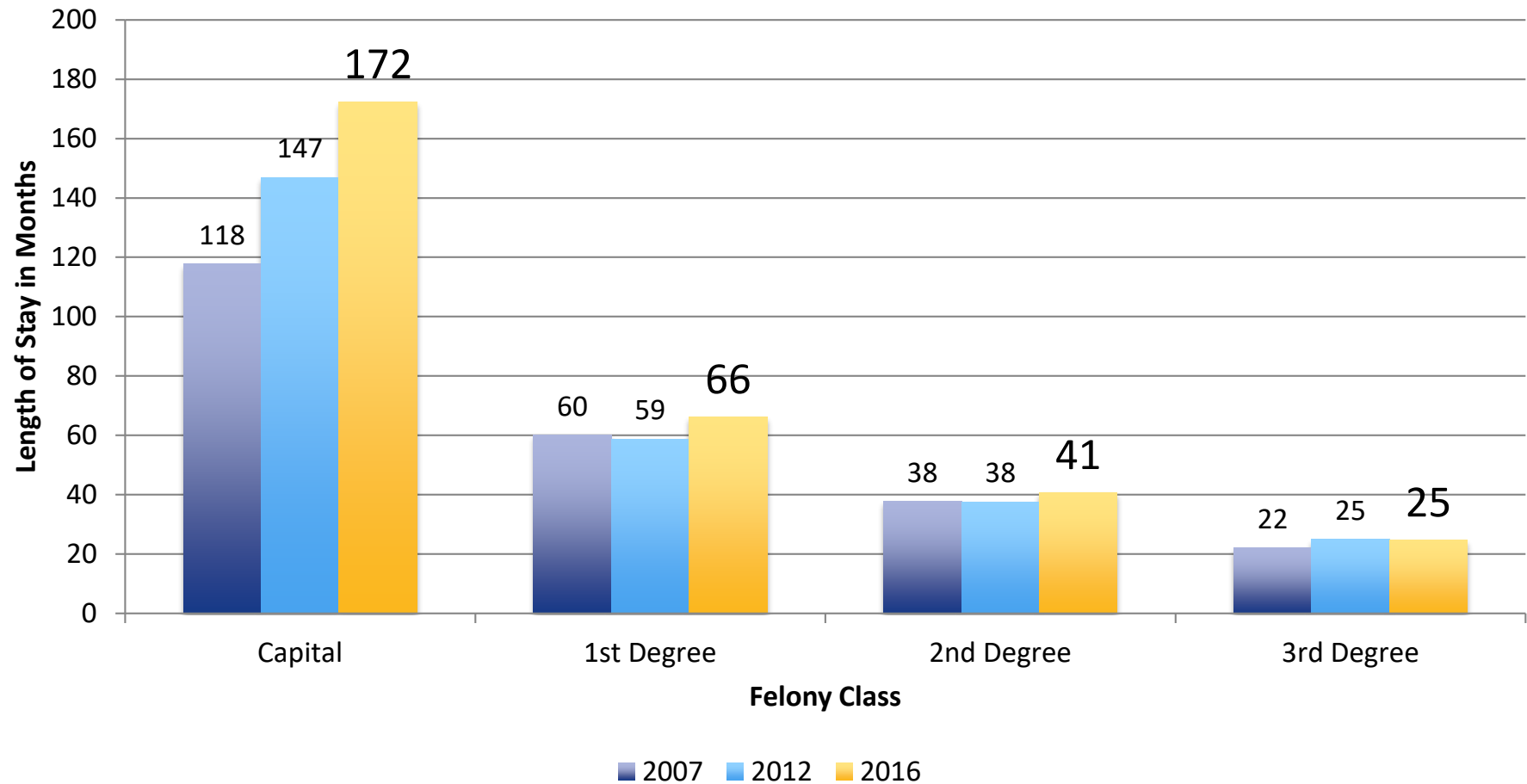
Small Counties Incarcerate at Highest Rate

Prison Admission Rate by County Size, 2016



Length of Stay By Degree of Offense

Average Time Served by Felony Class, 2007-2016



Top 10 Counties with Enhancements and MMs

Rank	County	2016 Prison Population	% Population with Enhancements or MMs
1	Miami-Dade	7,610	61%
2	Duval	7,751	51%
3	Broward	7,235	50%
4	Lake	1,220	41%
5	Jefferson	89	40%
6	Pinellas	5,300	39%
7	Lee	2,536	38%
8	Brevard	2,720	36%
9	Seminole	1,494	36%
10	Hillsborough	6,444	35%

Note: Across counties, the most common enhancements at prison admission are Felony Habitual Offender and Crime with a Firearm (“10-20-Life”).

Sentencing:

- Nonviolent offenses
- Criminal Punishment Code (CPC)

Sentencing data

- Drug offenses:
 - Drug possession – 3rd degree simple possession is the 2nd most common offense admitted to prison
 - Commercial drug offenses – more than 3,000 people admitted to prison for either drug sale, manufacturing, delivery or drug trafficking in 2016
- Property offenses:
 - Property offenders made up 31% of people admitted to prison in 2016
 - Theft – more than 500 people are in prison for felony petit theft (3rd offense under \$300) and nearly 1,000 people were admitted for more than 2 years dealing in stolen property.

8 of Top 10 Crimes at Admission Nonviolent

Offense	2007	2016	Change
Burglary of a Dwelling/Occupied Structure/Conveyance	2,171	2,352	8%
Possession of Controlled Substance (3rd Degree)	4,417	1,965	-56%
Sale/Manufacturing/Delivery of Controlled Substance (2nd Degree)	3,842	1,958	-49%
Traffic In Stolen Property	1,327	1,507	14%
Felon/Delinquent with Gun/Concealed Weapon/Ammunition	1,037	1,500	45%
Burglary of an Unoccupied Structure/Conveyance-or Attempted	1,953	1,194	-39%
Trafficking in Controlled Substance (1st Degree)	1,560	1,190	-24%
Grand Theft, \$300-\$5,000	1,389	973	-30%
Robbery with a Deadly Weapon	986	832	-16%
Robbery	919	608	-34%

Research on Incarceration

For many lower-level offenders, incarceration can actually increase recidivism.

- Nieuwbeerta, Nagin, and Blokland (2009) Found first-time, imprisoned offenders who served less than 1 year were 1.9 times as likely to be reconvicted within 3 years, compared to offenders sentenced in the community
- Spohn and Holleran (2002) Found that drug offenders sentenced to prison were 5-6 times more likely than probationers to be rearrested and charged, controlling for offender characteristics
- Drake and Aos (2012) Found that technical violators of probation serving a period of confinement (jail or prison) had significantly higher recidivism than offenders sanctioned in the community
- Mears & Cochran (2017): Focusing on first-time felons in Florida, the study found that jail sanctions vs. probation resulted in a higher likelihood of re-offense.

Current Drug and Property Sentences

Offense	Sentence Range
Drug Possession	1- 5 yrs
Drug Sale/ Manufacture/ Delivery	1-30 yrs for different substances MM 3 years for certain DFZ offenses
Drug Trafficking	MM 3, 7, 15, 25 yrs, Life or a capitol offense
Felony Petit Theft	1-5 yrs
Grand Larceny	1-5 yrs
Dealing in Stolen Property	1-15 yrs

Drug-Free Zone Enhancements

Location + 1,000 feet	Sentence
<p>Child Care Facility</p> <p>Public or Private School (6am- 12am)*</p> <p>Public Park*</p> <p>Community Center*</p> <p>Recreation Center*</p> <p>College or University</p> <p>Place of Worship</p> <p>Religious Organization</p> <p>Convenience business</p> <p>Public Housing Facility</p> <p>Assisted Living Facility</p>	<p>1st Degree: Schedule I, II</p> <p>Up to 30 years</p> <p>3 year MM for certain locations</p> <p>2nd Degree: Schedule III, IV,</p> <p>(and certain Sch I and II substances)</p> <p>Up to 15 years</p> <p>Degree difference based on substance</p>

Scoresheet Points

Category	Points
Primary Offense	Level 1- 10, points range from 4-116
Additional Offense	Level 1-10, points range from .2 to 58
Prior Record	Level 1-10, points range from .2 to 29
Victim Injury	Points range from 4 to 240
Legal Status	4 points
Community Sanction	6 points for a technical violation, 12 points for a new offense
Prior Serious Felony	30 points (level 8, 9, 10 offenses)
Firearm	18 or 25 points
Enhancement	Multiplied by 1.5, 2 or 2.5 if involves domestic violence w. child, law enforcement protection act, gang related, theft of a motor vehicle, drug trafficking offense, or adult on minor sex offense.

Sentence Totals

22 points or less

- Presumption for non-state prison sanction

23-44 points

- Non-state prison sanction

45 points or more

- State prison sanction

Examples: Drug Possession Offenses

State	Offense	Class	Sentence
Florida	Possession of a controlled substance	3 rd degree felony	0-5 years in prison
Utah	Possession of any schedule I or schedule II substances	Class A misdemeanor (for 1 st and 2 nd offense)	0-1 year in jail
Oklahoma	Possession of any controlled substance	Misdemeanor	0-1 year in jail
Kentucky	Possession of any controlled substance	Class D felony	Deferred prosecution or presumptive probation = 1 st or 2 nd offense, up to 3 years for more

Examples: Drug-free Zone Enhancements

State	Policy
Florida	Prohibits possession and sale of controlled substances within 1,000 feet of enumerated drug free zones including parks, community centers, recreation centers, religious organizations, convenience businesses, public housing facilities, and others.
South Carolina	In 2010, South Carolina amended its drug free zone (DFZ) law to require evidence of intent such that the defendant intended to engage in commercial drug activity within the DFZ.
Utah	In 2015, Utah reduced zone from 1,000 to 100 feet, restricted the hours DFZ laws would apply and removed locations such as parks, shopping malls, sports facilities, arenas, and movie theatres that did not sufficiently target a particular population.
Mississippi	Prohibits selling or possessing with intent to sell a controlled substance within 1,500 feet of specified locations.

Examples: Property Offenses

State	Statute
Florida	Felony = property valued at more than <u>\$300</u> or more. This value was last increased in 1986, raised from \$100 dollars.
Texas	Felony = property valued at <u>\$2,500 or more</u> . Higher felony offenses for property valued at \$30,000 or more.
South Carolina	Felony = property valued at more than <u>\$2,000</u> .
Kansas	Felony = property or services valued more than <u>\$1,500</u> .

Examples: Utah Sentencing Guidelines

- Adjusted points for criminal history factors.
- Eliminated double-counting of factors, such as prior supervision, residential placement, and failure to report.
- Imposed a restriction on the look back period to 10 years for prior offenses.
- Reduced sentence ranges in the guidelines grid.

Florida Sentencing Options

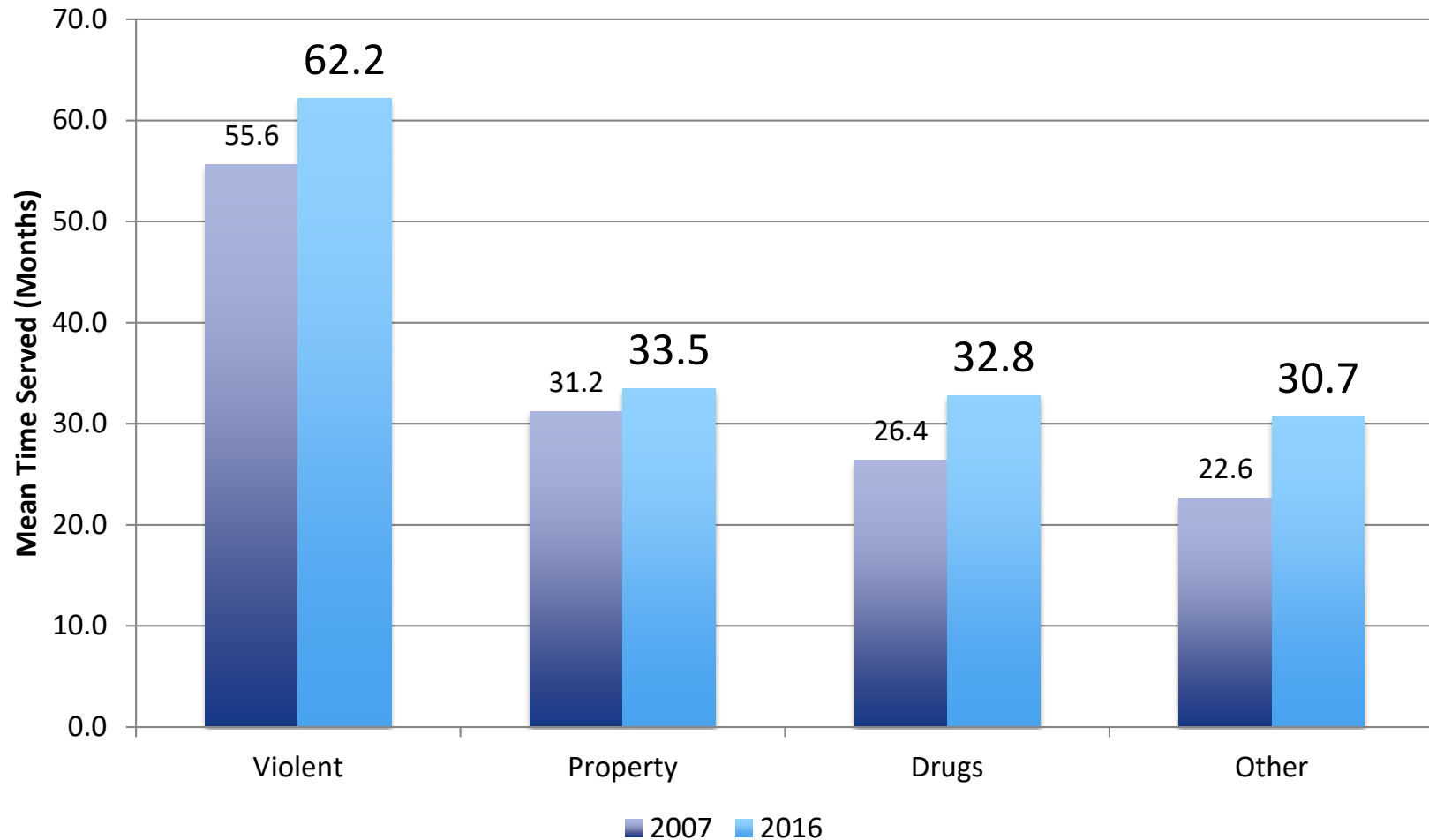
- Reclassify drug possession as a misdemeanor to focus on supervision and treatment rather than incarceration and eliminate the “felon” label for this crime
- Revise drug-free zones so sentence enhancements apply to dealers targeting vulnerable populations (children, elderly)
- Raise the felony theft threshold from \$300 to \$1,500
- Adjust Criminal Punishment Code (CPC) to increase score for prison sentence, cap sentence length and establish minimum score for prison admission
- Establish presumptive probation and a treatment-focused supervision model for low-level, repeat offenders

Release:

- Time served in prison
- Elderly prison population
- Enhanced sentences and mandatory minimums

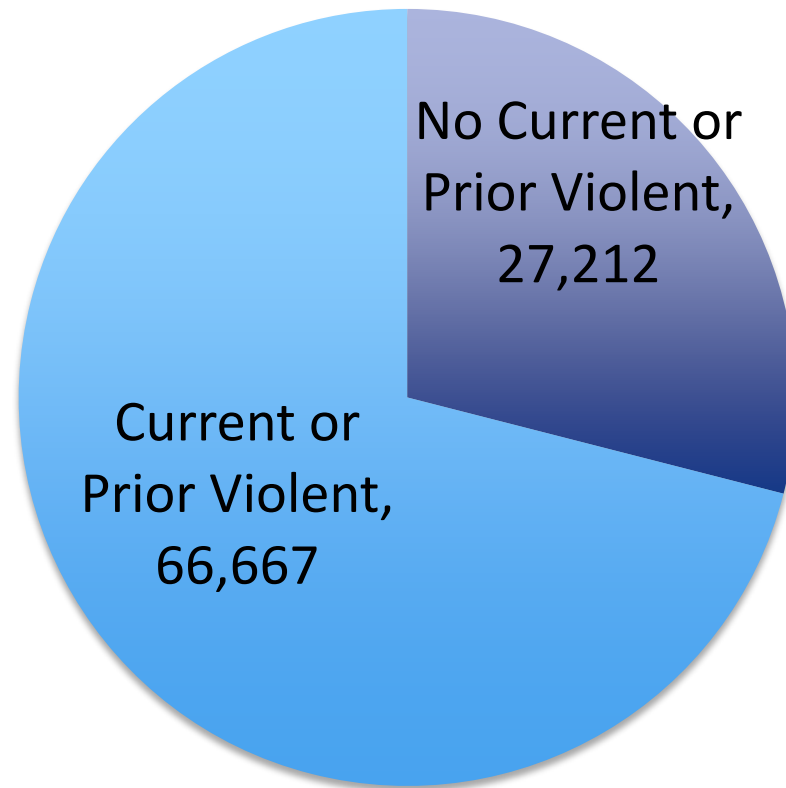
Time Served Has Increased Across Offense Types

Mean Time Served by Offense Type (4-Group), 2007 vs 2016



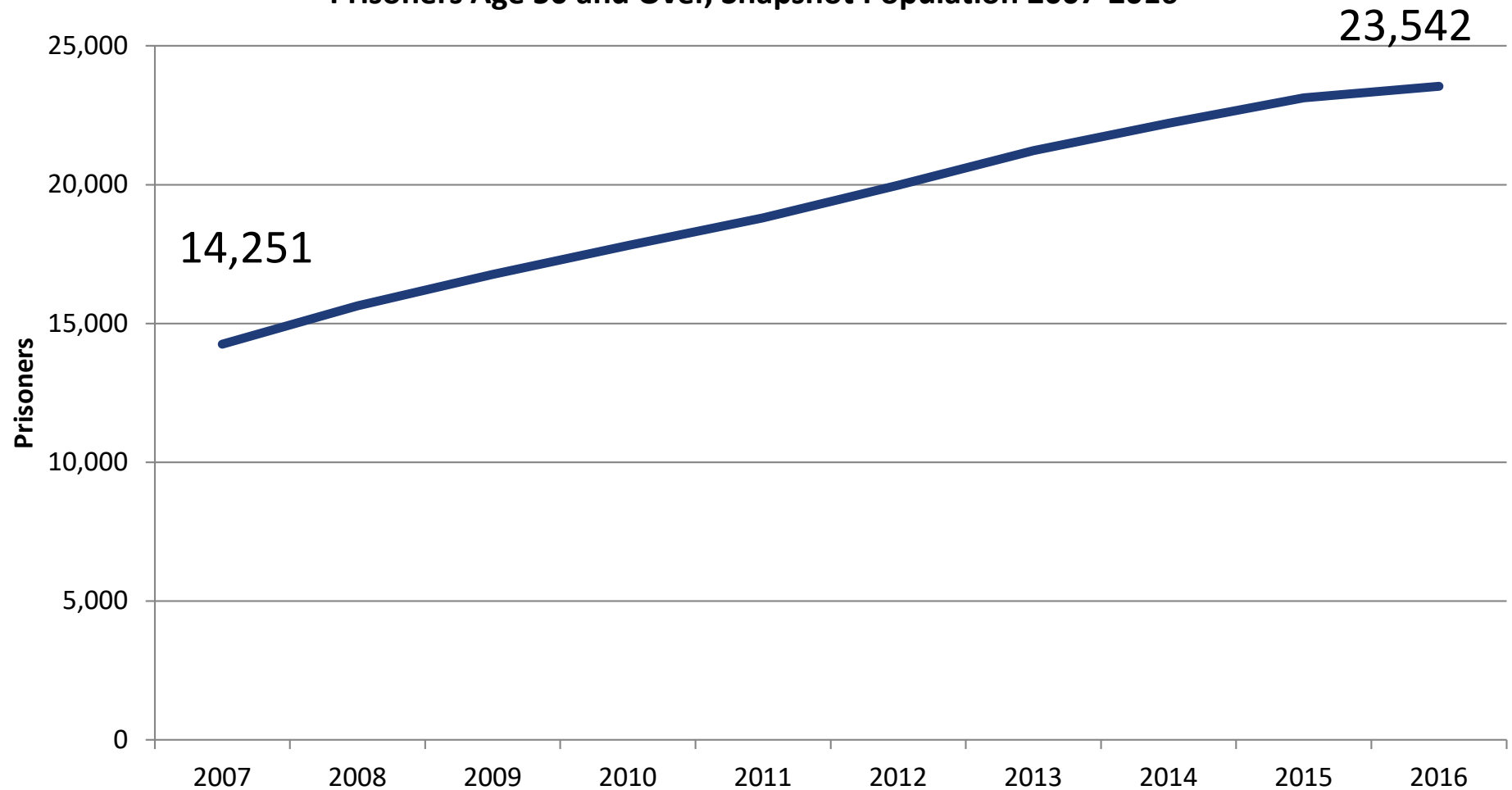
29% of Prison Population Has No Current or Prior Violent Crime

Prison Population by Current and Prior Violent, Dec 31 2016



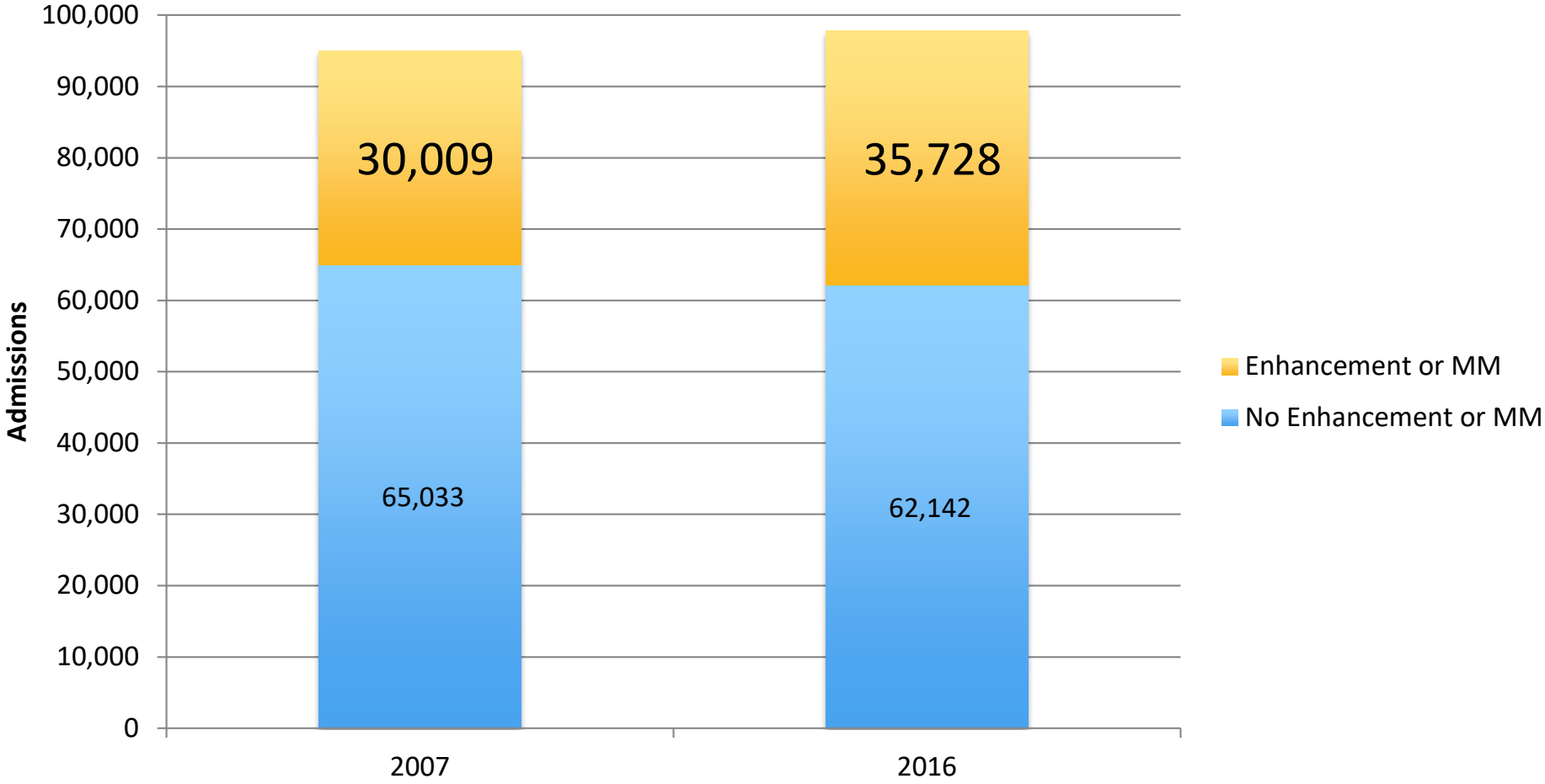
Number of Prisoners Age 50+ Grew 65% in Last Decade

Prisoners Age 50 and Over, Snapshot Population 2007-2016



37% of Offenders in Florida's Prisons Were Sentenced Under a Mandatory Minimum or Enhancement

Prison Population by Enhancement or Mandatory Minimum, 2007 vs 2016



Research on Age

- Age is one of the most significant predictors of criminality, with criminal activity peaking in late adolescence and decreasing as a person ages
 - Brie Williams & Rita Abraldes (2007): Examined parolee recidivism and found the probability of parole violations decreased with age, with older parolees the least likely group to be re-incarcerated.
 - United States Sentencing Commission (2004): Conducted an analysis of people sentenced under federal sentencing guidelines and found that within two years of release the recidivism rate among offenders older than 50 was only 9.5 percent compared with 35.5 percent for offenders under 21.

Research on Incarceration

In general, incarceration is not more effective at reducing recidivism than non-custodial (incarceration) sanctions.

- Campbell Collaboration (2015) (meta-analysis): Found incarceration has a null or criminogenic effect on re-arrest and re-conviction rates compared to non-custodial sanctions
- Nagin & Snodgrass (2013): Found no significant difference in 1, 2, 5, and 10-year re-arrest rates compared to non-custodial sanctions

Current Release Policies

- Under Florida law, those convicted after 1995 are required to serve 85 percent of their sentence.
- Offenders can earn gain time credits to reduce their sentence, but only up to their 85 percent benchmark.
 - Many offenses are excluded from gain time.
 - Offenders serving a sentence with a mandatory minimum term cannot apply gain time to their mandatory term.
- Florida has limited release options that are largely discretionary.

Current Alternatives to Incarceration

- Currently Florida has four main alternatives to incarceration:
 - Probation
 - Community Control
 - Drug Probation
 - Specialty Courts
- These are limited to those with very low CPC scores and nonviolent 3rd degree felony charges.

Sentencing Enhancements

Enhancement	Sentence
Habitual Felony Offender	Increases to 10, 30, Life
Habitual Violent Felony Offender	Increases to 10, 30, Life ineligible for release before 5, 10, 15 years
Three Time Violent Felony Offender	MM of 5, 15, 30, Life MUST SERVE 100%
Violent Career Criminal	MM of 10, 30, Life
Prison Releasee Reoffender	MM of 5, 15, 30, Life MUST SERVE 100%
10-20-Life Enhancement	MM 10, 20

Examples: Medical/ Geriatric Release

State	Policy
Florida	Inmates who the Department determines are “terminally ill” or “permanently incapacitated” may be issued early release. Such release may be revoked if condition improves.
Louisiana	If offender is 45 and has served 20 years of at least a 30-year sentence, he or she is eligible for parole.
Texas	If inmate is elderly, physically disabled, mentally ill, terminally ill, or mentally retarded, or has a condition requiring long-term care, who the Department determines is not a threat to public safety, he or she may be placed on medically recommended intense supervision.
Virginia	Offenders who are over age 60 who have served at least 10 years , or who are over 65 and have served at least 5 years, are eligible for conditional geriatric release.

Examples: Mandatory Minimums

State	Law
Florida	108 mandatory minimum offenses, 47 of which are drug offenses with no judicial safety valve.
New York	Reduced determinate sentence terms for second felony Class B and Class C drug offenders and created a judicial diversion program for Class B, Class C, and Class D drug offenders.
Oregon	Removed mandatory minimum sentences for certain drug offenders with multiple convictions.
Maryland	Eliminated mandatory minimum sentences for all commercial drug offenses except high volume dealers and drug kingpins. Additionally, made third and subsequent commercial drug offenders eligible for parole after serving 50 % of their sentence.

Examples: 85% Requirement

State	85% Requirement
Florida	All Offenses
Oklahoma	Violent crimes such as 1 st and 2 nd degree murder, aggravated assault, rape, robbery, aggravated drug trafficking.
New Jersey	Offenses that result in death or significant bodily harm such as murder, manslaughter, aggravated manslaughter.
Iowa	A limited number of violent offenses such as murder in the 2 nd degree, attempted murder, and vehicular homicide.

Florida Release Options

- Expand eligibility for low-risk elderly and infirm offenders to be transferred to community-based custody and treatment
- Amend the 85% requirement to focus on violent high- risk offenders
- Expand gain time eligibility to all inmates eligible for release
- Increase gain time awards to incentivize program completion and move offenders to community-based programming earlier
- Require the use of the mandatory minimum safety valve unless the court finds that the mandatory sentence is necessary to protect the public

Thank you

For further information:

- Len Engel
Crime and Justice Institute
508-782-5125
lengel@crj.org
- Maura McNamara
Crime and Justice Institute
617-529-3654
mmcnamara@crj.org

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

12/7/17

Meeting Date

Bill Number (if applicable)

Topic Crime and Justice Institute

Amendment Barcode (if applicable)

Name Len Engel

Job Title Policy Director

Address 355 Boylston Street

Phone _____

Street

Boston

City

MA

State

Zip

Email lengel@crj.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Crime and Justice Institute

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

Project on ACCOUNTABLE JUSTICE

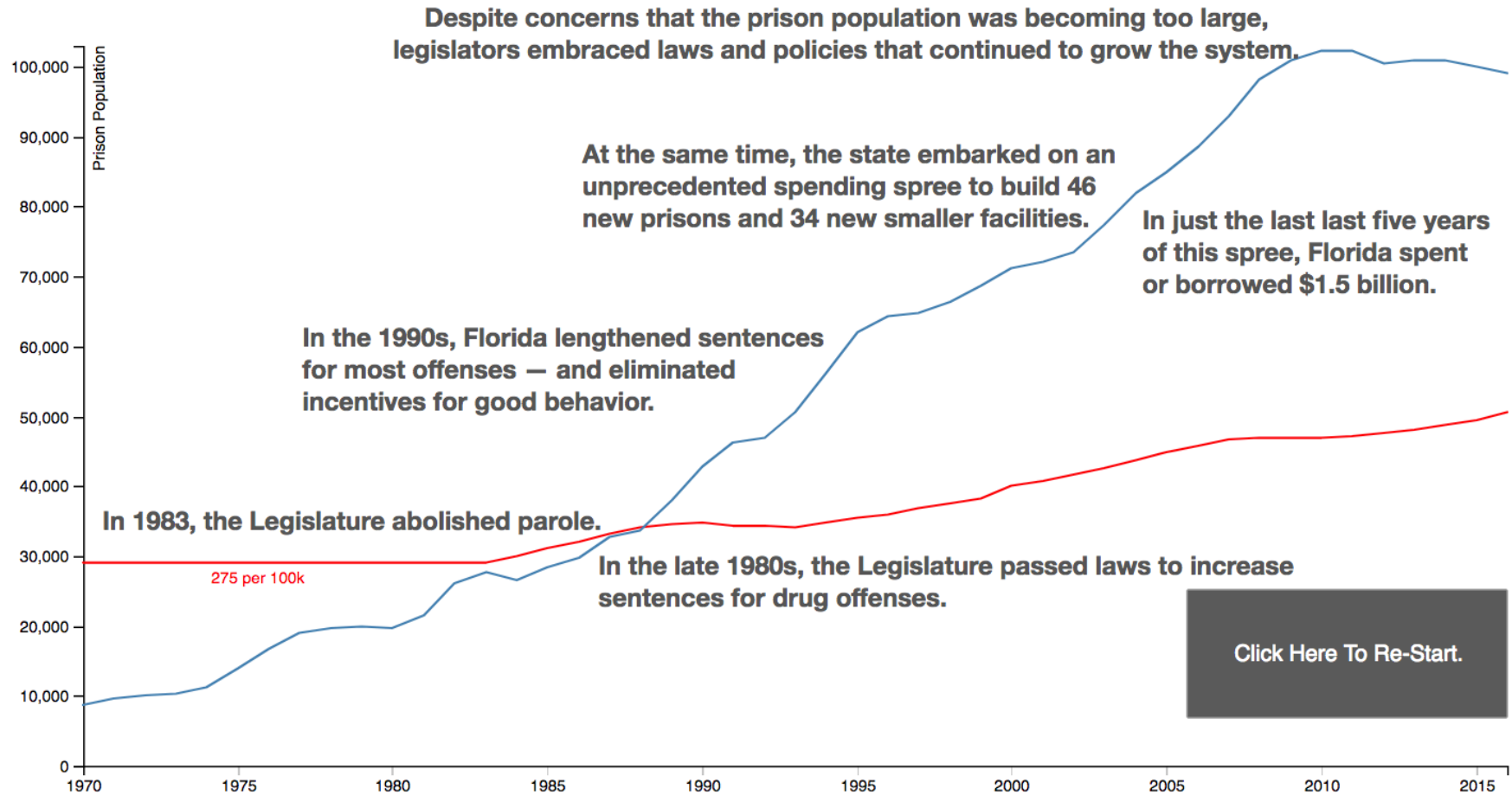
Florida Criminal Justice Reform:
Understanding the Challenges and Opportunities

<https://accountablejustice.github.io/report/>

Deborrah Brodsky, Director
Presentation to the
Florida Senate Subcommittee on Criminal and Civil Justice Appropriations
December 7, 2017

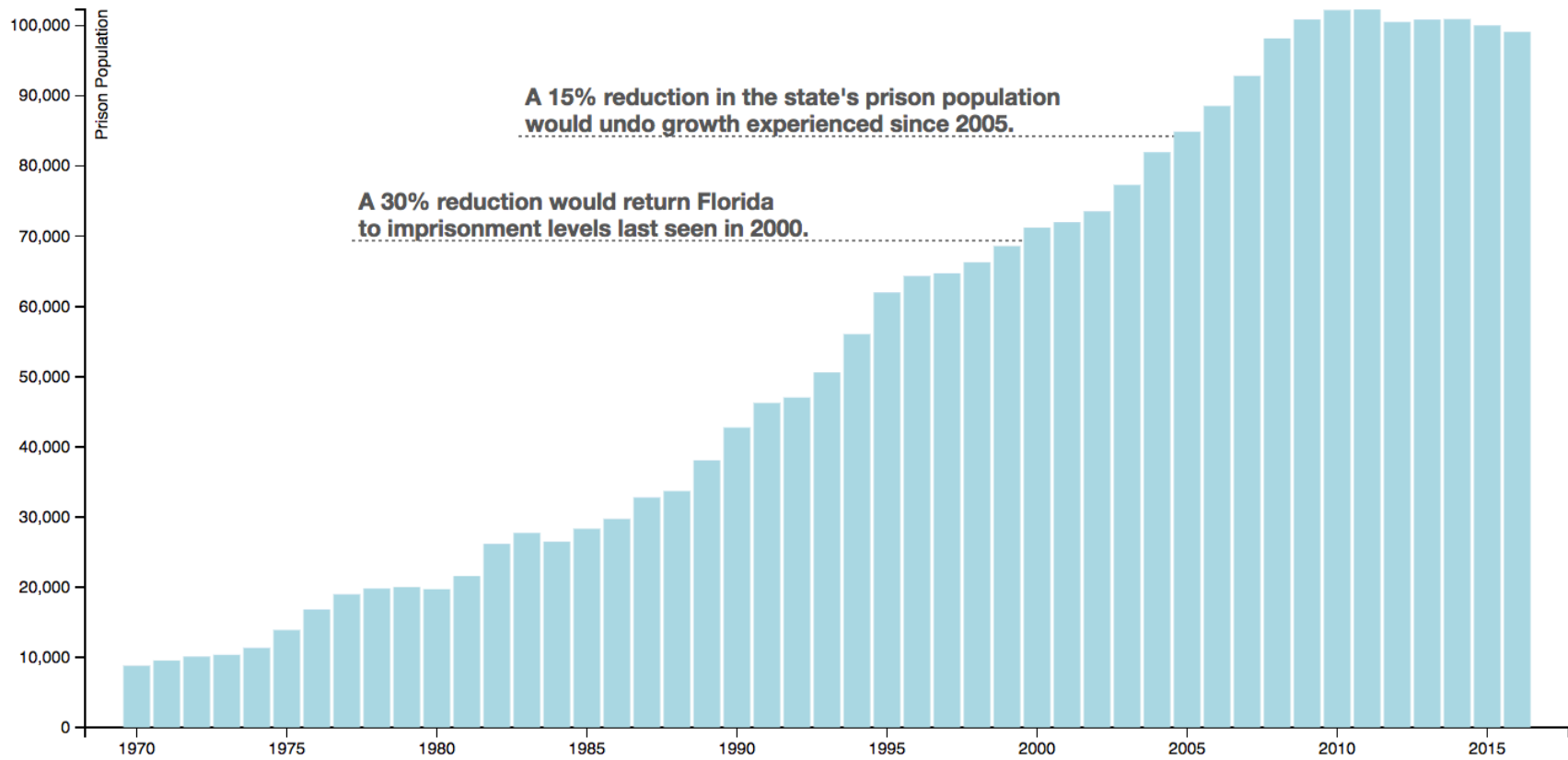
Florida's prison population is the result of a generation of policy decisions --- some at cross purposes and with unintended consequences.

Florida Prison Population by Year



The growth of Florida's prison system has been both fast and steady.

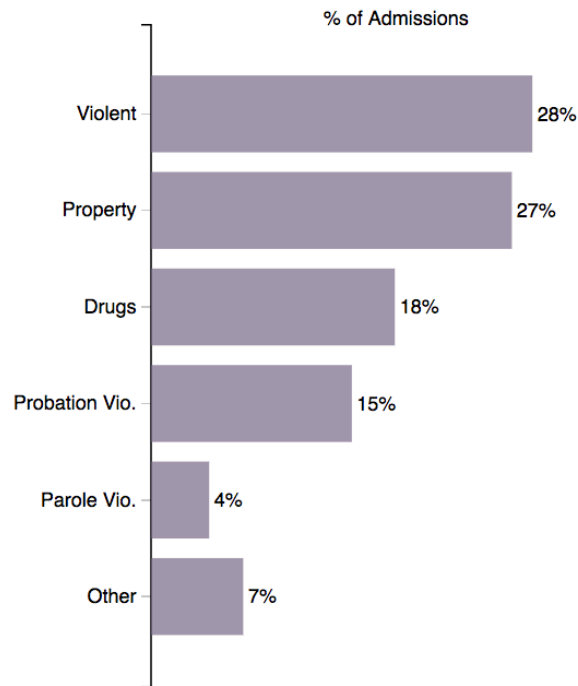
Florida Prison Population by Year



A Profile of Florida's Prison Admissions

Admissions to Prison by Offense

● Committing Offense ● Longest Sentenced Offense



[Twitter](#) [Facebook](#)

Nonviolent offenses drive admissions to prison.

This report uses two methodologies for determining an individual's offense: "committing" offense and "longest" offense. Both result from an analysis of data provided by the Florida Department of Corrections. By either measure, non-violent offenses account for a significant majority of prison admissions.

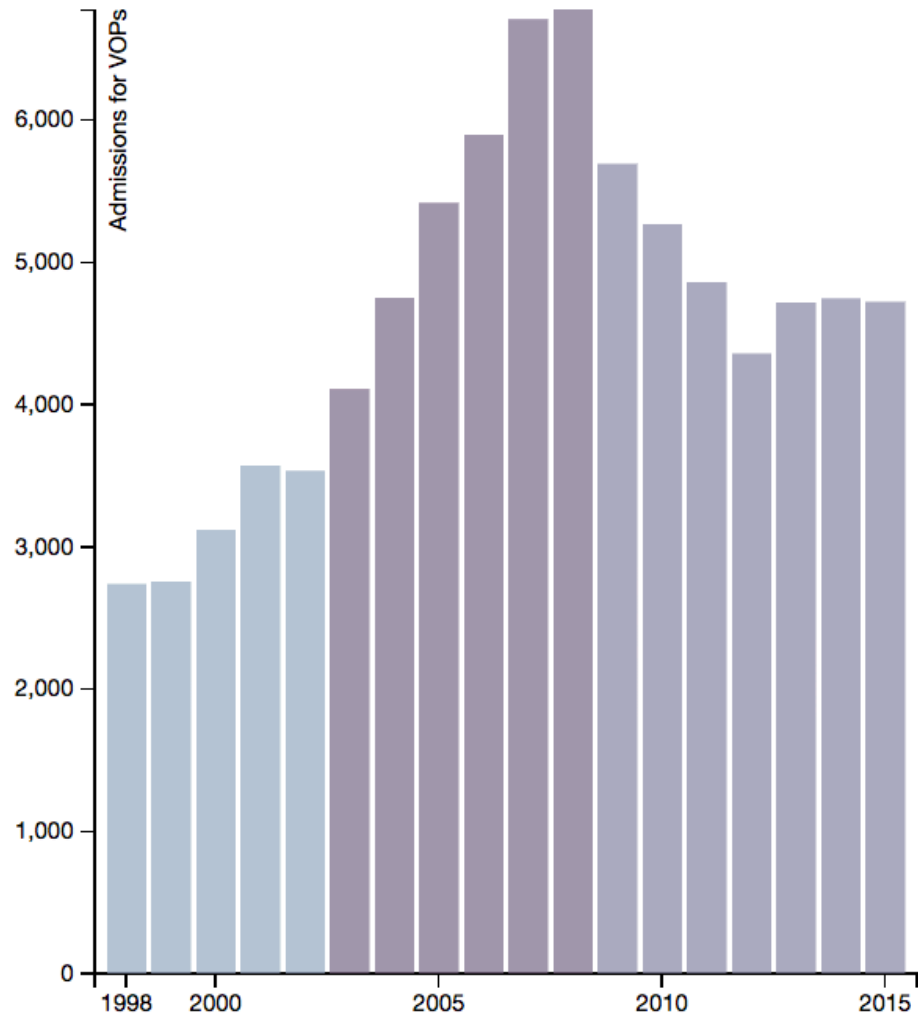
Committing Offense

The Committing Offense is the most serious charge for which an individual is sentenced to prison. It prioritizes violent offenses over property, drug, and other offenses. The Committing Offense variable captures violations of probation, parole, and conditional release.²¹

Longest Sentenced Offense

The Longest Sentenced Offense is the offense that carries the longest sentence, regardless of the seriousness of the offense. However, when two offenses carry the same sentence, this variable, like Committing Offense, prioritizes violence. In cases where an individual is admitted to prison for a violation of probation or parole, the Longest Sentenced Offense reveals the underlying charge, not the violation.

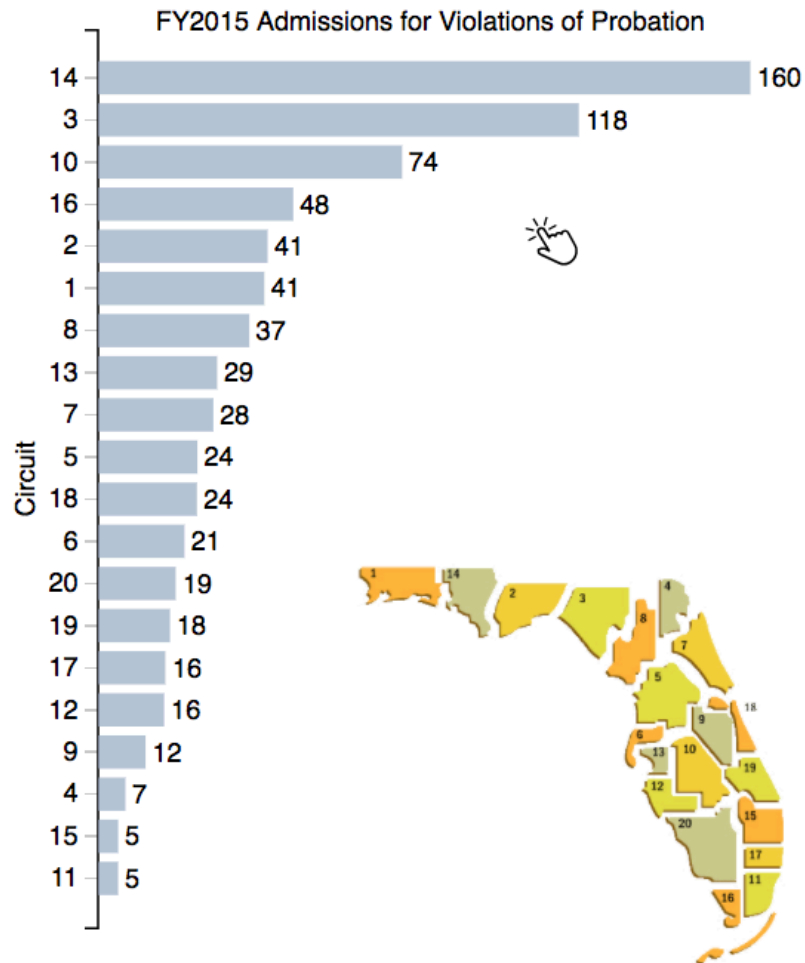
VOP Admissions by Year



**Florida Department of Corrections
policies make a difference.**

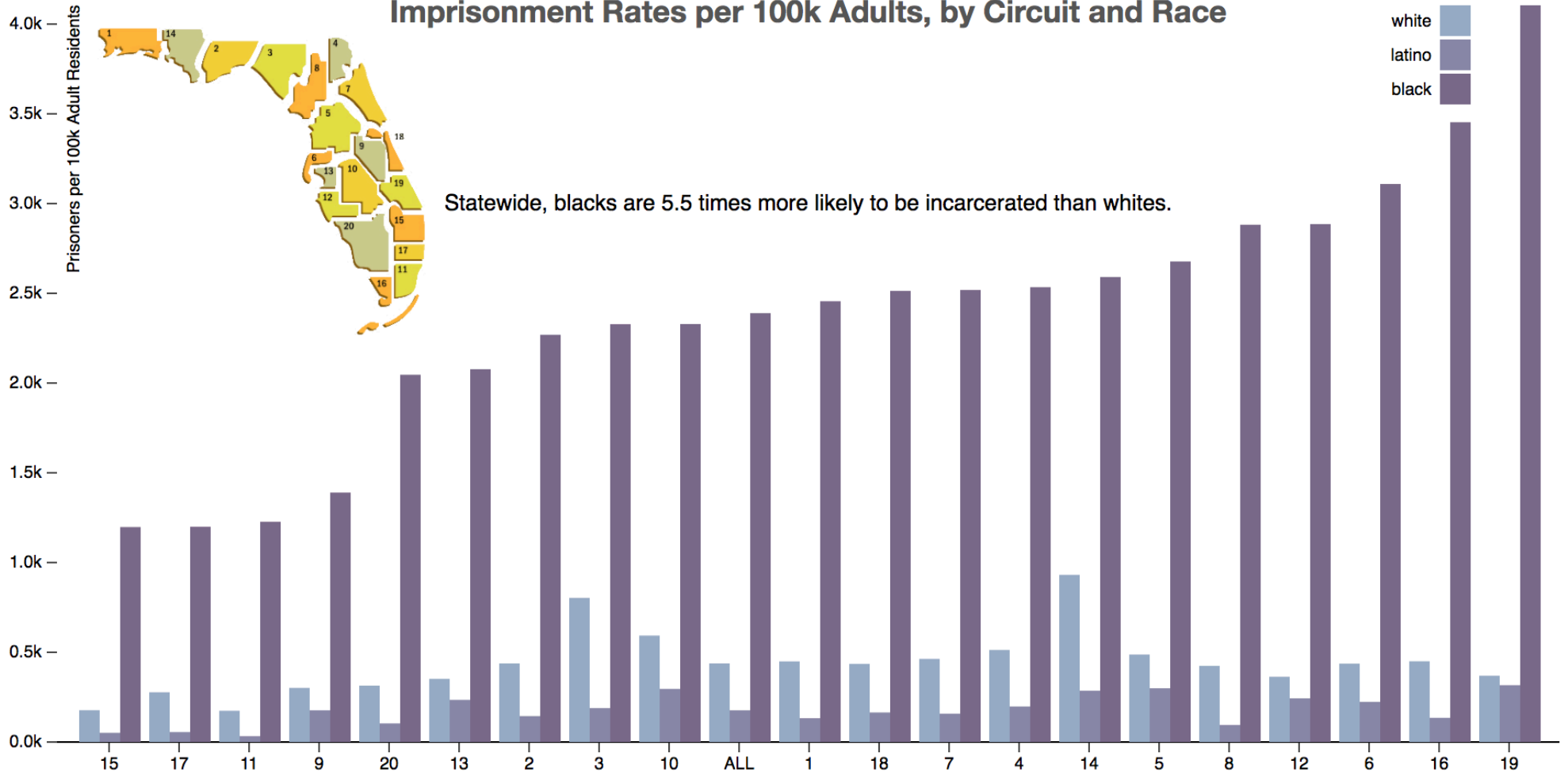
FY 2015 Admissions for Violations of Probation, by Circuit

- Rate per 100k Adults
- Number of Admissions



...But Florida Department of Corrections policies only go so far.

Imprisonment Rates per 100k Adults, by Circuit and Race



[Twitter](#) [Facebook](#)

Recommendations:

- 1. Enhance External Oversight.**
- 2. Build a Robust System of Risk-Based Pretrial Practices.**
- 3. Keep Youth Out of Confinement and the Adult Criminal Justice System.**
- 4. Review and Modernize Sentencing.**
- 5. Encourage Local Solutions.**
- 6. Measure Criminal Justice Success.**

Floridians Overwhelmingly Support Criminal Justice Reform

Right on Crime, a conservative advocacy group, has released results from an October 2017 survey of Florida voters that shows tremendous support for criminal justice reform and protecting youth from the existing justice system.

The survey demonstrated that Floridians strongly believe the primary purpose of the criminal justice system is to rehabilitate – not to punish – people:

- What should be the primary purpose of our criminal justice system?
All voters: 60% rehabilitate, 29% punish // GOP voters: 47% rehabilitate, 40% punish

Voters across the spectrum – from the most conservative to the most liberal – embrace four proposed reforms:

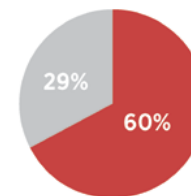
- Ending the practice of suspending drivers' licenses for failure to pay court fees or fines when the person can prove an inability to pay and agrees to do community service.
All voters: 79% favor, 17% oppose // GOP voters: 77% favor, 19% oppose
- Encouraging counties to create civil citation programs that would allow police officers to give citations that include fines and/or community service instead of making arrests for various misdemeanors.
All voters: 78% favor, 16% oppose // GOP voters: 74% favor, 19% oppose
- Allowing judges to cut three and five year mandatory minimum sentences by up to two-thirds for first time drug offenders when they believe the mandatory sentence is inappropriate based on the crime committed.
All voters: 69% favor, 23% oppose // GOP voters: 65% favor, 26% oppose
- Raising the minimum monetary threshold that qualifies as a felony from \$300 to \$1,500.
All voters: 55% favor, 34% oppose // GOP voters: 54% favor, 36% oppose

When it comes to dealing with youthful offenders, Florida voters side with protecting minors from the existing justice system:

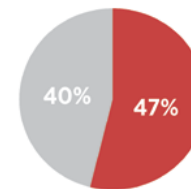
- Should judges or prosecutors decide if a child should be tried as an adult?
All voters: 70% judges, 14% prosecutors // GOP voters: 71% judges, 16% prosecutors
- Agree that minors awaiting trial as an adult should still be housed in a juvenile facility.
All voters: 86% favor, 12% oppose // GOP voters: 81% favor, 15% oppose
- Minors charged with adult crimes should be housed in a juvenile facility.
All voters: 74% favor, 20% oppose // GOP voters: 67% favor, 26% oppose
- Prosecutors should disclose their plea deals with minors.
All voters: 81% favor, 13% oppose // GOP voters: 79% favor, 14% oppose

Floridians believe the primary purpose of the criminal justice system is to rehabilitate.

Rehabilitate Punish



All voters



GOP voters

Voter Group Definitions

GOP voters: 600 registered Republican voters who had voted in at least one of the last four statewide GOP primaries (Presidential or Gubernatorial). Margin of error is ± 4%.
All voters: 800 registered voters of all parties who had voted in at least one of the last two Gubernatorial elections. Margin of error is ± 3.46%.

The poll was conducted Oct. 23-29, 2017 by Fabrizio Lee.

CRIMINAL JUSTICE REFORM IN FLORIDA

TIME FOR REFORM

A majority of Floridians agree that it's time for reform. Here are the details.

72%



of Floridians agree or strongly agree that it is important to reform the criminal justice system in Florida.

COST OF INCARCERATION

Part of this has to do with the cost of incarceration, especially for nonviolent offenders:

75%



of Floridians agree or strongly agree that the prison population is costing our country too much money.

and

64%



believe there are too many nonviolent offenders in prison.

CONSISTENT PUNISHMENT

Prison sentences should apply consistently:

63%



of Floridians believe that if a mandatory minimum sentence is reduced by law, that reduction should retroactively apply to prisoners currently in jail.

JUVENILE JUSTICE

Floridians also have the opportunity to make strides in juvenile justice reform:

70%



believe juveniles should be held in a system separate from adult offenders.

and

62%



of Floridians believe that judges, not prosecutors, should decide whether to try juveniles as adults.

JOBS AND REHABILITATION

Floridians are also concerned about the collateral consequences of incarceration, like difficulty finding work:

72%



of Floridians believe felons should be able to get licenses to work after they finish serving their sentences.

and

74%



believe prisons should focus more on rehabilitation than punishment.

The Project on Accountable Justice (PAJ) is a think tank dedicated to advancing public safety through research and evidence.

PAJ is a collaboration of the Florida State University College of Social Sciences and Public Policy, the Institute for the Study of Prosocial Behavior at Baylor University, the Institute for Strategic Policy Solutions at St. Petersburg College and the Florida Public Safety Institute at Tallahassee Community College.

For more information, please visit: log.fsu.edu/paj/

Contact: dbrodsky@fsu.edu

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

12-7-17
Meeting Date

Bill Number (if applicable)

Topic Criminal Justice Reform

Amendment Barcode (if applicable)

Name Deborah Brodsky

Job Title Director, Project on Acct. Justice

Address 1128 Marion Ave
Street

Phone 850/566-8944

City _____ State _____ Zip _____

Email dbrodsky@fsu.edu

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Project on Acct. Justice

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

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12-7-2017

Meeting Date

Tab 6

Bill Number (if applicable)

Topic Justice Reform (FSU)

Amendment Barcode (if applicable)

Name BRIAN PITTS

Job Title Trustee

Address 1119 Newton Ave S

Phone 727/897-9291

Street

St Petersburg

FL

State

33705

Zip

Email justice2jesus@yahco.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Justice-2-Jesus

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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GOVERNOR RICK SCOTT'S 2018-2019 BUDGET
SECURING FLORIDA'S
FUTURE



Governor Rick Scott

**Public Safety
Budget Recommendations
FY 2018-2019**

GOVERNOR RICK SCOTT'S 2018-2019 BUDGET
SECURING FLORIDA'S
FUTURE



Governor Scott's priorities for Florida's Future

Tax Cuts for Florida Families

Jobs for Florida Families

Education for Florida's Students

Protecting Florida's Environment

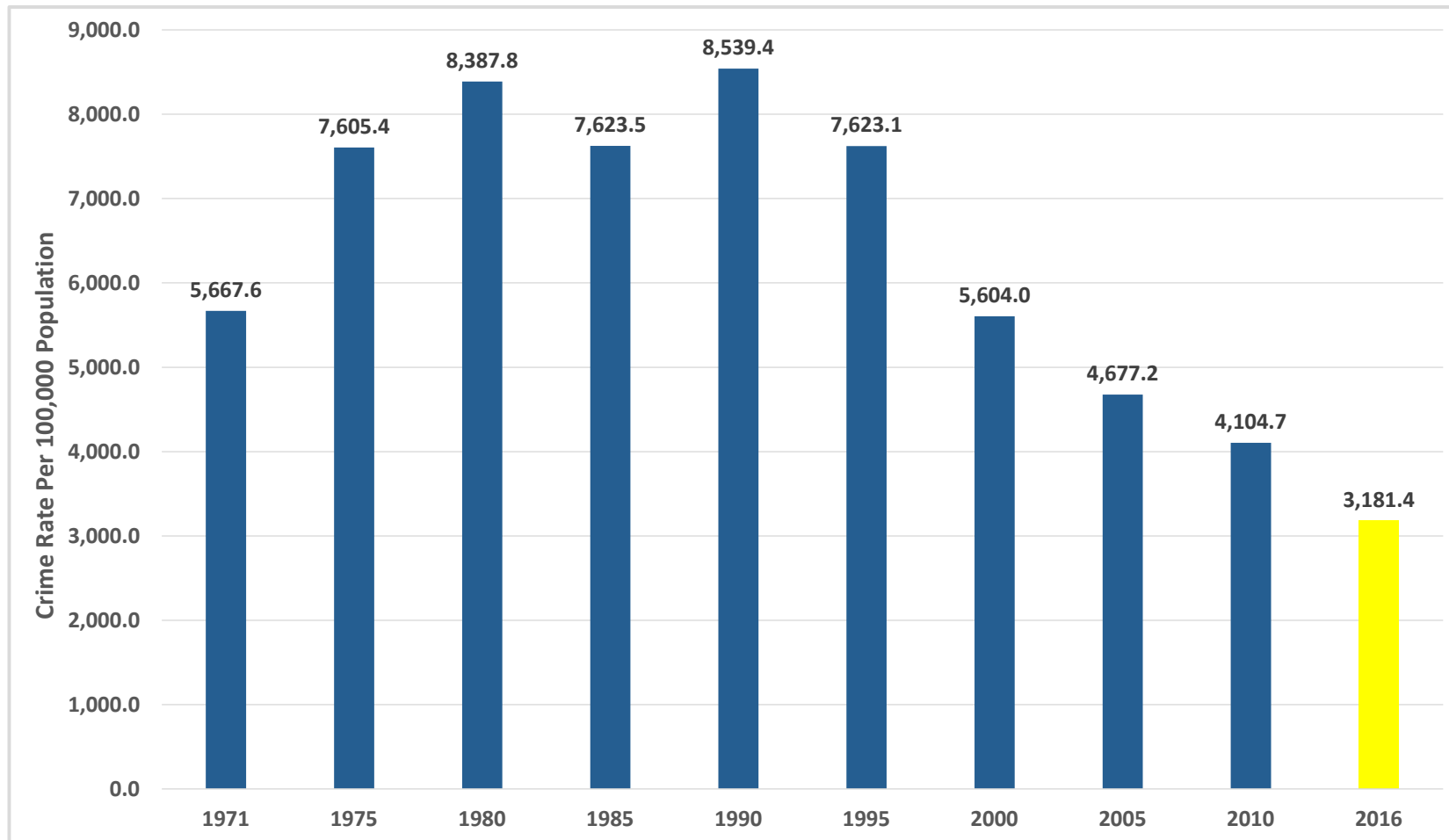
Keeping Florida's Residents and Tourists Safe

Ensuring a Healthy Future

GOVERNOR RICK SCOTT'S 2018-2019 BUDGET SECURING FLORIDA'S *FUTURE*



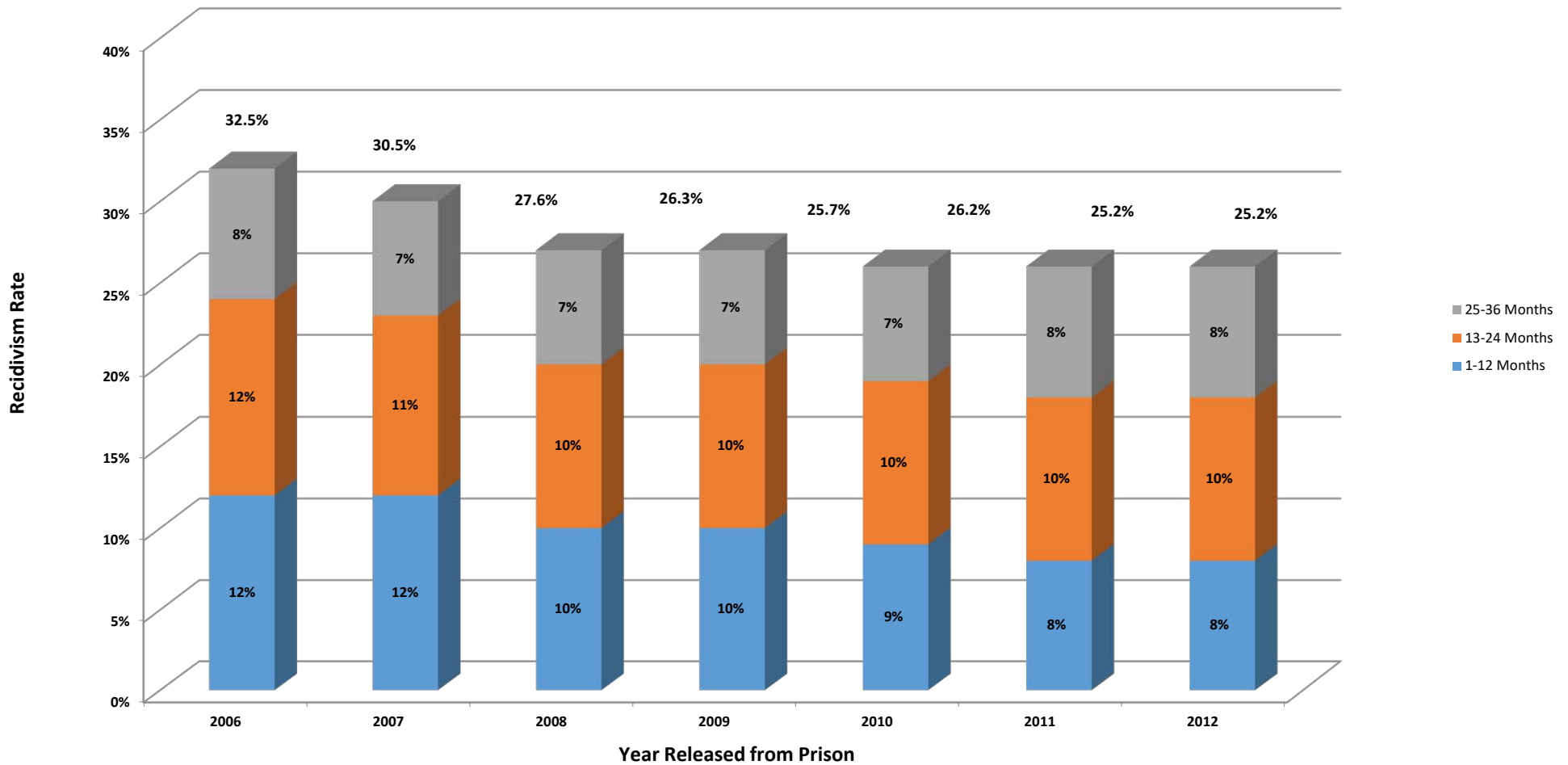
Lowest Crime Rate in 46 Years



GOVERNOR RICK SCOTT'S 2018-2019 BUDGET SECURING FLORIDA'S FUTURE



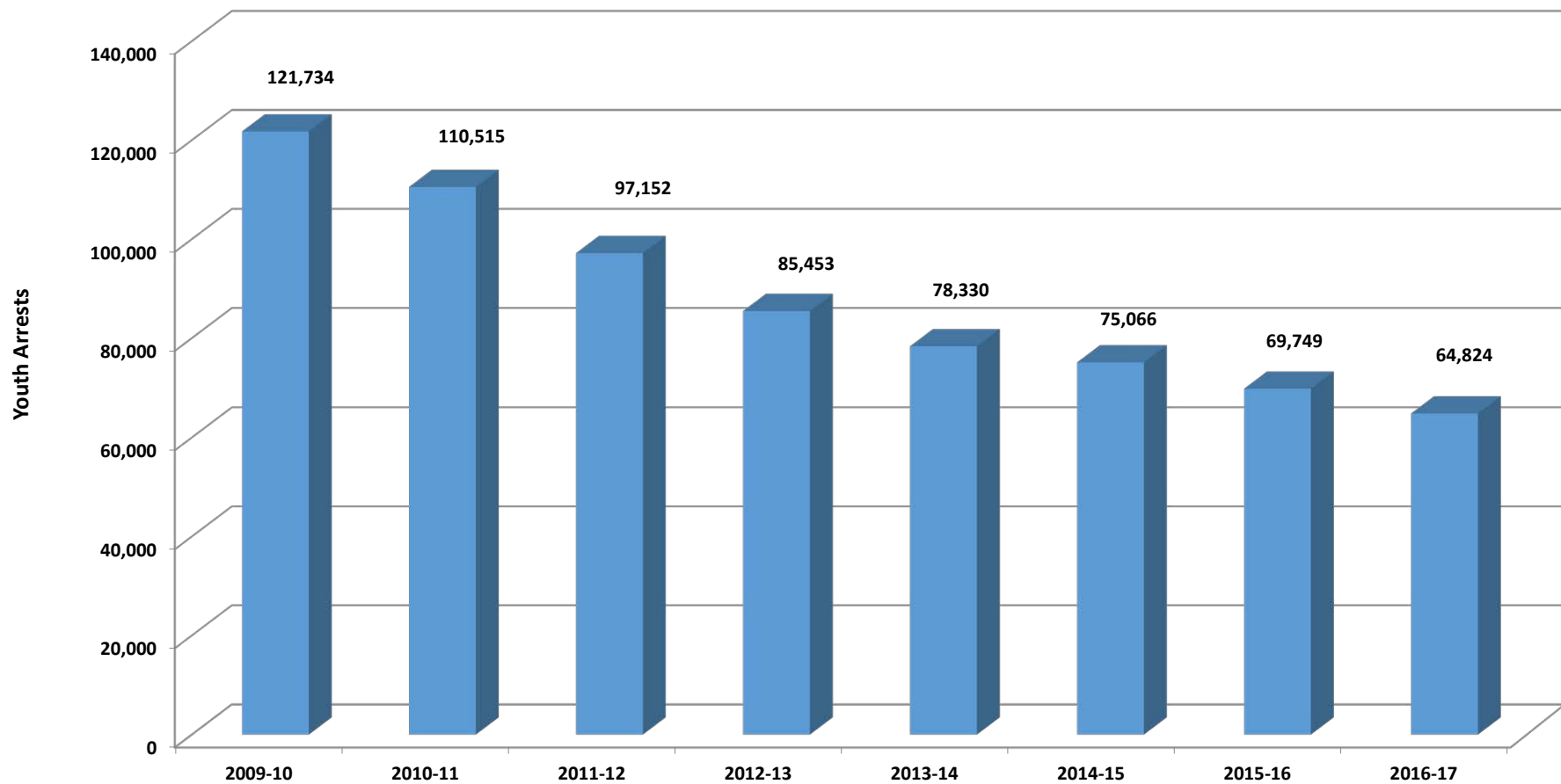
Recidivism Rates over Time



GOVERNOR RICK SCOTT'S 2018-2019 BUDGET SECURING FLORIDA'S *FUTURE*



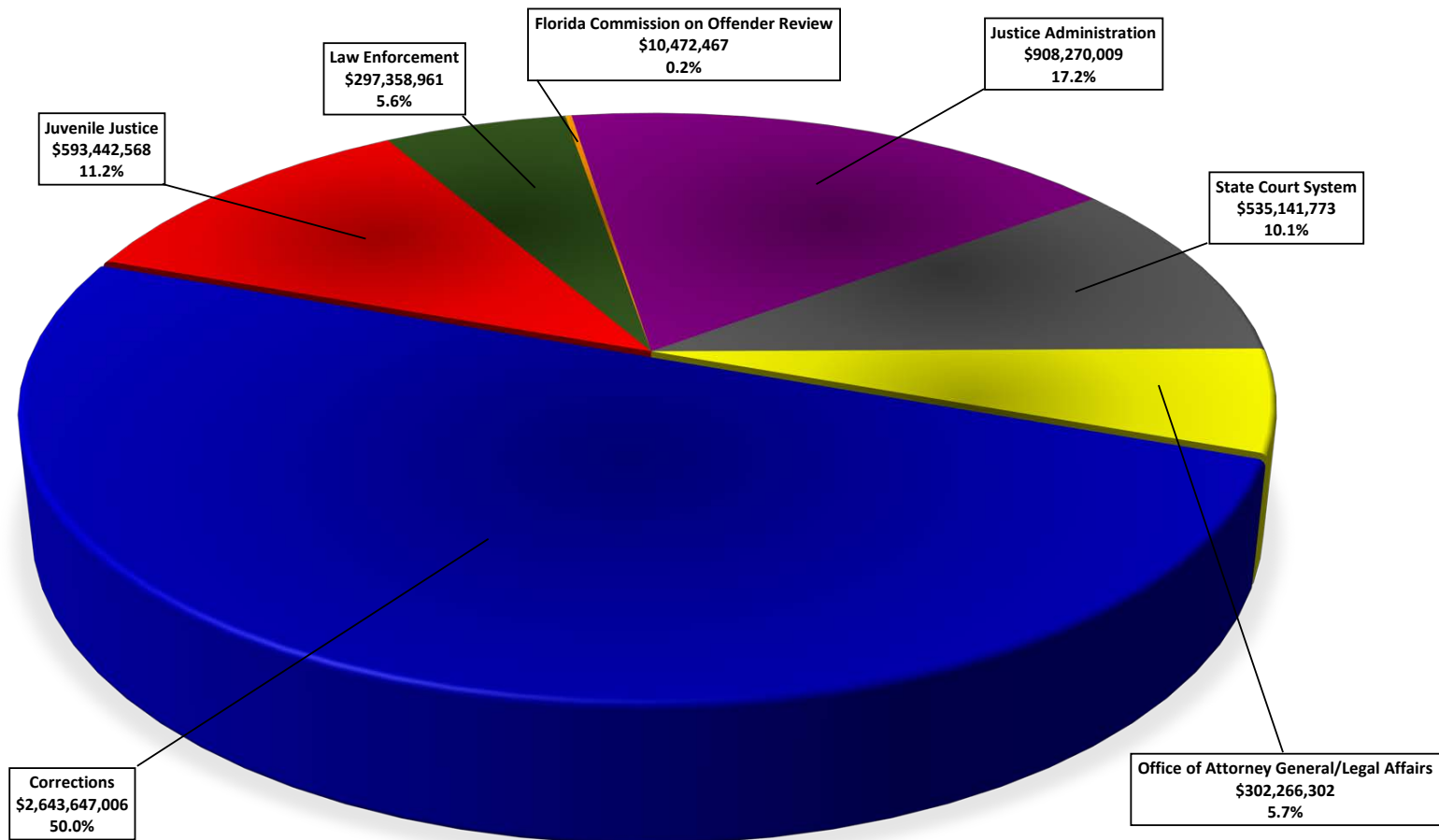
Juvenile Arrests



GOVERNOR RICK SCOTT'S 2018-2019 BUDGET SECURING FLORIDA'S *FUTURE*



2018-19 Budget Recommendations by Agency \$5.3 Billion





Department of Corrections

Major Issues Funded	Amount
Enhancing Mental Health Services	\$78 Million; 476 FTE
Improving Services to Disabled Inmates	\$6.5 Million; 12 FTE
Pharmaceuticals	\$31.1 Million
Expanding Workforce Education Programs	\$4 Million
Correctional Facility Maintenance and Repair	\$21 Million
Contraband Interdiction	\$2 Million
Office of the Inspector General	\$1.3 Million; 20 FTE
Desktop Virtualization	\$4 Million



Department of Juvenile Justice

Major Issues Funded	Amount
Pay Raises for Juvenile Detention and Probation Officers	\$8 Million
Increase Juvenile Residential Capacity	\$14.5 Million
Expand and Maintain Juvenile Prevention Programs	\$9.2 Million
Establish the Office of Youth and Family Advocacy	\$317,000; 3 FTE
Juvenile Facility Maintenance & Repair	\$10 Million
Complete Assessment Tool Enhancements	\$804,000

GOVERNOR RICK SCOTT'S 2018-2019 BUDGET
 SECURING FLORIDA'S
FUTURE



Other Priority Issues

Agency	Major Issues Funded	Amount
Multiple	Pay Raises for Sworn State Law Enforcement Officers	\$30.0 Million
FDLE	Strengthen Counterterrorism Operations	\$1.3 Million
FDLE	Improve Florida's Crime Databases	\$10.5 Million; 10 FTE
FDLE	Florida Violent Crime and Drug Control Council	\$4 Million
Legal Affairs	IT Modernization	\$7.4 Million
RCC	Dependency Workload	\$407,000; 5 FTE
Courts	Enhance Judicial Databases	\$419,000
State Attorneys & Public Defenders	Workload Proviso	----

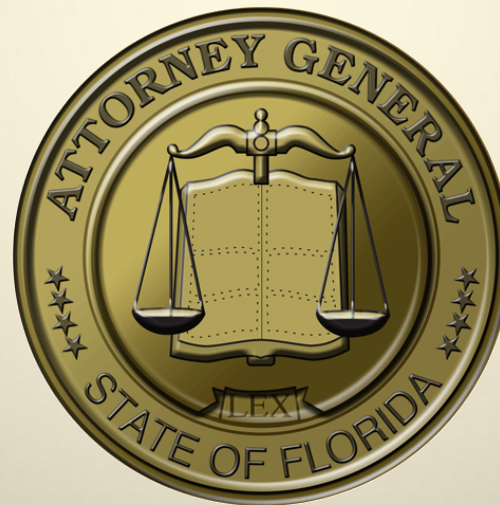
GOVERNOR RICK SCOTT'S 2018-2019 BUDGET
SECURING FLORIDA'S
FUTURE



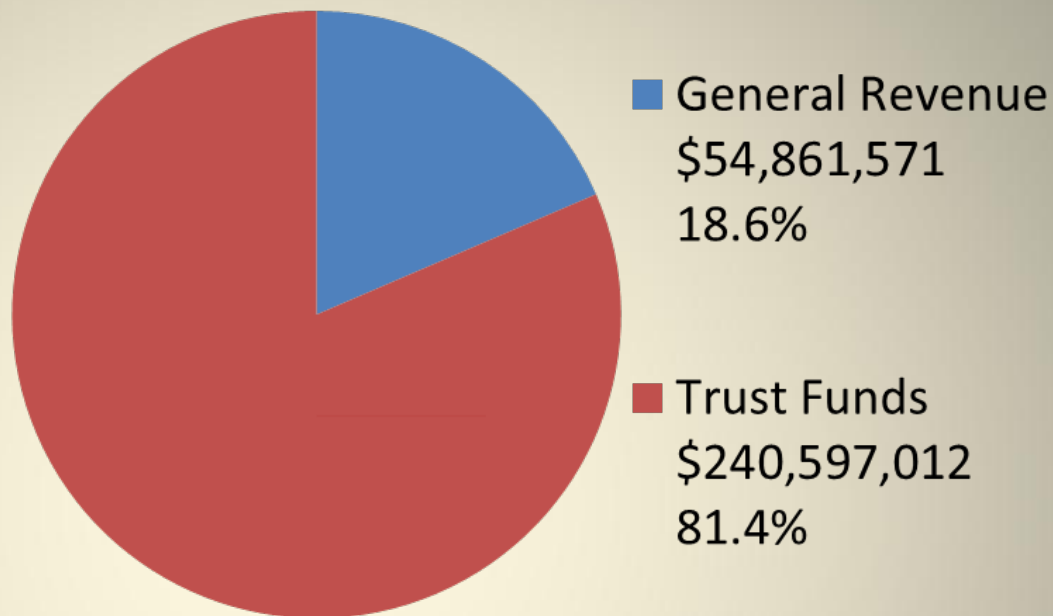
Public Safety Unit
Office of Policy and Budget

Katie Cunningham, Policy Coordinator
(850) 717-9512

**Florida Department of Legal Affairs
Office of the Attorney General
Fiscal Year 2018-19
Legislative Budget Request**



Department of Legal Affairs Office of the Attorney General 2017-18 Approved Budget



FY 2017-18 Appropriations by Program Area

Program Area	FTE	General Revenue	Trust Funds	Total
Office of the Attorney General	1,309	\$48.2 m	\$237 m	\$285.3 m
Statewide Prosecution	72.5	\$6.7 m	\$1.9 m	\$8.6 m
Florida Elections Commission	15		\$1.5 m	\$1.5 m
Total	<u>1,381.5</u>	<u>\$54.8 m</u>	<u>\$240.6 m</u>	<u>\$295.5 m</u>

**Department of Legal Affairs
Office of the Attorney General
Fiscal Year 2018-19 Legislative Budget Request**

	FTE	General Revenue	Trust Fund	All Funds (Total)
1. Agency-Wide Information Technology Modernization Program		\$7,354,982		\$7,354,982
2. Citizen Services Price Gouging Hotline Position Reclassification		\$43,800		\$43,800
3. Citizen Services Workload	5	\$314,983		\$314,983
<i>Total FY18-19 LBR Requests</i>	5	\$7,713,765		\$7,713,765

Florida Department of Legal Affairs Office of the Attorney General



THE FLORIDA SENATE
APPEARANCE RECORD

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12/7/17

Meeting Date

Bill Number (if applicable)

Topic Presentation of Governor's Recommendation

Amendment Barcode (if applicable)

Name Katie Cunningham

Job Title Policy Coordinator

Address 1801, the Capitol

Phone 850 717 9442

Street

Tallahassee

FL

State

Zip

Email

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing office of the Governor

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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12/7/17

Meeting Date

Bill Number (if applicable)

Topic Governor's Rec Budget

Amendment Barcode (if applicable)

Name Christina Daly

Job Title Secretary

Address 2737 Centerview Dr

Phone 850-717-2717

Street

Tallahassee

FL

32308

Email

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Department of Juvenile Justice

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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12/7/17
Meeting Date

Budget Reauthorization
Bill Number (if applicable)

Topic Department of Legal Affairs

Amendment Barcode (if applicable)

Name Andrew Fay

Job Title Special Counsel

Address PL07

Phone 850-245-0155

Street

Tallahassee
City

FL
State

Zip

Email Andrew.Fay@myfloridalegal.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Department of Legal Affairs

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

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12-7-2017
Meeting Date

Tab 7
Bill Number (if applicable)

Topic Governor's Recommendations

Amendment Barcode (if applicable)

Name BRIAN PITTS

Job Title Trustee

Address 1119 Newton Ave S
Street

Phone 727/897-9291

St Petersburg FL
City State

33705 Email justice2jesus@yahoo.com
Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Justice-2-Jesus

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Subcommittee on Finance and Tax
Appropriations Subcommittee on General
Government
Commerce and Tourism
Community Affairs
Ethics and Elections
Appropriations Subcommittee on Civil and Criminal
Justice
Rules

SENATOR JOSE JAVIER RODRIGUEZ

Deputy Democratic Whip
37th District

November 28, 2017

Senator Jeff Brandes
Appropriations Subcommittee on Criminal and Civil Justice, Chairman
201 The Capitol
404 S. Monroe St.
Tallahassee, FL 32399-1100
Sent via email to brandes.jeff@flsenate.gov

Chairman Brandes,

I respectfully request to be excused from the December 7th, 2017, meeting of the Appropriations Subcommittee on Criminal and Civil Justice. I will be traveling for a previously scheduled event.

Please let me know if you have any questions. Thank you.

Regards,

A handwritten signature in blue ink, appearing to read "J. Rodriguez".

Senator José Javier Rodríguez
District 37, Miami

CC: Tim Sadberry, Staff Director
Lisa Roberts, Committee Administrative Assistant

REPLY TO:

- 2100 Coral Way, Suite 505, Miami, Florida 33145 (305) 854-0365
- 220 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5037

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

CourtSmart Tag Report

Room: LL 37

Case No.:

Type:

Caption: Senate Appropriations Subcommittee on Criminal and Civil Justice

Judge:

Started: 12/7/2017 9:02:21 AM

Ends: 12/7/2017 11:59:45 AM

Length: 02:57:25

9:02:47 AM Sen. Brandes (Chair)
9:03:00 AM Sen. Brandes
9:03:03 AM S 146
9:03:14 AM Sen. Bean
9:04:59 AM Sen. Baxley
9:05:25 AM Sen. Bean
9:06:49 AM Alan Abromowitz, Executive Director, Guardian Ad Litem Provider
9:07:53 AM Brian Pitts, Trustee, Justice-2-Jesus
9:10:54 AM Sen. Brandes
9:11:31 AM S 152
9:12:05 AM Marion P. Hammer, National Rifle Association and Unified Sportsmen of Florida (waives in support)
9:12:19 AM B. Pitts
9:14:13 AM Sen. Baxley
9:15:03 AM Sen. Brandes
9:15:21 AM S 222
9:15:29 AM Sen. Bean
9:16:05 AM Sen. Brandes
9:16:52 AM TAB 7 - Presentation on Governor's Fiscal Year 2018-2019 Budget Recommendations
9:17:00 AM Katie Cunningham, Policy Coordinator, Office of the Governor
9:20:41 AM Julie Jones, Secretary, Department of Corrections
9:29:22 AM Sen. Bracy
9:30:03 AM J. Jones
9:30:57 AM Sen. Brandes
9:31:07 AM Sen. Bracy
9:31:13 AM J. Jones
9:31:41 AM Sen. Bracy
9:32:01 AM J. Jones
9:32:24 AM Sen. Bracy
9:32:43 AM J. Jones
9:33:12 AM Sen. Bracy
9:33:30 AM Sen. Perry
9:34:57 AM J. Jones
9:37:34 AM Sen. Baxley
9:38:16 AM J. Jones
9:39:53 AM Sen. Bracy
9:41:02 AM J. Jones
9:41:14 AM Sen. Bracy
9:41:20 AM J. Jones
9:44:01 AM Sen. Bradley
9:45:24 AM J. Jones
9:45:33 AM Sen. Bradley
9:45:54 AM J. Jones
9:46:39 AM Sen. Bradley
9:47:06 AM J. Jones
9:47:21 AM Sen. Bradley
9:47:31 AM J. Jones
9:47:39 AM Sen. Bradley
9:48:04 AM J. Jones
9:48:13 AM Sen. Bradley
9:48:45 AM J. Jones
9:50:19 AM Sen. Bradley
9:50:54 AM J. Jones

9:51:01 AM Sen. Bradley
9:52:21 AM Sen. Brandes
9:52:39 AM J. Jones
9:53:41 AM Sen. Brandes
9:54:02 AM J. Jones
9:54:42 AM Sen. Brandes
9:54:58 AM J. Jones
9:55:08 AM Sen. Brandes
9:55:18 AM J. Jones
9:55:56 AM Sen. Brandes
9:56:06 AM J. Jones
9:56:12 AM Sen. Brandes
9:56:15 AM J. Jones
9:56:52 AM Sen. Brandes
9:57:04 AM J. Jones
9:57:24 AM Sen. Brandes
9:57:33 AM J. Jones
9:57:40 AM Sen. Brandes
9:58:17 AM J. Jones
9:59:09 AM S 484
9:59:22 AM Sen. Bracy
9:59:36 AM Sen. Bradley
10:07:00 AM Sen Bracy
10:07:05 AM Sen. Baxley
10:07:45 AM Sen. Bradley
10:08:18 AM Sen. Baxley
10:09:00 AM Sen. Bradley
10:10:32 AM Sen. Bean
10:11:05 AM Sen. Bradley
10:12:16 AM Sen. Bracy
10:12:55 AM Sen. Bradley
10:13:25 AM Am. 600470
10:13:44 AM Sen. Brandes
10:14:39 AM Sen. Baxley
10:15:18 AM Sen. Brandes
10:16:33 AM Sen. Bracy
10:18:15 AM Nancy Daniels, Legislative Consultant, Florida Public Defender Association (waives in support)
10:18:22 AM Sen. Brandes
10:18:40 AM Phil Archer, State Attorney, 18th Judicial Circuit (waives in support)
10:19:53 AM B. Pitts
10:24:20 AM Scott McCoy, Senior Policy Counsel, Southern Poverty Law Center
10:27:43 AM Sen Brandes
10:28:10 AM Sen. Bradley
10:29:55 AM Sen. Brandes
10:30:21 AM Sen. Flores
10:30:31 AM Christina Daly, Secretary, Department of Juvenile Justice
10:39:06 AM K. Cunningham
10:43:12 AM Sen. Brandes
10:43:55 AM Andrew Fay, Special Council, Department of Legal Affairs
10:44:01 AM Sen. Brandes
10:44:45 AM TAB 5 Presentation of the Policy Recommendations for the Crime and Justice Institute
10:46:21 AM Len Engel, Policy Director, Crime and Justice Institute
10:52:07 AM Sen. Bracy
10:52:21 AM L. Engel
10:58:12 AM Sen. Bracy
10:58:23 AM L. Engel
10:59:22 AM Sen. Bracy
10:59:46 AM L. Engel
11:00:36 AM Sen. Baxley
11:01:14 AM L. Engel
11:05:54 AM Sen. Baxley
11:06:00 AM L. Engel

11:08:07 AM Sen. Baxley
11:10:16 AM Sen. Bracy
11:10:21 AM L. Engel
11:11:14 AM Sen. Bracy
11:11:24 AM L. Engel
11:21:55 AM Sen. Baxley
11:22:32 AM L. Engel
11:31:46 AM Sen. Perry
11:31:54 AM L. Engel
11:32:55 AM Sen. Perry
11:33:02 AM L. Engel
11:33:24 AM Sen. Brandes
11:33:37 AM Tim Sadberry, Staff Director, Senate Appropriations Subcommittee on Criminal and Civil Justice
11:33:44 AM Sen. Perry
11:34:03 AM T. Sadberry
11:34:40 AM L. Engel
11:34:51 AM Sen. Perry
11:35:08 AM L. Engel
11:38:14 AM TAB 6 - Discussion of the report by the Project on Accountable Justice (Florida State University)
11:39:10 AM Sen Brandes
11:40:31 AM Deborah Brodsky, Director, Project on Accountable Justice
11:48:29 AM Sen. Perry
11:49:14 AM D. Brodsky
11:53:59 AM Sen. Brandes
11:54:07 AM D. Brodsky
11:56:08 AM Sen. Bracy
11:57:31 AM D. Brodsky
11:58:21 AM Sen. Bradley
11:59:45 AM