

<b>Tab 3</b>	<b>SB 298</b> by <b>Bracy</b> ; Expunction of Criminal History Records					
631680	A	S	RS	CJ, Bracy	btw L.151 - 152:	10/23 06:17 PM
422842	SA	S	RCS	CJ, Bracy	Delete L.72 - 151:	10/23 06:17 PM

<b>Tab 4</b>	<b>SPB 7000</b> by <b>CJ</b> ; OGSR/Criminal History Records/Department of Law Enforcement					
--------------	--	--	--	--	--	--

<b>Tab 5</b>	<b>SPB 7002</b> by <b>CJ</b> ; OGSR/Active Criminal Intelligence or Criminal Investigative Information					
--------------	--	--	--	--	--	--

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**CRIMINAL JUSTICE**  
**Senator Bracy, Chair**  
**Senator Baxley, Vice Chair**

**MEETING DATE:** Monday, October 23, 2017

**TIME:** 4:00—6:00 p.m.

**PLACE:** Mallory Horne Committee Room, 37 Senate Office Building

**MEMBERS:** Senator Bracy, Chair; Senator Baxley, Vice Chair; Senators Bean, Bradley, Brandes, Clemens, Grimsley, and Rouson

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	Presentation by the Department of Corrections on Programming.		Presented
2	Presentation by the Department of Juvenile Justice on the department's assessment and response to current events regarding facilities.		Presented
3	<b>SB 298</b> Bracy	Expunction of Criminal History Records; Revising the elements that must be attested to by a petitioner in a statement submitted in support of the expunction of a criminal history record; revising the circumstances under which the Department of Law Enforcement must issue a certificate of eligibility for expunction of a criminal history record, etc.  CJ 10/23/2017 Fav/CS JU RC	Fav/CS Yeas 4 Nays 3
Consideration of proposed bill:			
4	<b>SPB 7000</b>	OGSR/Criminal History Records/Department of Law Enforcement; Amending provisions relating to an exemption from public records requirements for certain criminal history records ordered expunged which are retained by the Department of Law Enforcement; saving the exemption from repeal under the Open Government Sunset Review Act, etc.	Not Considered
Consideration of proposed bill:			
5	<b>SPB 7002</b>	OGSR/Active Criminal Intelligence or Criminal Investigative Information; Amending provisions which provides an exemption from public meetings requirements for portions of a meeting of a duly constituted criminal justice commission at which active criminal intelligence information or active criminal investigative information being considered by, or which may foreseeably come before, the commission is discussed; removing the scheduled repeal of the exemption, etc.	Not Considered

**COMMITTEE MEETING EXPANDED AGENDA**

Criminal Justice

Monday, October 23, 2017, 4:00—6:00 p.m.

---

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
-----	-------------------------	--	------------------

---

Other Related Meeting Documents

# Florida Department of Corrections



## Senate Criminal Justice Committee

Secretary Julie L. Jones



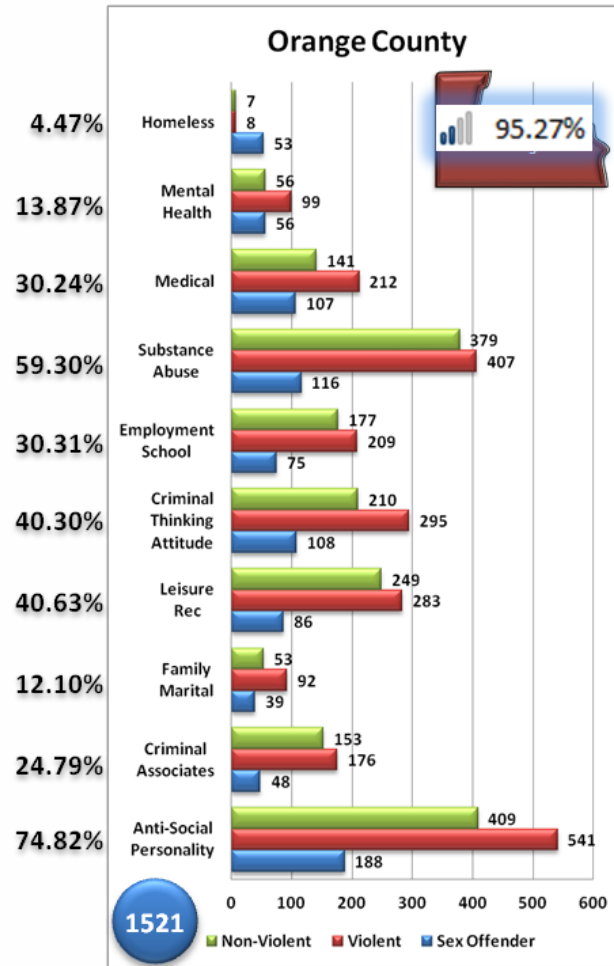
## Our Vision

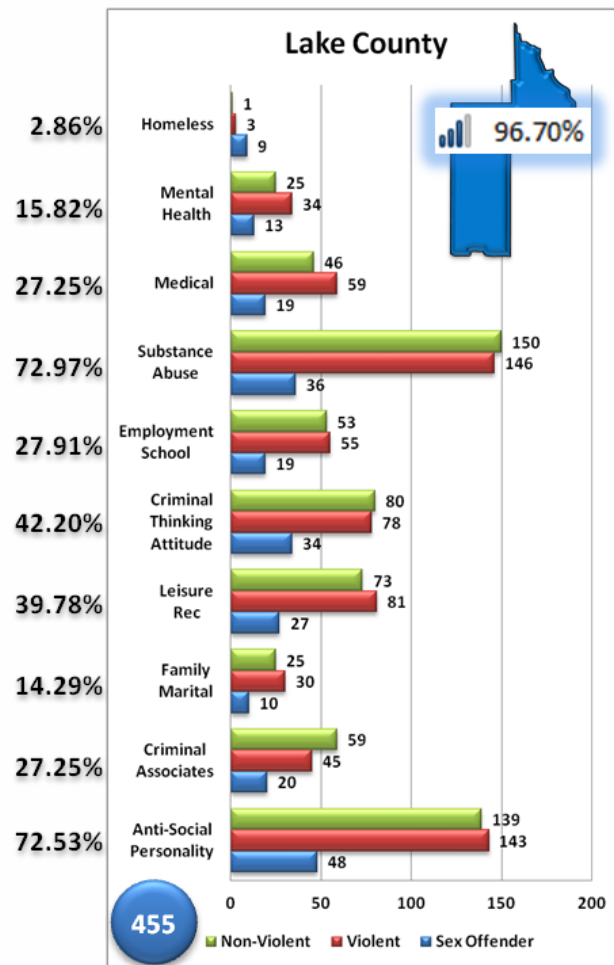
Changing lives to ensure a safer Florida.

## Our Mission

To promote the safety of the public, our staff and offenders by providing security, supervision, and care, offering opportunities for successful re-entry into society, and capitalizing on partnerships to continue to improve the quality of life in Florida.

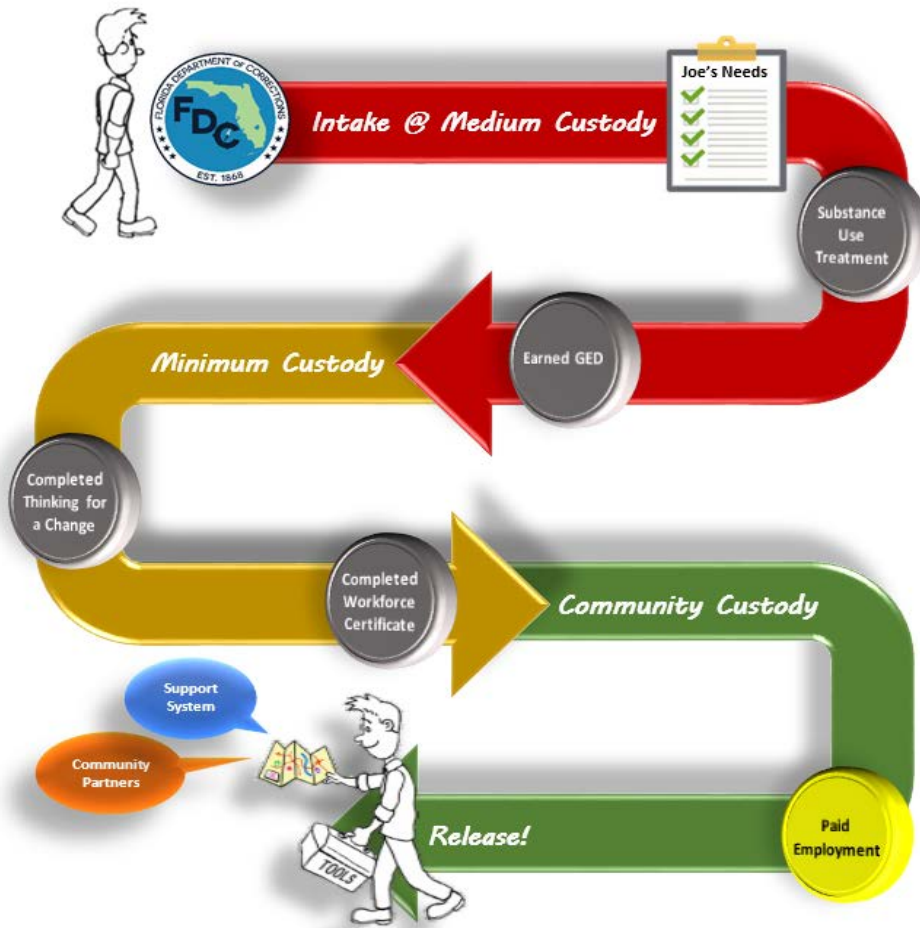








# Program Delivery & Custody Reduction





Feb 1

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

October 23, 2017

*Meeting Date*

N/A

*Bill Number (if applicable)*

N/A

*Amendment Barcode (if applicable)*

Topic Presentation by the Department of Corrections on Programming

Name Julie Jones

Job Title Secretary

Address 501 South Calhoun Street

*Street*

Tallahassee

*City*

FL

*State*

32399

*Zip*

Phone 850-717-3030

Email Julie.Jones@fdc.myflorida.com

Speaking: ☐ For ☐ Against ☒ Information

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

Representing Florida Department of Corrections

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)



# FLORIDA DEPARTMENT OF JUVENILE JUSTICE

PART OF THE COMMUNITY, PART OF THE SOLUTION

## **Juvenile Justice in Florida**

**An Overview...**

**Past, Present and Future**

**Senate Criminal Justice Committee  
Monday, October 23, 2017**





# Mission

To increase public safety by reducing juvenile delinquency through effective prevention, intervention and treatment services that strengthen families and turn around the lives of troubled youth.



# DJJ Overview

Florida is the largest, centralized, most comprehensive system.

## Continuum of Services

Prevention

Diversion/Probation/Community Services

Secure Detention

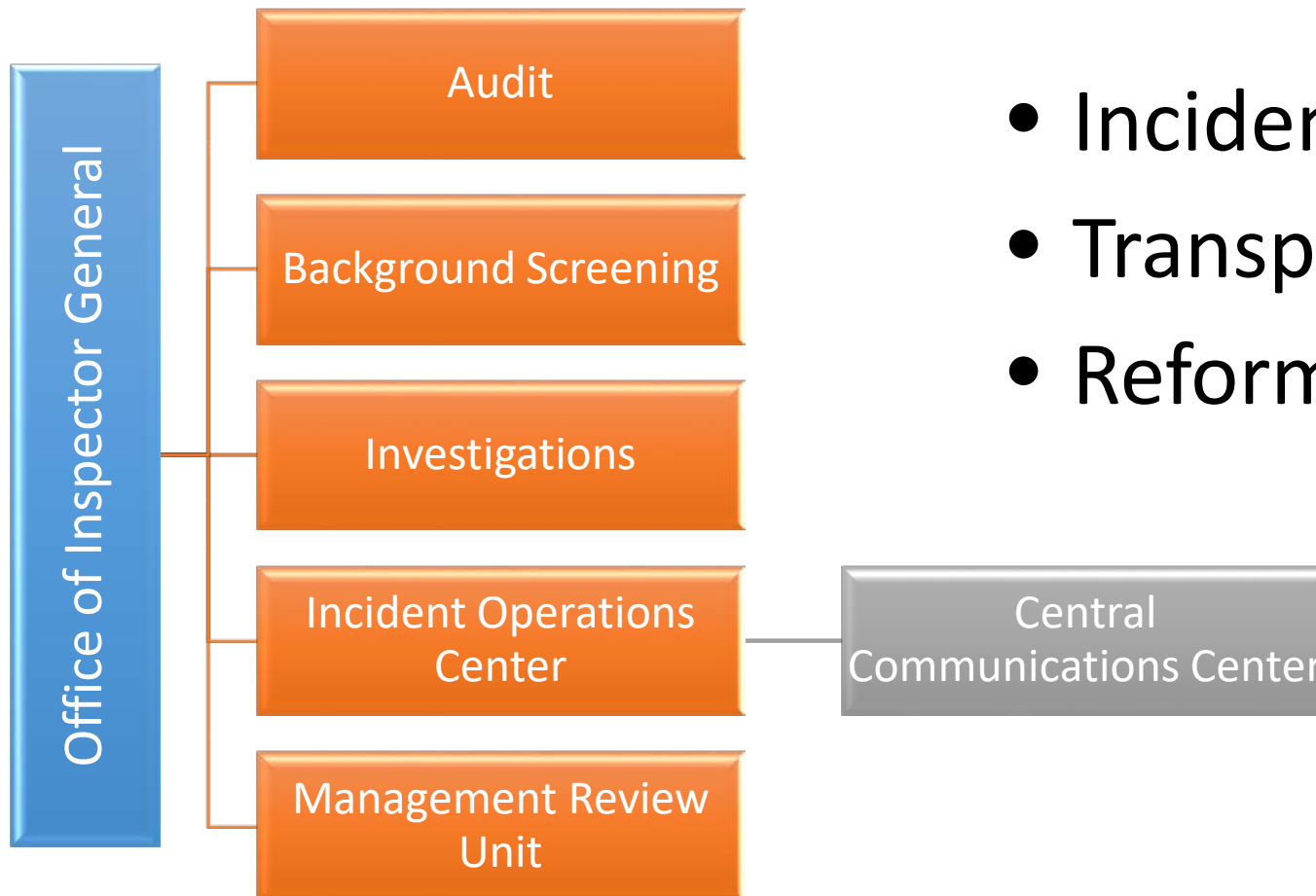
Residential Commitment

Re-entry and Aftercare

In the past decade, over **570,000** youth have been served throughout the continuum.



# Accountability



- Incident Reporting
- Transparency
- Reforms



# Incidents: Changes as a Response

## Program Safety

- Revision of driving of youth policy
- Mandate of 911 protocols on all shifts
- Reinforced notifying the Designated Health Authority 24 hours a day
- Revised video review policies
- Expanded principles of Trauma-Informed Care in Detention and Residential
- Standardized all Facility Operating Procedures for Detention Centers
- Modified and strengthened suicide prevention and protocols
- Central Communications Center (CCC Incident Reporting)
- Increased staff-to-youth ratios in Residential
- Reduced program size
- Installed and updated video cameras
- Engage law enforcement for crisis training





# Incidents: Changes as a Response

## Staff Suitability

- Instituted Ergometrics for pre-hire of staff for Detention and Probation staff
- Hiring practice revisions
- Revised academy trainings



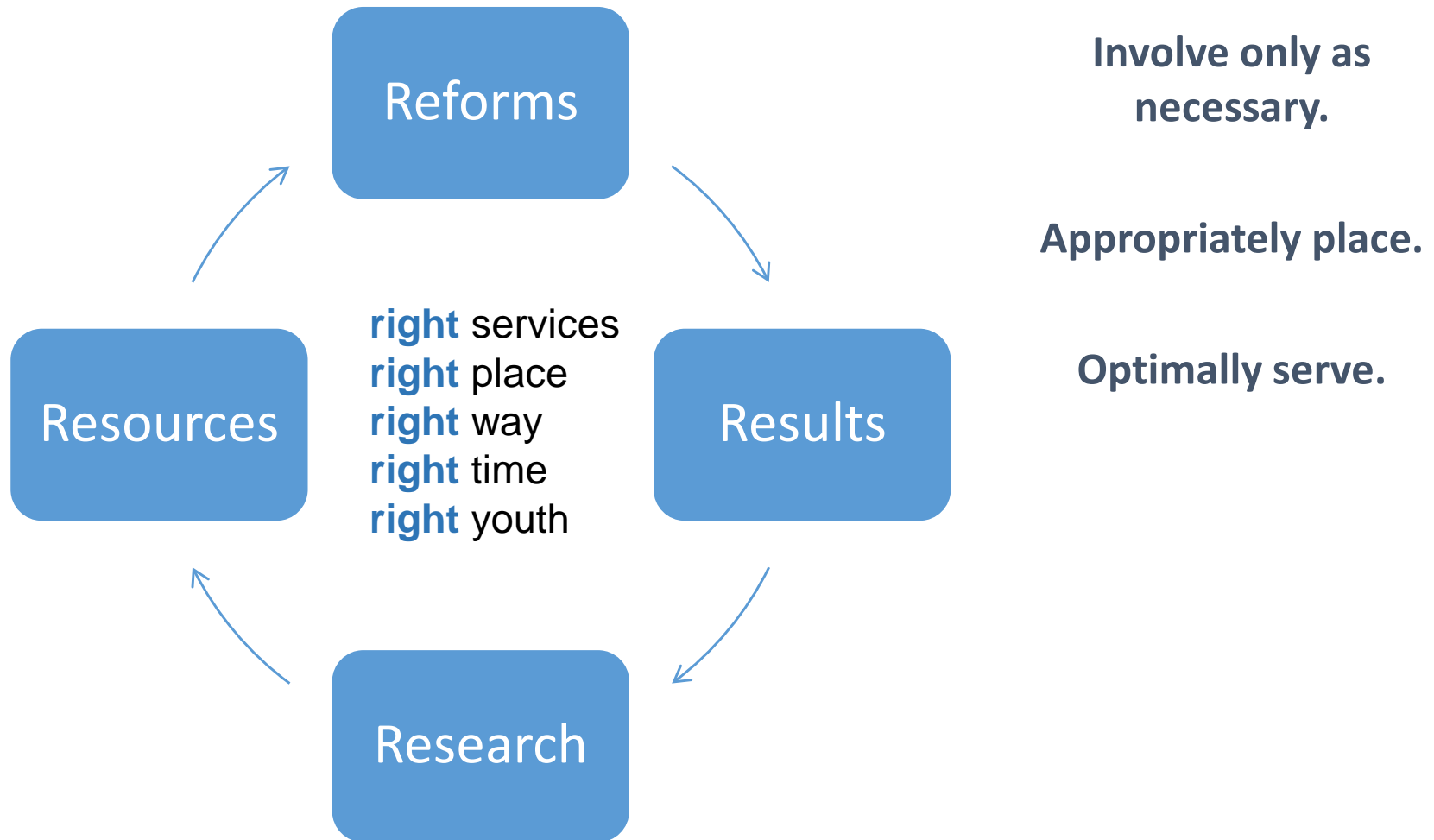
# Incidents: Changes as a Response

## Statute and Rule Revisions

- F.S. 985.702 to ensure staff prosecution
- Codified trauma-informed care in Florida Statute
- Codified prevention and early intervention in Florida Statute
- Deleted F.S. allowing for boot camps in Florida
- Standardized all Facility Operating Procedures for Detention Centers
- Made revisions to numerous agency rules including Mental Health, Residential, Detention Confinement



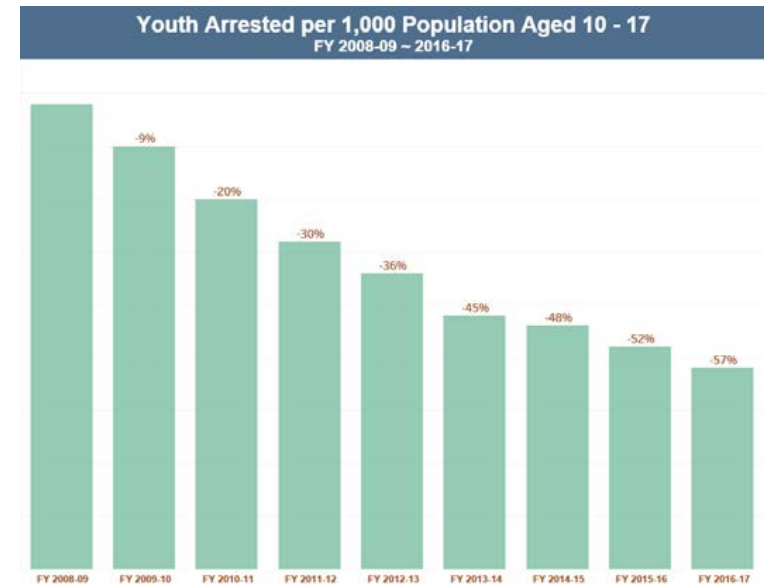
# Present: Roadmap to System Excellence





# Dedication to Data and Research

- Delinquency Profile
- Briefing Sheets
- Agency Priority Scorecards
- Program Performance Dashboards



**DIRECTIONS:** Use the black arrow in the corner to scroll to the next page for printable definitions of each measure. **LEGEND:** A green arrow indicates improvement in a measure compared to the same month of the previous year. A green circle indicates no change from the same month of the previous year. A red arrow indicates that, compared to the same month of the previous year, an improvement is needed.

**Note:** For all measures, percentages are a percentage change compared to the same month during the previous fiscal year. For example, the -1% reported for "Number of Delinquency Arrests" for January 2017 indicates a reduction by 1% from January 2016.

AUG 2016	SEP 2016	OCT 2016	NOV 2016	DEC 2016	JAN 2017	FEB 2017	MAR 2017	APR 2017	MAY 2017	JUN 2017	JUL 2017
<b>Eligible First Time Misdemeanants Issued Civil Citation by Law Enforcement*</b>											
9%	9%	3%	3%	9%	2%	5%	3%	8%	2%	N/A*	N/A*
<b>Number of Delinquency Arrests</b>											
-3%	-7%	-12%	2%	-8%	-1%	-9%	-6%	-17%	-4%	-10%	-6%
<b>Number of Felony Delinquency Arrests</b>											
3%	-1%	-7%	6%	0%	7%	-5%	1%	-11%	1%	-4%	-3%
<b>Number of Misdemeanor Delinquency Arrests</b>											
-11%	-13%	-15%	-5%	-15%	-7%	-13%	-11%	-24%	-14%	-19%	-7%
<b>Number of "Other" Delinquency Arrests</b>											
2%	4%	-11%	9%	-6%	-4%	-9%	-7%	-12%	3%	-7%	-8%
<b>Number of First-Time Misdemeanor Arrests (Impacted by Use of Civil Citation and Delinquency Dropping)</b>											
N/A*											
<b>Number of School Arrests</b>											
63%	-11%	-23%	-4%	-11%	4%	-12%	2%	-26%	-15%	-24%	3%



# Oversight and Accountability of DJJ Programs

- Incident Management
- Monitoring and Quality Improvement
- Shared Services model
- Includes contracted and state-operated programs
- Risk-based approach
- Contract Management and Accountability



# Hiring Practices

- Level two background screening
- Previous state employment records
- Ergometrics testing
- Expectations of staff
- Expectations of providers



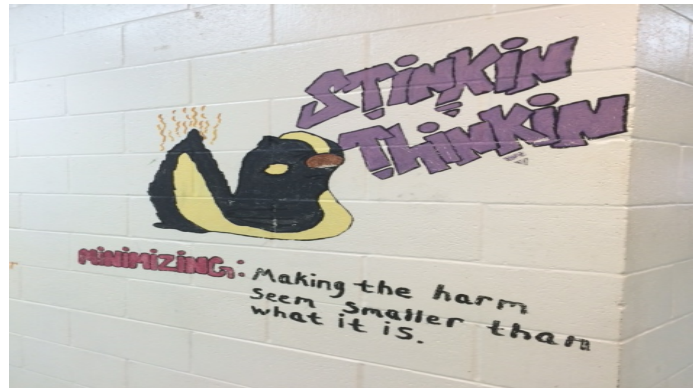
# Agency Reforms

- Juvenile Justice System Improvement Project
- Youth In Custody Practice Model
- Trauma Responsive and Caring Environment
- Juvenile Detention Alternative Initiative





# Youth-centered and Nurturing Environments





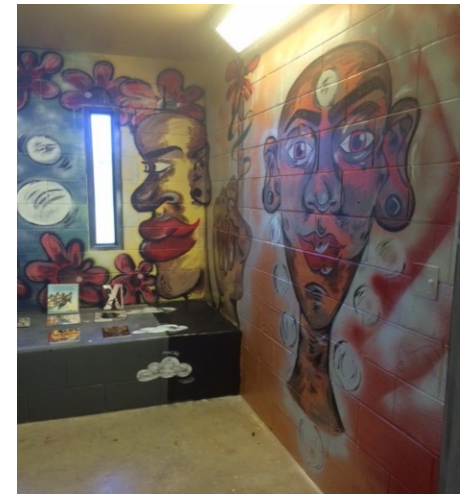


# Providing Normalcy

## Before 2011



## After 2011





# Providing Normalcy

## Before 2011



## After 2011



FLORIDA DEPARTMENT OF JUVENILE JUSTICE

PART OF THE COMMUNITY. PART OF THE SOLUTION.



# Future: Moving Forward

- Proposed pay increase
- Additional hiring screening
- Established a new Office of Youth and Family Advocacy



# Questions?

**Christina K. Daly, Secretary**

850-413-7313, Office

850-251-6668, Cell

[Christy.Daly@djj.state.fl.us](mailto:Christy.Daly@djj.state.fl.us)

**Rachel Moscoso, Legislative Affairs Director**

850-717-2716, Office

850-322-9572, Cell

[Rachel.Moscoso@djj.state.fl.us](mailto:Rachel.Moscoso@djj.state.fl.us)

Tab 2 ✓

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

10/23/17

*Meeting Date*

*Bill Number (if applicable)*

Topic Department of Juvenile Justice - assessment and response to current events

*Amendment Barcode (if applicable)*

Name Christina Daly

Job Title Secretary of DJJ

Address 2737 Centerview Dr.

Phone 850-717-2716

*Street*

tallahassee

FL

32312

Email CHRISTY.DALY@DJJ.STATE.FL.US

*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

*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)

10-23-2017

Meeting Date

Tab 2

Bill Number (if applicable)

Topic DJJ Presentation on facilities

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 Committee on Criminal Justice

---

BILL: CS/SB 298

INTRODUCER: Criminal Justice Committee and Senator Bracy

SUBJECT: Criminal History Records

DATE: October 24, 2017

REVISED: \_\_\_\_\_

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Storch	Jones	CJ	Fav/CS
2. _____	_____	JU	_____
3. _____	_____	RC	_____

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 298 allows a person who has not been adjudicated delinquent of a misdemeanor specified in s. 943.051(3)(b), F.S., in the past 10 years to be eligible to seek a sealing or expunction of a criminal history record.

The bill also enables a person to seek the expunction of a criminal history record associated with a judgment of acquittal or a not guilty verdict.

The bill is effective July 1, 2018.

**II. Present Situation:**

**Expunction and Sealing of Criminal History Records**

Florida law makes adult criminal history records accessible to the public unless the record has been sealed or expunged.<sup>1</sup> Sealed records are placed under highly restricted access by court

---

<sup>1</sup> Florida Department of Law Enforcement, *Seal and Expunge Process*, <http://www.fdle.state.fl.us/cms/Seal-and-Expunge-Process/Seal-and-Expunge-Home.aspx> (last visited October 18, 2017). See s. 943.053, F.S.



order,<sup>2</sup> while expunged records are removed from record systems and destroyed.<sup>3</sup> Florida statutes authorize a court-ordered sealing process<sup>4</sup> and the following expungement processes:

- Administrative;<sup>5</sup>
- Court-ordered;<sup>6</sup>
- Juvenile diversion;<sup>7</sup>
- Lawful self-defense;<sup>8</sup>
- Human trafficking;<sup>9</sup>
- Automatic juvenile;<sup>10</sup> and
- Early juvenile.<sup>11</sup>

### ***Court-Ordered Expunction of Criminal History Record***

A court may order a criminal history record of a minor or an adult to be expunged. A person is permitted to obtain one court-ordered expunction in their lifetime.<sup>12</sup>

To qualify for a court-ordered expunction, a person must first obtain a certificate of eligibility from the Florida Department of Law Enforcement (FDLE) pursuant to requirements set forth in ss. 943.0585(2) or 943.0585(5), F.S. To obtain a certificate of eligibility for expunction, a person must submit to the FDLE:

- A written, certified statement from the appropriate state attorney or statewide prosecutor which indicates:
  - An indictment, information, or other charging document was not filed or issued in the case.
  - An indictment, information, or other charging document, if filed or issued in the case, was dismissed or nolle prosequi<sup>13</sup> by the state attorney or statewide prosecutor, and that none of the charges that the person is seeking to expunge resulted in a trial.
  - The criminal history record does not relate to certain violations.<sup>14</sup>

---

<sup>2</sup> “Sealing of a criminal history record” is the preservation of a record under such circumstances that it is secure and inaccessible to any person not having a legal right of access to the record or the information contained and preserved therein. Section 943.045(19), F.S.

<sup>3</sup> “Expunction of a criminal history record” is the court-ordered physical destruction or obliteration of a record or portion of a record by any criminal justice agency having custody thereof, or as prescribed by the court issuing the order. Section 943.045(16), F.S.

<sup>4</sup> Section 943.059, F.S.

<sup>5</sup> Section 943.0581, F.S.

<sup>6</sup> Section 943.0585, F.S.

<sup>7</sup> Section 943.0582, F.S.

<sup>8</sup> Section 943.0585(5), F.S.

<sup>9</sup> Section 943.0583, F.S.

<sup>10</sup> Section 943.0515, F.S.

<sup>11</sup> Section 943.0515(1)(b)2., F.S.

<sup>12</sup> Section 943.0585, F.S.

<sup>13</sup> Nolle prosequi is a formal entry upon the record that declares that the case will not be further prosecuted. THE LAW DICTIONARY: FEATURING BLACK’S LAW DICTIONARY FREE ONLINE LEGAL DICTIONARY (2nd ed.), <http://thelawdictionary.org> (last visited October 18, 2017).

<sup>14</sup> These violations include sexual misconduct, luring or enticing a child, sexual battery, procuring a person under 18 for prostitution, lewd or lascivious offenses committed in front of a minor, an elderly person, or a disabled person, voyeurism, violations of the Florida Communications Fraud Act, sexual abuse of a child, offenses by public officers and employees, acts in connection with obscenity and minors, child pornography, selling or buying of minors, drug trafficking, violation of



- A \$75 processing fee, unless it is waived by the executive director.
- A certified copy of the disposition of the charge.<sup>15</sup>

In addition, the applicant must not:

- Prior to the date the application for a certificate of eligibility is filed, have been adjudicated guilty of a criminal offense or comparable ordinance violation, or been adjudicated delinquent for committing any felony or a misdemeanor specified in s. 943.051(3)(b), F.S.;<sup>16</sup>
- Have been adjudicated guilty of, or adjudicated delinquent for committing, any of the acts stemming from the arrest or alleged criminal activity to which the petition to expunge pertains;
- Be under court supervision for the arrest or alleged criminal activity to which the petition pertains; and
- Have secured a prior expunction or sealing of a criminal history record, unless the expunction sought is of a criminal history record previously sealed for 10 years pursuant to s. 943.0585(2)(h), F.S.<sup>17</sup>

Upon receipt of a certificate of eligibility for expunction, the person must then petition the court to expunge the criminal history record. Along with the certificate of eligibility, the petition must include a sworn statement attesting that the petitioner:

- Has never been adjudicated guilty of a criminal offense or comparable ordinance violation, or been adjudicated delinquent for committing any felony or a specified misdemeanor;<sup>18</sup>
- Has not been adjudicated guilty of, or adjudicated delinquent for committing, any of the acts stemming from the arrest or alleged criminal activity to which the petition pertains;
- Has never secured a prior sealing or expunction of a criminal history record, unless the expunction is sought for a criminal history record previously sealed for 10 years pursuant to s. 943.0585(2)(h), F.S., and the record is otherwise eligible for expunction; and
- Is eligible for such an expunction and does not have any other petition to expunge or seal pending before any court.<sup>19</sup>

A copy of the completed petition to expunge is then served upon the appropriate state attorney or statewide prosecutor and the arresting agency, any of which may respond to the court regarding the petition.<sup>20</sup> There is no statutory right to a court-ordered expunction and any request for expunction of a criminal history record may be denied at the sole discretion of the court.<sup>21</sup>

---

pretrial detention, and any violation specified as a predicated offense for registration as a sexual predator pursuant to the Florida Sexual Predators Act. Section 943.0585(2)(a)3., F.S.

<sup>15</sup> Section 943.0585(2)(a)-(c), F.S.

<sup>16</sup> These offenses include assault, battery, carrying a concealed weapon, unlawful use of destructive devices or bombs, child neglect, assault on a law enforcement officer, a firefighter, or other specified officer, open carrying of a weapon, indecent exposure, unlawful possession of a firearm, petit theft, animal cruelty, arson, and unlawful possession or discharge of a weapon or firearm at a school-sponsored event or on school property. Section 943.051(3)(b), F.S.

<sup>17</sup> Section 943.0585(2)(d)-(g), F.S.

<sup>18</sup> *Supra* note 16.

<sup>19</sup> Section 943.0585(1)(b), F.S.

<sup>20</sup> Section 943.0585(3)(a), F.S.

<sup>21</sup> Section 943.0585, F.S.

***Effect of Expunction of Criminal History Record***

If the court grants a petition to expunge, the clerk of the court then certifies copies of the order to the appropriate state attorney and the arresting agency and any other agency that has received the criminal history record from the court. The arresting agency must provide the expunction order to any agencies that received the criminal history record information from the arresting agency. The FDLE must provide the expunction order to the Federal Bureau of Investigation.<sup>22</sup>

Any record that the court grants the expunction of must be physically destroyed or obliterated by any criminal justice agency having such record. The FDLE, however, is required to maintain the record. That record is confidential and exempt from disclosure requirements under the public records laws. Only a court order would make the record available to a person or entity that is otherwise excluded.<sup>23</sup>

The person who has their criminal history record expunged may lawfully deny or fail to acknowledge the records that were expunged, unless they are:

- A defendant in a criminal prosecution;
- Seeking appointment as a guardian, a position with a criminal justice agency, a license by the Division of Insurance Agent and Agency Services within the Department of Financial Services, or a position with an agency that is responsible for the protection of vulnerable persons, including children, the disabled, or the elderly;
- Petitioning to have a court-ordered criminal history record expunged or sealed or petitioning for relief under s. 943.0583, F.S.; or
- A candidate for admission to The Florida Bar.<sup>24</sup>

***Court-ordered Sealing of Criminal History Record***

A court may order a criminal history record of a minor or an adult to be sealed. To qualify for a court-ordered sealing, a person must first obtain a certificate of eligibility from the FDLE pursuant to requirements set forth in s. 943.059(2), F.S. To obtain a certificate of eligibility for sealing, the applicant must not:

- Prior to the date on which the application is filed, have been adjudicated guilty of a criminal offense or comparable ordinance violation, or been adjudicated delinquent for committing any felony or a misdemeanor specified in s. 943.051(3)(b), F.S.;<sup>25</sup>
- Have been adjudicated guilty of or adjudicated delinquent for committing any of the acts stemming from the arrest or alleged criminal activity to which the petition to seal pertains;
- Have secured a prior sealing or expunction of a criminal history record; and
- Be under court supervision for the arrest or alleged criminal activity to which the petition to seal pertains.<sup>26</sup>

The applicant must also submit to the FDLE:

- A \$75 processing fee, unless it is waived by the executive director.

---

<sup>22</sup> Section 943.0585(3)(b), F.S.

<sup>23</sup> Section 943.0585(4), F.S.

<sup>24</sup> Section 943.0585(4)(a), F.S.

<sup>25</sup> *Supra* note 16.

<sup>26</sup> Section 943.059(2)(c)-(f), F.S.

- A certified copy of the disposition of the charge.<sup>27</sup>

Upon receipt of a certificate of eligibility for sealing, the person must then petition the court to seal the criminal history record. Along with the certificate of eligibility, the petitioner must include a sworn statement attesting that the petitioner:

- Has never, prior to the date on which the petition is filed, been adjudicated guilty of a criminal offense or comparable ordinance violation, or been adjudicated delinquent for committing any felony or a specified misdemeanor;<sup>28</sup>
- Has not been adjudicated guilty of or adjudicated delinquent for committing any of the acts stemming from the arrest or alleged criminal activity to which the petition to seal pertains;
- Has never secured a prior sealing or expunction of a criminal history record; and
- Is eligible for such a sealing and does not have any other petition to seal or expunge pending before any court.<sup>29</sup>

A copy of the completed petition to seal is then served upon the appropriate state attorney or statewide prosecutor and the arresting agency, any of which may respond to the court regarding the completed petition to seal.<sup>30</sup> There is no statutory right to a court-ordered sealing and any request for sealing of a criminal history record may be denied at the sole discretion of the court.<sup>31</sup>

### ***Effect of Sealing of Criminal History Record***

If the court grants a petition to seal, the clerk of the court then certifies copies of the order to the appropriate state attorney or prosecutor and the arresting agency. The arresting agency must provide the sealing order to any agencies that received the criminal history record information from the arresting agency. The FDLE must provide the expunction order to the Federal Bureau of Investigation.<sup>32</sup> An order sealing a criminal history record does not require that record to be surrendered to the court. Additionally, the FDLE and other criminal justice agencies shall continue to maintain the record.<sup>33</sup>

The person who has their criminal history record sealed may lawfully deny or fail to acknowledge the records that were sealed, unless they are:

- A defendant in a criminal prosecution;
- Seeking appointment as a guardian, a position with a criminal justice agency, a license by the Division of Insurance Agent and Agency Services within the Department of Financial Services, or a position with an agency that is responsible for the protection of vulnerable persons, including children, the disabled, or the elderly;
- Petitioning to have a court-ordered criminal history record expunged or sealed or petitioning for relief under s. 943.0583, F.S.;
- A candidate for admission to The Florida Bar;

---

<sup>27</sup> Section 943.059(2)(a)-(b), F.S.

<sup>28</sup> *Supra* note 16.

<sup>29</sup> Section 943.059(1)(b), F.S.

<sup>30</sup> Section 943.059(3)(a), F.S.

<sup>31</sup> Section 943.059, F.S.

<sup>32</sup> Section 943.059(3)(b), F.S.

<sup>33</sup> Section 943.059(3)(e), F.S.

- Attempting to purchase a firearm from a licensed imported, licensed manufacturer, or licensed dealer and is subject to a criminal history check under state or federal law; or
- Seeking to be licensed by the Bureau of License Issuance of the Division of Licensing within the Department of Agriculture and Consumer Services to carry a concealed weapon or concealed firearm.<sup>34</sup>

### III. Effect of Proposed Changes:

Current law prohibits a person who has ever been adjudicated delinquent of a misdemeanor specified in s. 943.051(3)(b), F.S., from being eligible to have any criminal history record sealed or expunged. The bill allows a person who has not been adjudicated delinquent of a misdemeanor specified in s. 943.051(3)(b), F.S., in the past 10 years to be eligible to seek a sealing or expunction of a criminal history record.<sup>35</sup>

The bill also enables a person to seek the expunction of a criminal history record that resulted in a judgment of acquittal<sup>36</sup> or a not guilty verdict. However, current law would require the person to have the criminal history record sealed for a minimum of 10 years before seeking an expunction.

The bill is effective July 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.

---

<sup>34</sup> Section 943.059(4)(a), F.S.

<sup>35</sup> *Supra* note 16.

<sup>36</sup> A judgment of acquittal is rendered when a person accused of a crime is legally freed by a court generally as a result of lack of evidence. THE LAW DICTIONARY: FEATURING BLACK'S LAW DICTIONARY FREE ONLINE LEGAL DICTIONARY (2nd ed.), <http://thelawdictionary.org> (last visited October 18, 2017).

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The bill allows a person who has not been adjudicated delinquent for committing a misdemeanor specified in s. 943.051(3)(b), F.S., in the previous 10 years to be eligible to seek a sealing or expunction of a criminal history record.

An increase in eligible people who may seek a sealing or expunction of a criminal history record may yield an increased number of applications to the FDLE, which would likely have a negative, indeterminate fiscal impact on the FDLE.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 943.0585 and 943.059.

**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 Criminal Justice on October 23, 2017:**

The Committee Substitute:

- Clarifies that a person who has not been adjudicated delinquent of committing a specified misdemeanor offense in s. 943.051(3)(b), F.S., in the past 10 years is eligible to seek an expunction of a criminal history record; and
- Enables a person to be eligible to seek the sealing of a criminal history record if he or she has not been adjudicated delinquent for committing a specified misdemeanor offense in 943.051(3)(b), F.S., in the previous 10 years.<sup>37</sup>

**B. Amendments:**

None.

---

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

---

---

<sup>37</sup> *Supra* note 16.



631680

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
10/23/2017	.	
	.	
	.	
	.	

---

The Committee on Criminal Justice (Bracy) recommended the following:

**Senate Amendment (with title amendment)**

Between lines 151 and 152  
insert:

Section 2. Paragraph (b) of subsection (1) and paragraph (c) of subsection (2) of section 943.059, Florida Statutes, is amended to read:

943.059 Court-ordered sealing of criminal history records.—  
The courts of this state shall continue to have jurisdiction  
over their own procedures, including the maintenance, sealing,



631680

and correction of judicial records containing criminal history information to the extent such procedures are not inconsistent with the conditions, responsibilities, and duties established by this section. Any court of competent jurisdiction may order a criminal justice agency to seal the criminal history record of a minor or an adult who complies with the requirements of this section. The court shall not order a criminal justice agency to seal a criminal history record until the person seeking to seal a criminal history record has applied for and received a certificate of eligibility for sealing pursuant to subsection (2). A criminal history record that relates to a violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794, former s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s. 916.1075, a violation enumerated in s. 907.041, or any violation specified as a predicate offense for registration as a sexual predator pursuant to s. 775.21, without regard to whether that offense alone is sufficient to require such registration, or for registration as a sexual offender pursuant to s. 943.0435, may not be sealed, without regard to whether adjudication was withheld, if the defendant was found guilty of or pled guilty or nolo contendere to the offense, or if the defendant, as a minor, was found to have committed or pled guilty or nolo contendere to committing the offense as a delinquent act. The court may only order sealing of a criminal history record pertaining to one arrest or one incident of alleged criminal activity, except as provided in this section. The court may, at its sole discretion, order the sealing of a criminal history record pertaining to more than one arrest if



631680

the additional arrests directly relate to the original arrest. If the court intends to order the sealing of records pertaining to such additional arrests, such intent must be specified in the order. A criminal justice agency may not seal any record pertaining to such additional arrests if the order to seal does not articulate the intention of the court to seal records pertaining to more than one arrest. This section does not prevent the court from ordering the sealing of only a portion of a criminal history record pertaining to one arrest or one incident of alleged criminal activity. Notwithstanding any law to the contrary, a criminal justice agency may comply with laws, court orders, and official requests of other jurisdictions relating to sealing, correction, or confidential handling of criminal history records or information derived therefrom. This section does not confer any right to the sealing of any criminal history record, and any request for sealing a criminal history record may be denied at the sole discretion of the court.

(1) PETITION TO SEAL A CRIMINAL HISTORY RECORD.—Each petition to a court to seal a criminal history record is complete only when accompanied by:

(b) The petitioner's sworn statement attesting that the petitioner:

1. Has never, before ~~prior to~~ the date on which the petition is filed, been adjudicated guilty of a felony ~~criminal~~ offense or comparable ordinance violation, or been adjudicated delinquent for committing any felony ~~or a misdemeanor specified in s. 943.051(3)(b).~~

2. Has not been adjudicated guilty of a misdemeanor offense or been adjudicated delinquent for committing a misdemeanor





631680

offense specified in s. 943.051(3)(b) in the previous 10 years.

~~3.2.~~ Has not been adjudicated guilty of or adjudicated delinquent for committing any of the acts stemming from the arrest or alleged criminal activity to which the petition to seal pertains.

~~4.3.~~ Has never secured a prior sealing or expunction of a criminal history record under this section, s. 943.0585, former s. 893.14, former s. 901.33, or former s. 943.058.

~~5.4.~~ Is eligible for such a sealing to the best of his or her knowledge or belief and does not have any other petition to seal or any petition to expunge pending before any court.

Any person who knowingly provides false information on such sworn statement to the court commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) CERTIFICATE OF ELIGIBILITY FOR SEALING.—Prior to petitioning the court to seal a criminal history record, a person seeking to seal a criminal history record shall apply to the department for a certificate of eligibility for sealing. The department shall, by rule adopted pursuant to chapter 120, establish procedures pertaining to the application for and issuance of certificates of eligibility for sealing. A certificate of eligibility for sealing is valid for 12 months after the date stamped on the certificate when issued by the department. After that time, the petitioner must reapply to the department for a new certificate of eligibility. Eligibility for a renewed certification of eligibility must be based on the status of the applicant and the law in effect at the time of the



631680

renewal application. The department shall issue a certificate of eligibility for sealing to a person who is the subject of a criminal history record provided that such person:

(c) 1. Has never, before ~~prior to~~ the date on which the application for a certificate of eligibility is filed, been adjudicated guilty of a felony ~~criminal~~ offense or comparable ordinance violation, or been adjudicated delinquent for committing any felony ~~or a misdemeanor specified in s. 943.051(3) (b).~~

2. Has not been adjudicated guilty of a misdemeanor offense or been adjudicated delinquent for committing a misdemeanor offense specified in s. 943.051(3) (b) in the previous 10 years.

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

And the title is amended as follows:

Delete lines 2 - 8

and insert:

An act relating to criminal history records; amending s. 943.0585, F.S.; revising the elements that must be attested to by a petitioner in a statement submitted in support of the expunction of a criminal history record; revising the circumstances under which the Department of Law Enforcement must issue a certificate of eligibility for expunction of a criminal history record; amending s. 943.059, F.S.; revising the elements that must be attested to by a petitioner in a statement submitted in support of the sealing of a criminal history record; revising the circumstances under which the Department of Law Enforcement must



631680

127

issue a certificate of eligibility for sealing of a



422842

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
10/23/2017	.	
	.	
	.	
	.	

---

The Committee on Criminal Justice (Bracy) recommended the following:

**Senate Substitute for Amendment (631680) (with title amendment)**

Delete lines 72 - 151

and insert:

petition is filed, been adjudicated guilty of a criminal offense or comparable ordinance violation, or been adjudicated delinquent for committing any felony ~~or a misdemeanor specified in s. 943.051(3)(b).~~

2. Has not been adjudicated delinquent for committing a



422842

11 misdemeanor offense specified in s. 943.051(3)(b) in the  
12 previous 10 years.

13 3.2. Has not been adjudicated guilty of, or adjudicated  
14 delinquent for committing, any of the acts stemming from the  
15 arrest or alleged criminal activity to which the petition  
16 pertains.

17 4.3. Has never secured a prior sealing or expunction of a  
18 criminal history record under this section, s. 943.059, former  
19 s. 893.14, former s. 901.33, or former s. 943.058, unless  
20 expunction is sought of a criminal history record previously  
21 sealed for 10 years pursuant to paragraph (2)(h) and the record  
22 is otherwise eligible for expunction.

23 5.4. Is eligible for such an expunction to the best of his  
24 or her knowledge or belief and does not have any other petition  
25 to expunge or any petition to seal pending before any court.

26  
27 Any person who knowingly provides false information on such  
28 sworn statement to the court commits a felony of the third  
29 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
30 775.084.

31 (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.—Prior to  
32 petitioning the court to expunge a criminal history record, a  
33 person seeking to expunge a criminal history record shall apply  
34 to the department for a certificate of eligibility for  
35 expunction. The department shall, by rule adopted pursuant to  
36 chapter 120, establish procedures pertaining to the application  
37 for and issuance of certificates of eligibility for expunction.  
38 A certificate of eligibility for expunction is valid for 12  
39 months after the date stamped on the certificate when issued by



422842

the department. After that time, the petitioner must reapply to the department for a new certificate of eligibility. Eligibility for a renewed certification of eligibility must be based on the status of the applicant and the law in effect at the time of the renewal application. The department shall issue a certificate of eligibility for expunction to a person who is the subject of a criminal history record if that person:

(a) Has obtained, and submitted to the department, a written, certified statement from the appropriate state attorney or statewide prosecutor which indicates:

1. That an indictment, information, or other charging document was not filed or issued in the case.

2. That an indictment, information, or other charging document, if filed or issued in the case, was dismissed or nolle prosequi by the state attorney or statewide prosecutor, or was dismissed by a court of competent jurisdiction, that a judgment of acquittal was rendered by a judge, or that a verdict of not guilty was rendered by a judge or jury ~~and that none of the charges related to the arrest or alleged criminal activity to which the petition to expunge pertains resulted in a trial, without regard to whether the outcome of the trial was other than an adjudication of guilt.~~

3. That the criminal history record does not relate to a violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794, former s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s. 916.1075, a violation enumerated in s. 907.041, or any violation specified as a predicate offense for registration as a sexual predator pursuant to s. 775.21, without



422842

regard to whether that offense alone is sufficient to require such registration, or for registration as a sexual offender pursuant to s. 943.0435, where the defendant was found guilty of, or pled guilty or nolo contendere to any such offense, or that the defendant, as a minor, was found to have committed, or pled guilty or nolo contendere to committing, such an offense as a delinquent act, without regard to whether adjudication was withheld.

(d)1. Has never, before ~~prior to~~ the date on which the application for a certificate of eligibility is filed, been adjudicated guilty of a criminal offense or comparable ordinance violation, or been adjudicated delinquent for committing any felony ~~or a misdemeanor specified in s. 943.051(3)(b).~~

2. Has not been adjudicated delinquent for committing a misdemeanor offense specified in s. 943.051(3)(b) in the previous 10 years.

Section 2. Paragraph (b) of subsection (1) and paragraph (c) of subsection (2) of section 943.059, Florida Statutes, are amended to read:

943.059 Court-ordered sealing of criminal history records.—  
The courts of this state shall continue to have jurisdiction over their own procedures, including the maintenance, sealing, and correction of judicial records containing criminal history information to the extent such procedures are not inconsistent with the conditions, responsibilities, and duties established by this section. Any court of competent jurisdiction may order a criminal justice agency to seal the criminal history record of a minor or an adult who complies with the requirements of this section. The court shall not order a criminal justice agency to



422842

98 seal a criminal history record until the person seeking to seal  
99 a criminal history record has applied for and received a  
100 certificate of eligibility for sealing pursuant to subsection  
101 (2). A criminal history record that relates to a violation of s.  
102 393.135, s. 394.4593, s. 787.025, chapter 794, former s. 796.03,  
103 s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071,  
104 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135,  
105 s. 916.1075, a violation enumerated in s. 907.041, or any  
106 violation specified as a predicate offense for registration as a  
107 sexual predator pursuant to s. 775.21, without regard to whether  
108 that offense alone is sufficient to require such registration,  
109 or for registration as a sexual offender pursuant to s.  
110 943.0435, may not be sealed, without regard to whether  
111 adjudication was withheld, if the defendant was found guilty of  
112 or pled guilty or nolo contendere to the offense, or if the  
113 defendant, as a minor, was found to have committed or pled  
114 guilty or nolo contendere to committing the offense as a  
115 delinquent act. The court may only order sealing of a criminal  
116 history record pertaining to one arrest or one incident of  
117 alleged criminal activity, except as provided in this section.  
118 The court may, at its sole discretion, order the sealing of a  
119 criminal history record pertaining to more than one arrest if  
120 the additional arrests directly relate to the original arrest.  
121 If the court intends to order the sealing of records pertaining  
122 to such additional arrests, such intent must be specified in the  
123 order. A criminal justice agency may not seal any record  
124 pertaining to such additional arrests if the order to seal does  
125 not articulate the intention of the court to seal records  
126 pertaining to more than one arrest. This section does not





422842

prevent the court from ordering the sealing of only a portion of a criminal history record pertaining to one arrest or one incident of alleged criminal activity. Notwithstanding any law to the contrary, a criminal justice agency may comply with laws, court orders, and official requests of other jurisdictions relating to sealing, correction, or confidential handling of criminal history records or information derived therefrom. This section does not confer any right to the sealing of any criminal history record, and any request for sealing a criminal history record may be denied at the sole discretion of the court.

(1) PETITION TO SEAL A CRIMINAL HISTORY RECORD.—Each petition to a court to seal a criminal history record is complete only when accompanied by:

(b) The petitioner's sworn statement attesting that the petitioner:

1. Has never, before ~~prior to~~ the date on which the petition is filed, been adjudicated guilty of a criminal offense or comparable ordinance violation, or been adjudicated delinquent for committing any felony ~~or a misdemeanor specified in s. 943.051(3)(b).~~

2. Has not been adjudicated delinquent for committing a misdemeanor offense specified in s. 943.051(3)(b) in the previous 10 years.

~~3.2.~~ Has not been adjudicated guilty of or adjudicated delinquent for committing any of the acts stemming from the arrest or alleged criminal activity to which the petition to seal pertains.

~~4.3.~~ Has never secured a prior sealing or expunction of a criminal history record under this section, s. 943.0585, former



422842

s. 893.14, former s. 901.33, or former s. 943.058.

5.4. Is eligible for such a sealing to the best of his or her knowledge or belief and does not have any other petition to seal or any petition to expunge pending before any court.

Any person who knowingly provides false information on such sworn statement to the court commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) CERTIFICATE OF ELIGIBILITY FOR SEALING.—Prior to petitioning the court to seal a criminal history record, a person seeking to seal a criminal history record shall apply to the department for a certificate of eligibility for sealing. The department shall, by rule adopted pursuant to chapter 120, establish procedures pertaining to the application for and issuance of certificates of eligibility for sealing. A certificate of eligibility for sealing is valid for 12 months after the date stamped on the certificate when issued by the department. After that time, the petitioner must reapply to the department for a new certificate of eligibility. Eligibility for a renewed certification of eligibility must be based on the status of the applicant and the law in effect at the time of the renewal application. The department shall issue a certificate of eligibility for sealing to a person who is the subject of a criminal history record provided that such person:

(c)1. Has never, before ~~prior to~~ the date on which the application for a certificate of eligibility is filed, been adjudicated guilty of a criminal offense or comparable ordinance violation, or been adjudicated delinquent for committing any



422842

~~felony or a misdemeanor specified in s. 943.051(3)(b).~~

2. Has not been adjudicated delinquent for committing a  
misdemeanor offense specified in s. 943.051(3)(b) in the  
previous 10 years.

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

And the title is amended as follows:

Delete lines 2 - 8

and insert:

An act relating to criminal history records; amending  
s. 943.0585, F.S.; revising the elements that must be  
attested to by a petitioner in a statement submitted  
in support of the expunction of a criminal history  
record; revising the circumstances under which the  
Department of Law Enforcement must issue a certificate  
of eligibility for expunction of a criminal history  
record; amending s. 943.059, F.S.; revising the  
elements that must be attested to by a petitioner in a  
statement submitted in support of the sealing of a  
criminal history record; revising the circumstances  
under which the Department of Law Enforcement must  
issue a certificate of eligibility for sealing of a

By Senator Bracy

11-00294-18

2018298\_\_

A bill to be entitled

An act relating to expunction of criminal history records; amending s. 943.0585, F.S.; revising the elements that must be attested to by a petitioner in a statement submitted in support of the expunction of a criminal history record; revising the circumstances under which the Department of Law Enforcement must issue a certificate of eligibility for expunction of a criminal history record; providing an effective date.

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

Section 1. Paragraph (b) of subsection (1) and paragraphs (a) and (d) of subsection (2) of section 943.0585, Florida Statutes, are amended to read:

943.0585 Court-ordered expunction of criminal history records.—The courts of this state have jurisdiction over their own procedures, including the maintenance, expunction, and correction of judicial records containing criminal history information to the extent such procedures are not inconsistent with the conditions, responsibilities, and duties established by this section. Any court of competent jurisdiction may order a criminal justice agency to expunge the criminal history record of a minor or an adult who complies with the requirements of this section. The court shall not order a criminal justice agency to expunge a criminal history record until the person seeking to expunge a criminal history record has applied for and received a certificate of eligibility for expunction pursuant to subsection (2) or subsection (5). A criminal history record that

Page 1 of 6

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

11-00294-18

2018298\_\_

relates to a violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794, former s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s. 916.1075, a violation enumerated in s. 907.041, or any violation specified as a predicate offense for registration as a sexual predator pursuant to s. 775.21, without regard to whether that offense alone is sufficient to require such registration, or for registration as a sexual offender pursuant to s. 943.0435, may not be expunged, without regard to whether adjudication was withheld, if the defendant was found guilty of or pled guilty or nolo contendere to the offense, or if the defendant, as a minor, was found to have committed, or pled guilty or nolo contendere to committing, the offense as a delinquent act. The court may only order expunction of a criminal history record pertaining to one arrest or one incident of alleged criminal activity, except as provided in this section. The court may, at its sole discretion, order the expunction of a criminal history record pertaining to more than one arrest if the additional arrests directly relate to the original arrest. If the court intends to order the expunction of records pertaining to such additional arrests, such intent must be specified in the order. A criminal justice agency may not expunge any record pertaining to such additional arrests if the order to expunge does not articulate the intention of the court to expunge a record pertaining to more than one arrest. This section does not prevent the court from ordering the expunction of only a portion of a criminal history record pertaining to one arrest or one incident of alleged criminal activity. Notwithstanding any law to the contrary, a criminal justice

Page 2 of 6

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

11-00294-18

2018298\_\_

agency may comply with laws, court orders, and official requests of other jurisdictions relating to expunction, correction, or confidential handling of criminal history records or information derived therefrom. This section does not confer any right to the expunction of any criminal history record, and any request for expunction of a criminal history record may be denied at the sole discretion of the court.

(1) PETITION TO EXPUNGE A CRIMINAL HISTORY RECORD.—Each petition to a court to expunge a criminal history record is complete only when accompanied by:

(b) The petitioner's sworn statement attesting that the petitioner:

1. Has never, before ~~prior to~~ the date on which the petition is filed, been adjudicated guilty of a felony criminal offense or comparable ordinance violation, or been adjudicated delinquent for committing any felony ~~or a misdemeanor specified in s. 943.051(3)(b).~~

2. Has not been adjudicated guilty of a misdemeanor offense or been adjudicated delinquent for committing a misdemeanor offense specified in s. 943.051(3)(b) in the previous 10 years.

~~3.2-~~ Has not been adjudicated guilty of, or adjudicated delinquent for committing, any of the acts stemming from the arrest or alleged criminal activity to which the petition pertains.

~~4.3-~~ Has never secured a prior sealing or expunction of a criminal history record under this section, s. 943.059, former s. 893.14, former s. 901.33, or former s. 943.058, unless expunction is sought of a criminal history record previously sealed for 10 years pursuant to paragraph (2)(h) and the record

11-00294-18

2018298\_\_

is otherwise eligible for expunction.

~~5.4-~~ Is eligible for such an expunction to the best of his or her knowledge or belief and does not have any other petition to expunge or any petition to seal pending before any court.

Any person who knowingly provides false information on such sworn statement to the court commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.—Prior to petitioning the court to expunge a criminal history record, a person seeking to expunge a criminal history record shall apply to the department for a certificate of eligibility for expunction. The department shall, by rule adopted pursuant to chapter 120, establish procedures pertaining to the application for and issuance of certificates of eligibility for expunction. A certificate of eligibility for expunction is valid for 12 months after the date stamped on the certificate when issued by the department. After that time, the petitioner must reapply to the department for a new certificate of eligibility. Eligibility for a renewed certification of eligibility must be based on the status of the applicant and the law in effect at the time of the renewal application. The department shall issue a certificate of eligibility for expunction to a person who is the subject of a criminal history record if that person:

(a) Has obtained, and submitted to the department, a written, certified statement from the appropriate state attorney or statewide prosecutor which indicates:

1. That an indictment, information, or other charging

11-00294-18

2018298\_\_

document was not filed or issued in the case.

2. That an indictment, information, or other charging document, if filed or issued in the case, was dismissed or nolle prosequi by the state attorney or statewide prosecutor, or was dismissed by a court of competent jurisdiction, that a judgment of acquittal was rendered by a judge, or that a verdict of not guilty was rendered by a judge or jury and that none of the charges related to the arrest or alleged criminal activity to which the petition to expunge pertains resulted in a trial, without regard to whether the outcome of the trial was other than an adjudication of guilt.

3. That the criminal history record does not relate to a violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794, former s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s. 916.1075, a violation enumerated in s. 907.041, or any violation specified as a predicate offense for registration as a sexual predator pursuant to s. 775.21, without regard to whether that offense alone is sufficient to require such registration, or for registration as a sexual offender pursuant to s. 943.0435, where the defendant was found guilty of, or pled guilty or nolo contendere to any such offense, or that the defendant, as a minor, was found to have committed, or pled guilty or nolo contendere to committing, such an offense as a delinquent act, without regard to whether adjudication was withheld.

(d) 1. Has never, before ~~prior to~~ the date on which the application for a certificate of eligibility is filed, been adjudicated guilty of a felony ~~criminal~~ offense or comparable

Page 5 of 6

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

11-00294-18

2018298\_\_

ordinance violation, or been adjudicated delinquent for committing any felony ~~or a misdemeanor specified in s. 943.051(3)(b).~~

2. Has not been adjudicated guilty of a misdemeanor offense or been adjudicated delinquent for committing a misdemeanor offense specified in s. 943.051(3)(b) in the previous 10 years.

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

Page 6 of 6

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

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

10/23/17

Meeting Date

298

Bill Number (if applicable)

422842

Amendment Barcode (if applicable)

Topic Expungement

Name Andy Thomas

Job Title Public Defender, 2nd Circuit

Address Leon Co. Court House  
Street

Phone 850 606-1000

TLH FL 32307  
City State Zip

Email andy.thomas@flpd2.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Fla. 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.**

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)

10-23-2017

Meeting Date

298

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  
**APPEARANCE RECORD**

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

23 Oct 17

Meeting Date

298

Bill Number (if applicable)

Topic Expunction of Criminal History Records

Amendment Barcode (if applicable)

Name Barney Bishop III

Job Title Pres & CEO

Address 204 S. Monroe  
Street

Phone 510.9922

Tall  
City

FL  
State

32301  
Zip

Email

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Fla. Smart Justice Alliance

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 Committee on Criminal Justice

---

BILL: SPB 7000

INTRODUCER: For consideration by the Criminal Justice Committee

SUBJECT: OGSR/Criminal History Records/Department of Law Enforcement

DATE: October 20, 2017

REVISED: \_\_\_\_\_

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Jones	Jones		<b>Pre-meeting</b>

---

## **I. Summary:**

SPB 7000 deletes the scheduled repeal of the current public records exemption for the court ordered expunged criminal history records of human trafficking victims. If the bill passes, the court ordered expunged criminal history records of human trafficking victims will continue to be confidential and exempt from public disclosure.

The bill requires a majority vote for passage.

The bill is effective October 1, 2018.

## **II. Present Situation:**

### **Public Records Law**

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.<sup>1</sup> This applies to the official business of any public body, officer or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.<sup>2</sup>

Chapter 119, F.S., constitutes the main body of public records laws, and is known as the Public Records Act.<sup>3</sup> The Public Records Act states that “it is the policy of this state that all state, county and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.”<sup>4</sup>

---

<sup>1</sup> FLA. CONST., art. I, s. 24(a).

<sup>2</sup> *Id.*

<sup>3</sup> Public records laws are found throughout the Florida Statutes.

<sup>4</sup> Section 119.01(1), F.S.

According to the Public Records Act, a public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.<sup>5</sup> The Florida Supreme Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate or formalize knowledge of some type.”<sup>6</sup>

The Legislature may create an exemption to the public records requirements by passing a general law by a two-thirds vote of the House and the Senate.<sup>7</sup> The exemption must explicitly lay out the public necessity justifying the exemption, and must be no broader than necessary to accomplish the stated purpose of the exemption.<sup>8</sup> A statutory exemption which does not meet these two criteria may be unconstitutional and may not be judicially saved.<sup>9</sup>

When creating a public records exemption, the Legislature may provide that a record is ‘confidential and exempt’ or ‘exempt.’<sup>10</sup> Records designated as ‘confidential and exempt’ may be released by the records custodian only under the circumstances defined by the Legislature. Records designated as ‘exempt’ may be released at the discretion of the records custodian under certain circumstances.<sup>11</sup>

### **Open Government Sunset Review Act**

The Open Government Sunset Review Act (OGSR) prescribes a legislative review process for newly created or substantially amended public records or public meetings exemptions.<sup>12</sup> The OGSR provides that an exemption automatically repeals on October 2nd of the fifth year after

---

<sup>5</sup> Section 119.011(12), F.S., defines “public record” to mean all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency. Section 119.011(2), F.S., defines “agency” to mean any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of ch. 119, F.S., the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.

<sup>6</sup> *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So.2d 633, 640 (Fla. 1980).

<sup>7</sup> FLA. CONST., art. I, s. 24(c).

<sup>8</sup> FLA. CONST., art. I, s. 24(c).

<sup>9</sup> *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So.2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So.2d 189 (Fla. 1st DCA 2004), the court found that the intent of a statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

<sup>10</sup> If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Bd. of Seminole*, 874 So.2d 48 (Fla. 5th DCA 2004).

<sup>11</sup> A record classified as exempt from public disclosure may be disclosed under certain circumstances. *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991).

<sup>12</sup> Section 119.15, F.S. Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if the amendment expands the scope of the exemption to include more records or information or to include meetings as well as records. An exemption is not substantially amended if the amendment narrows the scope of the exemption. The OGSR does not apply to an exemption required by federal law or applied solely to the Legislature or the State Court System. Section 119.15(2), F.S.

creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption.<sup>13</sup>

The OGSR provides that a public records or open meetings exemption may be created, revised, or maintained only if it serves an identifiable public purpose and is no broader than is necessary to meet the public purpose it serves.<sup>14</sup> An exemption serves an identifiable public purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;<sup>15</sup>
- It protects information of a sensitive personal nature concerning individuals, the release of which information would be defamatory to such individuals or cause unwarranted damage to their good name or reputation or jeopardize their safety;<sup>16</sup> or
- It protects trade or business secrets.<sup>17</sup>

As part of the OGSR review process, the Legislature is required to consider the following questions:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?<sup>18</sup>

If, in reenacting an existing exemption, the exemption is expanded, a public necessity statement and a two-thirds vote for passage are required.<sup>19</sup> If the exemption is reenacted without substantive changes or if the exemption is narrowed, a public necessity statement and a two-thirds vote for passage are *not* required.

## Human Trafficking

Human trafficking is a form of modern-day slavery. Victims of human trafficking are young children, men, and women, who are often subjected to force, fraud, or coercion for the purpose of sexual exploitation or forced labor. There is an estimated 20.9 million adults and children in the world who are in some sort of forced labor or sexual exploitation. Of that number, an

---

<sup>13</sup> Section 119.15(3), F.S.

<sup>14</sup> Section 119.15(6)(b), F.S.

<sup>15</sup> Section 119.15(6)(b)1., F.S.

<sup>16</sup> Section 119.15(6)(b)2., F.S. However, if this public purpose is cited as the basis of an exemption, only personal identifying information is exempt.

<sup>17</sup> Section 119.15(6)(b)3., F.S.

<sup>18</sup> Section 119.15(6)(a), F.S.

<sup>19</sup> FLA. CONST. art. I, s. 24(c).

estimated 26 percent of them are children, and in 2010, it was estimated that as many as 300,000 children in the United States were at risk for exploitation each year.<sup>20</sup>

Section 787.06, F.S., is Florida's human trafficking statute and defines "human trafficking" as the transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining of another person for the purpose of exploitation of that person. A victim of human trafficking is a person subjected to coercion,<sup>21</sup> for the purpose of being used in human trafficking, a child under 18 years of age subjected to human trafficking, or an individual subjected to human trafficking as defined by federal law.<sup>22</sup>

### **Open Government Sunset Review of the Public Records Exemption for Expunged Criminal History Record of a Victim of Human Trafficking**

In 2013, the Legislature created s. 943.0583, F.S.<sup>23</sup> Section 943.0583, F.S., allows a victim of human trafficking to petition the court for the expunction of a criminal history record resulting from the arrest or filing of charges for an offense committed or reported to have been committed while the person was a victim of human trafficking, which offense was committed or reported to have been committed as a part of the human trafficking scheme of which the person was a victim or at the direction of an operator of the scheme.<sup>24</sup>

The expunction of a criminal history record is the court-ordered physical destruction or obliteration of a record or portion of a record by any criminal justice agency having custody thereof, or as prescribed by the court issuing the order.<sup>25</sup> A criminal history record ordered expunged under s. 943.0583, F.S., is confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution.<sup>26</sup>

Section 943.0583(10), F.S., is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2018, unless reviewed and saved from repeal through reenactment by the Legislature.

---

<sup>20</sup> U.S. Department of Justice, Office of Justice Programs, *OJP Fact Sheet, Fast Facts*, (December 2011) available at [http://ojp.gov/newsroom/factsheets/ojpfs\\_humantrafficking.html](http://ojp.gov/newsroom/factsheets/ojpfs_humantrafficking.html) (last visited October 20, 2017). Polaris, *Human Trafficking: The Facts*, 2016, available at <https://polarisproject.org/facts> (last visited October 20, 2017).

<sup>21</sup> "Coercion" means using or threatening to use physical force against any person; restraining, isolating, or confining or threatening to restrain, isolate, or confine any person without lawful authority and against her or his will; using lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor or services are not respectively limited and defined; destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person; causing or threatening to cause financial harm to any person; enticing or luring any person by fraud or deceit; or providing a controlled substance as outlined in Schedule I or Schedule II of s. 893.03, F.S., to any person for the purpose of exploitation of that person.

<sup>22</sup> Section 943.0583(1)(c), F.S.

<sup>23</sup> Chapter 2013-99, L.O.F.

<sup>24</sup> Section 943.0583(3), F.S., does not allow the following offenses to be expunged: arson, sexual battery, robbery, kidnapping, aggravated child abuse, aggravated abuse of an elderly person or disabled adult, aggravated assault with a deadly weapon, murder, manslaughter, aggravated manslaughter of an elderly person or disabled adult, aggravated manslaughter of a child, unlawful throwing, placing, or discharging of a destructive device or bomb, armed burglary, aggravated battery, and aggravated stalking.

<sup>25</sup> Section 943.045(16), F.S.

<sup>26</sup> Section 943.0583(10), F.S.

In creating the exemption, the Legislature articulated the following reasons for the exemption:

The Legislature finds that it is a public necessity that a criminal history record ordered expunged under s. 943.0583, Florida Statutes, that is retained by the Department of Law Enforcement be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. Persons who are victims of human trafficking and who have been convicted of crimes committed at the behest of their traffickers are themselves victims of crimes. Such victims face barriers to employment and other life opportunities as long as these criminal convictions remain on record and accessible to potential employers and others. It is necessary that these records be made confidential in order for human trafficking victims to have the chance to rebuild their lives and reenter society.<sup>27</sup>

During the 2017 interim, Senate and House professional staff contacted the Florida Department of Law Enforcement (FDLE), the Florida Court Clerks and Comptrollers, and the Florida Prosecuting Attorney's Association as part of its review of s. 943.0583, F.S.

A total of 33 orders for expunction have been processed by the FDLE since 2014.<sup>28</sup> Specifically, the orders, by year, processed by the FDLE were:

- 1 in 2014;
- 12 in 2015;
- 6 in 2016; and
- 14 thus far in 2017.<sup>29</sup>

Professional staff from the Senate and the House attempted to ascertain if any victims of human trafficking were experiencing hurdles in the petition process. The Florida Court Clerks and Comptrollers and the Florida Prosecuting Attorney's Association were unaware of any issues.

### **III. Effect of Proposed Changes:**

The bill amends s. 943.0583, F.S., by deleting the scheduled repeal date, thereby reenacting the public record exemption for court ordered expunged criminal history records of victims of human trafficking.

The bill is effective October 1, 2018.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

---

<sup>27</sup> Chapter 2013-99, L.O.F.

<sup>28</sup> Email from Ronald E. Draa, Director of External Affairs, Florida Department of Law Enforcement, to Senate Criminal Justice Staff (October 19, 2017) (on file with the Senate Criminal Justice Committee).

<sup>29</sup> *Id.*

**B. Public Records/Open Meetings Issues:**

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public records exemption. If an exemption is reenacted without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are not required. The bill does not create or expand a public records exemption, therefore it does not require a two-thirds vote for final passage.

**C. Trust Funds Restrictions:**

None.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 943.0583 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.

---

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

---



FOR CONSIDERATION By the Committee on Criminal Justice

591-00770-18

20187000pb

A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; amending s. 943.0583, F.S., relating to an exemption from public records requirements for certain criminal history records ordered expunged which are retained by the Department of Law Enforcement; saving the exemption from repeal under the Open Government Sunset Review Act; providing an effective date.

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

Section 1. Section 943.0583, Florida Statutes, is amended to read:

943.0583 Human trafficking victim expunction.—

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

(a) "Human trafficking" has the same meaning as provided in s. 787.06.

(b) "Official documentation" means any documentation issued by a federal, state, or local agency tending to show a person's status as a victim of human trafficking.

(c) "Victim of human trafficking" means a person subjected to coercion, as defined in s. 787.06, for the purpose of being used in human trafficking, a child under 18 years of age subjected to human trafficking, or an individual subjected to human trafficking as defined by federal law.

(2) Notwithstanding any other provision of law, upon the filing of a petition as provided in this section, any court in the circuit in which the petitioner was arrested, so long as the

591-00770-18

20187000pb

court has jurisdiction over the class of offense or offenses sought to be expunged, may order a criminal justice agency to expunge the criminal history record of a victim of human trafficking who complies with the requirements of this section. A petition need not be filed in the court where the petitioner's criminal proceeding or proceedings originally occurred. This section does not confer any right to the expunction of any criminal history record, and any request for expunction of a criminal history record may be denied at the discretion of the court.

(3) A person who is a victim of human trafficking may petition for the expunction of a criminal history record resulting from the arrest or filing of charges for an offense committed or reported to have been committed while the person was a victim of human trafficking, which offense was committed or reported to have been committed as a part of the human trafficking scheme of which the person was a victim or at the direction of an operator of the scheme, including, but not limited to, violations under chapters 796 and 847, without regard to the disposition of the arrest or of any charges. However, this section does not apply to any offense listed in s. 775.084(1)(b)1. Determination of the petition under this section should be by a preponderance of the evidence. A conviction expunged under this section is deemed to have been vacated due to a substantive defect in the underlying criminal proceedings. If a person is adjudicated not guilty by reason of insanity or is found to be incompetent to stand trial for any such charge, the expunction of the criminal history record may not prevent the entry of the judgment or finding in state and national

591-00770-18

20187000pb

databases for use in determining eligibility to purchase or possess a firearm or to carry a concealed firearm, as authorized in s. 790.065(2)(a)4.c. and 18 U.S.C. s. 922(t), nor shall it prevent any governmental agency that is authorized by state or federal law to determine eligibility to purchase or possess a firearm or to carry a concealed firearm from accessing or using the record of the judgment or finding in the course of such agency's official duties.

(4) A petition under this section must be initiated by the petitioner with due diligence after the victim has ceased to be a victim of human trafficking or has sought services for victims of human trafficking, subject to reasonable concerns for the safety of the victim, family members of the victim, or other victims of human trafficking that may be jeopardized by the bringing of such petition or for other reasons consistent with the purpose of this section.

(5) Official documentation of the victim's status creates a presumption that his or her participation in the offense was a result of having been a victim of human trafficking but is not required for granting a petition under this section. A determination made without such official documentation must be made by a showing of clear and convincing evidence.

(6) Each petition to a court to expunge a criminal history record is complete only when accompanied by:

(a) The petitioner's sworn statement attesting that the petitioner is eligible for such an expunction to the best of his or her knowledge or belief and does not have any other petition to expunge or any petition to seal pending before any court.

(b) Official documentation of the petitioner's status as a

591-00770-18

20187000pb

victim of human trafficking, if any exists.

Any person who knowingly provides false information on such sworn statement to the court commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(7)(a) In judicial proceedings under this section, a copy of the completed petition to expunge shall be served upon the appropriate state attorney or the statewide prosecutor and upon the arresting agency; however, it is not necessary to make any agency other than the state a party. The appropriate state attorney or the statewide prosecutor and the arresting agency may respond to the court regarding the completed petition to expunge.

(b) The petitioner or the petitioner's attorney may appear at any hearing under this section telephonically, via video conference, or by other electronic means.

(c) The court shall allow an advocate from a state attorney's office, law enforcement agency, safe house or safe foster home as defined in s. 409.1678(1), or a residential facility offering services to adult victims of human trafficking to be present with the petitioner during any court proceedings or hearings under this section, if the petitioner has made such a request and the advocate is able to be present.

(d) If relief is granted by the court, the clerk of the court shall certify copies of the order to the appropriate state attorney or the statewide prosecutor and the arresting agency. The arresting agency is responsible for forwarding the order to any other agency listed in the court order to which the

591-00770-18

20187000pb

arresting agency disseminated the criminal history record information to which the order pertains. The department shall forward the order to expunge to the Federal Bureau of Investigation. The clerk of the court shall certify a copy of the order to any other agency that the records of the court reflect has received the criminal history record from the court.

(8) (a) Any criminal history record of a minor or an adult that is ordered expunged pursuant to this section must be physically destroyed or obliterated by any criminal justice agency having custody of such record, except that any criminal history record in the custody of the department must be retained in all cases.

(b) The person who is the subject of a criminal history record that is expunged under this section may lawfully deny or fail to acknowledge the arrests covered by the expunged record, except when the subject of the record is a candidate for employment with a criminal justice agency or is a defendant in a criminal prosecution.

(c) Subject to the exceptions in paragraph (b), a person who has been granted an expunction under this section may not be held under any law of this state to commit perjury or to be otherwise liable for giving a false statement by reason of such person's failure to recite or acknowledge an expunged criminal history record.

(9) Any reference to any other chapter, section, or subdivision of the Florida Statutes in this section constitutes a general reference under the doctrine of incorporation by reference.

(10) ~~(a)~~ A criminal history record ordered expunged under

591-00770-18

20187000pb

this section that is retained by the department is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except that the record shall be made available to criminal justice agencies for their respective criminal justice purposes and to any governmental agency that is authorized by state or federal law to determine eligibility to purchase or possess a firearm or to carry a concealed firearm for use in the course of such agency's official duties. Otherwise, such record shall not be disclosed to any person or entity except upon order of a court of competent jurisdiction. A criminal justice agency may retain a notation indicating compliance with an order to expunge.

~~(b) This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2018, unless reviewed and saved from repeal through reenactment by the Legislature.~~

(11) (a) The following criminal intelligence information or criminal investigative information is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

1. Any information that reveals the identity of a person who is a victim of human trafficking whose criminal history record has been expunged under this section.

2. Any information that may reveal the identity of a person who is a victim of human trafficking whose criminal history record has been ordered expunged under this section.

(b) Criminal investigative information and criminal intelligence information made confidential and exempt under this subsection may be disclosed by a law enforcement agency:

591-00770-18

20187000pb

1. In the furtherance of its official duties and responsibilities.

2. For print, publication, or broadcast if the law enforcement agency determines that such release would assist in locating or identifying a person that the agency believes to be missing or endangered. The information provided should be limited to that needed to identify or locate the victim.

3. To another governmental agency in the furtherance of its official duties and responsibilities.

(c) This exemption applies to such confidential and exempt criminal intelligence information or criminal investigative information held by a law enforcement agency before, on, or after the effective date of the exemption.

(d) This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2020, unless reviewed and saved from repeal through reenactment by the Legislature.

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

10/23/2017

Meeting Date

7000

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

City

FL

State

33705

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  
**APPEARANCE RECORD**

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

23 Oct 17

Meeting Date

7000

Bill Number (if applicable)

Topic Criminal History Records

Amendment Barcode (if applicable)

Name Barney Bishop III

Job Title Pres & CEO

Address 204 S. Monroe  
Street

Phone 510-9922

Tall FL 32301  
City State Zip

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Fla. Smart Justice Alliance

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 Committee on Criminal Justice

---

BILL: SPB 7002

INTRODUCER: For consideration by the Criminal Justice Committee

SUBJECT: OGSR/Active Criminal Intelligence or Criminal Investigative Information

DATE: October 20, 2017

REVISED: \_\_\_\_\_

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Erickson	Jones		<b>Pre-meeting</b>

---

**I. Summary:**

SPB 7002 continues an existing public meetings exemption for the portion of a meeting of a duly constituted criminal justice commission at which members of the commission discuss active criminal intelligence information or active criminal investigative information that is currently being considered by, or which may foreseeably come before, the commission. The bill removes the scheduled sunset and repeal of the exemption, thereby reenacting the exemption.

**II. Present Situation:**

**Public Records Law**

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.<sup>1</sup> This applies to the official business of any public body, officer or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.<sup>2</sup>

Chapter 119, F.S., constitutes the main body of public records laws, and is known as the Public Records Act.<sup>3</sup> The Public Records Act states that “it is the policy of this state that all state, county and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.”<sup>4</sup>

According to the Public Records Act, a public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.<sup>5</sup> The Florida Supreme

---

<sup>1</sup> FLA. CONST., art. I, s. 24(a).

<sup>2</sup> *Id.*

<sup>3</sup> Public records laws are found throughout the Florida Statutes.

<sup>4</sup> Section 119.01(1), F.S.

<sup>5</sup> Section 119.011(12), F.S., defines “public record” to mean all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency. Section 119.011(2), F.S., defines “agency” to mean any state, county, district, authority, or municipal officer,

Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate or formalize knowledge of some type.”<sup>6</sup>

### **Public Meetings**

Article I, s. 24(b), of the Florida Constitution sets forth the state’s public policy regarding access to government meetings. The section requires that all meetings of any collegial public body of the executive branch of state government or of any collegial public body of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed, be open and noticed to the public.<sup>7</sup>

Public policy regarding access to government meetings is further addressed in the Florida Statutes. Section 286.011, F.S., known as the “Government in the Sunshine Law” or “Sunshine Law,” requires that all meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, at which official acts are to be taken, be open to the public at all times.<sup>8</sup> A board or commission must provide reasonable notice of all public meetings.<sup>9</sup> Public meetings may not be held at any location that discriminates on the basis of sex, age, race, creed, color, origin, or economic status or which operates in a manner that unreasonably restricts the public’s access to the facility.<sup>10</sup> Minutes of a public meeting must be promptly recorded and are open to public inspection.<sup>11</sup>

### **Public Records and Public Meetings Exemptions**

The Legislature may provide by general law for the exemption of records or meetings from the requirements of Art. I, s. 24(a) and (b), of the Florida Constitution.<sup>12</sup> The general law must state with specificity the public necessity justifying the exemption (public necessity statement) and must be no broader than necessary to accomplish its stated purpose.<sup>13</sup>

### **Open Government Sunset Review Act**

The Open Government Sunset Review Act (OGSR) prescribes a legislative review process for newly created or substantially amended public records or public meetings exemptions.<sup>14</sup> The

---

department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of ch. 119, F.S., the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.

<sup>6</sup> *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So.2d 633, 640 (Fla. 1980).

<sup>7</sup> FLA. CONST., art. I, s. 24(b).

<sup>8</sup> Section 286.011(1), F.S.

<sup>9</sup> *Id.*

<sup>10</sup> Section 286.011(6), F.S.

<sup>11</sup> Section 286.011(2), F.S.

<sup>12</sup> FLA. CONST., art. I, s. 24(c).

<sup>13</sup> *Id.*

<sup>14</sup> Section 119.15, F.S. Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if the amendment expands the scope of the exemption to include more records or information or to include meetings as well as records. An exemption is not substantially amended if the amendment narrows the scope of the exemption. The OGSR does



OGSR provides that an exemption automatically repeals on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption.<sup>15</sup>

The OGSR provides that a public records or open meetings exemption may be created, revised, or maintained only if it serves an identifiable public purpose and is no broader than is necessary to meet the public purpose it serves.<sup>16</sup> An exemption serves an identifiable public purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;<sup>17</sup>
- It protects information of a sensitive personal nature concerning individuals, the release of which information would be defamatory to such individuals or cause unwarranted damage to their good name or reputation or jeopardize their safety;<sup>18</sup> or
- It protects trade or business secrets.<sup>19</sup>

As part of the OGSR review process, the Legislature is required to consider the following questions:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?<sup>20</sup>

If, in reenacting an existing exemption, the exemption is expanded, a public necessity statement and a two-thirds vote for passage are required.<sup>21</sup> If the exemption is reenacted without substantive changes or if the exemption is narrowed, a public necessity statement and a two-thirds vote for passage are *not* required.

---

not apply to an exemption required by federal law or applied solely to the Legislature or the State Court System.  
Section 119.15(2), F.S.

<sup>15</sup> Section 119.15(3), F.S.

<sup>16</sup> Section 119.15(6)(b), F.S.

<sup>17</sup> Section 119.15(6)(b)1., F.S.

<sup>18</sup> Section 119.15(6)(b)2., F.S. However, if this public purpose is cited as the basis of an exemption, only personal identifying information is exempt.

<sup>19</sup> Section 119.15(6)(b)3., F.S.

<sup>20</sup> Section 119.15(6)(a), F.S.

<sup>21</sup> FLA. CONST. art. I, s. 24(c).

## **Open Government Sunset Review of the Public Meetings Exemption for a Closed Portion of a Designated Criminal Justice Commission**

Active criminal intelligence information<sup>22</sup> and active criminal investigative information<sup>23</sup> are exempt from public disclosure.<sup>24</sup>

In 2013, the Legislature created s. 286.01141, F.S.<sup>25</sup> Section 286.01141(2), F.S., closes from the public the portion of a meeting of a duly constituted criminal justice commission<sup>26</sup> at which members of the commission discuss active criminal intelligence information or active criminal investigative information that is currently being considered by, or which may foreseeably come before the commission. Section 286.01141(2), F.S., also requires a criminal justice commission to publicly disclose that it discussed such information in the closed portion of a public meeting. This public meetings exemption is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2018, unless reviewed and saved from repeal through reenactment by the Legislature.<sup>27</sup>

In creating the exemption, the Legislature articulated the following reasons for the exemption:

It is the finding of the Legislature that it is a public necessity that the portion of a meeting of a duly constituted criminal justice commission at which members of the commission discuss active criminal intelligence information or active criminal investigative information currently being considered by, or which may foreseeably come before, the criminal justice commission be made exempt from public meeting requirements.

If the meetings at which exempt information is discussed were open to the public, the purpose of the exemption from public records requirements found in chapter 119, Florida Statutes, would be defeated. The members of a criminal justice commission must be able

---

<sup>22</sup> “Criminal intelligence information” means information with respect to an identifiable person or group of persons collected by a criminal justice agency in an effort to anticipate, prevent, or monitor possible criminal activity. Section 119.011(3)(a), F.S. Section 119.011(3)(c), F.S., provides that certain information is not criminal intelligence information, such as the time, date, location, and nature of a reported crime. Criminal intelligence information is “active”: (1) as long as it is related to intelligence gathering conducted with a reasonable, good faith belief that it will lead to detection of ongoing or reasonably anticipated criminal activities; or (2) while such information is directly related to pending prosecutions or appeals. Section 119.011(3)(d), F.S. The word “active” does not apply to information in cases which are barred from prosecution under the applicable statute of limitation. *Id.*

<sup>23</sup> “Criminal investigative information” means information with respect to an identifiable person or group of persons compiled by a criminal justice agency in the course of conducting a criminal investigation of a specific act or omission, including, but not limited to, information derived from laboratory tests, reports of investigators or informants, or any type of surveillance. Section 119.011(3)(b), F.S. Section 119.011(3)(c), F.S., provides that certain information is not criminal investigative information, such as the time, date, location and nature of a reported crime. Criminal investigative information is “active”: (1) as long as it is related to an ongoing investigation which is continuing with a reasonable, good faith anticipation of securing an arrest or prosecution in the foreseeable future; or (2) while such information is directly related to pending prosecutions or appeals. Section 119.011(3)(d), F.S. The word “active” does not apply to information in cases which are barred from prosecution under the applicable statute of limitation. *Id.*

<sup>24</sup> Section 119.071(2)(c)1., F.S.

<sup>25</sup> Chapter 2013-196, L.O.F.

<sup>26</sup> “Duly constituted criminal justice commission” means an advisory commission created by municipal or county ordinance whose membership is comprised of individuals from the private sector and the public sector and whose purpose is to examine local criminal justice issues. Section 286.01141(1)(a), F.S.

<sup>27</sup> Section 286.01141(3), F.S.

to hear and discuss exempt information freely in order to make sound recommendations regarding strategies and activities that are best suited to protect the welfare of the people of this state. The ability to conduct meetings at which members can freely discuss and fully understand the details of active criminal intelligence information and active criminal investigative information is critical to the ability of a criminal justice commission to operate effectively.<sup>28</sup>

### **Open Government Sunset Review Survey**

A joint OGSR survey by staffs of the Senate Committee on Criminal Justice and the House Oversight, Transparency and Administration Subcommittee was distributed to counties and municipalities.<sup>29</sup> Twenty survey responses were received. Two respondents, Miami-Dade County and Palm Beach County, indicated in their survey responses that they have a “duly constituted criminal justice commission” as defined in s. 286.01141(1)(a), F.S.

The Dade-Miami Criminal Justice Council “was created in 1978 and was codified via ordinance in February 2014.”<sup>30</sup> “The general purpose of [the council] is to encourage and facilitate the coordination and cooperation among various agencies and municipalities within Miami-Dade County with crime prevention/intervention strategies, criminal and juvenile justice activities and other activities related to criminal justice.”<sup>31</sup>

The Palm Beach County Criminal Justice Commission was created in 1988 pursuant to an ordinance adopted in 1988.<sup>32</sup> The commission

prioritizes its projects at its Annual Planning Meeting in February of each year. The issues discussed at the meetings center around the progress on these priorities which in the past few years have been our reentry program, community engagement, behavioral health issues in the system, body worn camera deployment amongst our local law enforcement agencies, the implementation of a validated risk assessment instrument for pretrial detention decision-making, our jail population and efforts to reduce it, law

<sup>28</sup> Section 2, ch. 2013-196, L.O.F.

<sup>29</sup> The survey and responses are on file with the Senate Committee on Criminal Justice. Unless otherwise indicated, all information relevant to duly constituted criminal justice commissions is from the survey responses. The Florida Association of Counties and the Florida League of Cities assisted legislative staffs by distributing the surveys. Counties responding to the survey: Brevard; DeSoto; Escambia; Madison; Miami-Dade; Monroe; Okaloosa; Okeechobee; Palm Beach; Pinellas; Seminole; St. Lucie; Sumter; and Walton. Municipalities responding to the survey: Hampton; Inverness; Lake Helen; Long Boat Key; Sanibel; and St. Petersburg. Staff also contacted the Broward County Crime Commission and determined that the commission was not created by ordinance, and therefore not a “duly constituted criminal justice commission” as defined in s. 286.01141(1)(a), F.S. The commission is organized as a Florida 501 C-4, non-profit corporation. See <http://www.browardcrime.org/aboutus.html> (last visited on October 11, 2017).

<sup>30</sup> Miami Dade County Ord. No. 14-17, ss. 1-8, adopted February 4, 2014, did not specify provisions intended for use. For purposes of classification, these provisions were included as Miami-Dade County Code of Ordinances, ch. 2, art. CXLIX, ss. 2-2166—2-2173. See [https://library.municode.com/fl/miami-dade\\_county/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_CH2AD\\_ARTCXLIXDAAMCRJUCO\\_S2-2166CRPU](https://library.municode.com/fl/miami-dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTCXLIXDAAMCRJUCO_S2-2166CRPU) (last visited on October 11, 2017).

<sup>31</sup> Response of Miami-Dade County to the Staff OGSR Survey.

<sup>32</sup> Palm Beach County Ord. No. 88-16, adopted Aug. 16, 1988, effective Aug. 29, 1988, amended the Palm Beach County Code of Ordinances by adding provisions designated as Palm Beach Code of Ordinances, ch. 2, art. V, div. 5, ss. 2-216—2-221. See <http://discover.pbcgov.org/criminaljustice/PDF/CJC%20Ordinance.pdf> (last visited on October 11, 2017).

enforcement information sharing systems, and the Batterers' Intervention Program. In addition, other topics include current legislation and countywide crime statistics.<sup>33</sup>

The Dade-Miami Criminal Justice Council and the Palm Beach County Criminal Justice Commission have not closed any portion of their meetings to discuss active criminal intelligence information or active criminal investigation information. Because the Dade-Miami Criminal Justice Council has not used the exemption, Miami-Dade County did not render an opinion on whether the exemption should be reenacted. In contrast, Palm Beach County recommended reenactment of the exemption: "While the [Criminal Justice Commission] has never needed to use the exemption, there are always new issues to address. The [Criminal Justice Commission] is committed to data-driven policy-making and may require the exemption for future meetings."<sup>34</sup>

Reenacting the public meetings exemption would allow for a duly constituted criminal justice commission to discuss active criminal intelligence information or active criminal investigation should the need arise for such discussion; repeal of the exemption would preclude such discussion because the commission would not be able to reveal the contents of such exempt information in a public meeting.

There do not appear to be any alternative means available for members of a duly constituted criminal justice commission to discuss (as a body) active criminal intelligence information or active criminal investigative information. The exempt status of the active criminal intelligence information and active criminal investigation does not imply an exemption from the public meetings requirement of s. 286.011, F.S. An exemption from the public meetings requirement must be expressly provided.<sup>35</sup>

The open meeting exemption in s. 286.01141, F.S., is not protected by another exemption. Further, there are not multiple exemptions for the same type of meeting that would be appropriate to merge.

### **III. Effect of Proposed Changes:**

The bill continues a public meetings exemption in s. 286.01141, F.S., for the portion of a meeting of a duly constituted criminal justice commission at which members of the commission discuss active criminal intelligence information or active criminal investigative information that is currently being considered by, or which may foreseeably come before, the commission. The bill amends s. 286.01141, F.S., to remove the scheduled sunset and repeal of the exemption, thereby reenacting the exemption.

The bill takes effect October 1, 2018.

---

<sup>33</sup> Response of Palm Beach County to the Staff OGSR Survey.

<sup>34</sup> *Id.* Subsequent to its survey response, the Palm Beach County Criminal Justice Commission confirmed that the commission approved the recommendation to reenact the exemption, which was pending approval by the commission at the time the survey response was received. E-mail from Kristina Henson, Executive Director of the Palm Beach County Criminal Justice Commission (October 2, 2017) (on file with the Senate Committee on Criminal Justice).

<sup>35</sup> Florida Attorney General Opinion 93-41 (June 7, 1993).

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

None.

**B. Public Records/Open Meetings Issues:**

The bill reenacts an existing public records exemption for the portion of a meeting of a duly constituted criminal justice commission at which members of the commission discuss active criminal intelligence information or active criminal investigative information that is currently being considered by, or which may foreseeably come before, the commission. A simple majority vote of the members present in each house of the Legislature is required for passage of the bill.

**C. Trust Funds Restrictions:**

None.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 286.01141 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.

---

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

---

FOR CONSIDERATION By the Committee on Criminal Justice

591-00771-18

20187002pb

A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; amending s. 286.01141, F.S., which provides an exemption from public meetings requirements for portions of a meeting of a duly constituted criminal justice commission at which active criminal intelligence information or active criminal investigative information being considered by, or which may foreseeably come before, the commission is discussed; removing the scheduled repeal of the exemption; providing an effective date.

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

Section 1. Section 286.01141, Florida Statutes, is amended to read:

286.01141 Criminal justice commissions; public meetings exemption.—

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

(a) "Duly constituted criminal justice commission" means an advisory commission created by municipal or county ordinance whose membership is comprised of individuals from the private sector and the public sector and whose purpose is to examine local criminal justice issues.

(b) "Active" has the same meaning as provided in s. 119.011.

(c) "Criminal intelligence information" has the same meaning as provided in s. 119.011.

(d) "Criminal investigative information" has the same

Page 1 of 2

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

591-00771-18

20187002pb

meaning as provided in s. 119.011.

(2) That portion of a meeting of a duly constituted criminal justice commission at which members of the commission discuss active criminal intelligence information or active criminal investigative information that is currently being considered by, or which may foreseeably come before, the commission is exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution, provided that at any public meeting of the criminal justice commission at which such matter is being considered, the commission members publicly disclose the fact that the matter has been discussed.

~~(3) This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2018, unless reviewed and saved from repeal through reenactment by the Legislature.~~

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

Page 2 of 2

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

10-23-2018

Meeting Date

7002

Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name Brian Pitts

Job Title Trustee

Address 1112 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**  
**APPEARANCE RECORD**

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

23 Oct 17

Meeting Date

7002

Bill Number (if applicable)

Topic Criminal Investigation Information

Amendment Barcode (if applicable)

Name Barney Bishop III

Job Title Pres & CEO

Address 204 S. Monroe  
Street

Phone 510.9922

Tall FL 32301  
City State Zip

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Fla. Smart Justice Alliance

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

Tallahassee, Florida 32399-1100

### COMMITTEES:

Communications, Energy, and Public Utilities, *Chair*  
Appropriations Subcommittee on General  
Government, *Vice Chair*  
Appropriations  
Appropriations Subcommittee on Criminal and  
Civil Justice  
Community Affairs  
Criminal Justice  
Environmental Preservation and Conservation  
Military and Veterans Affairs, Space, and  
Domestic Security

### SENATOR AARON BEAN

4th District

October 17, 2017

The Honorable Randolph Bracy  
Chairman, Criminal Justice  
213 Senate Office Building  
404 South Monroe Street  
Tallahassee, FL 32399

Dear Chairman Bracy:

I respectfully request to be excused from attending the Senate Criminal Justice Committee on Monday, October 23<sup>rd</sup>. I am unable to attend due to a previously arranged event.

Sincerely,

A handwritten signature in cursive script that reads "Aaron Bean".

Aaron Bean  
State Senator | 4<sup>th</sup> District

CC: Lauren Jones, Staff Director  
Sue Arnold, Administrative Assistant  
Charlean Gatlin, Legislative Assistant

#### REPLY TO:

- ☐ Duval Station, 13453 North Main Street, Suite 301, Jacksonville, Florida 32218 (904) 757-5039 FAX: (888) 263-1578
- ☐ 306 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5004 FAX: (850) 410-4805

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

JOE NEGRON  
President of the Senate

ANITERE FLORES  
President Pro Tempore

# CourtSmart Tag Report

Room: LL 37

Caption: Senate Criminal Justice

Case No.:

Judge:

Type:

Started: 10/23/2017 4:01:28 PM

Ends: 10/23/2017 5:59:58 PM

Length: 01:58:31

4:01:27 PM	Call to order by Chair Bracy
4:01:36 PM	Roll Call
4:01:54 PM	Opening Remarks by Chair Bracy
4:02:03 PM	Committee Introductions, New Staff Attorneys, Ryan Cox and Lauren Storch
4:03:46 PM	Preliminary Announcements
4:03:57 PM	Tab 2 Presentation by the Dept. of Juvenile Justice by Secretary Christina Daly
4:33:38 PM	Chair Bracy
4:33:52 PM	Question Sen. Clemens
4:34:12 PM	Reply Sec. Daly
4:34:49 PM	Sen. Clemens
4:35:43 PM	Reply Sec. Daly
4:37:28 PM	Sen. Clemens
4:37:48 PM	Sec. Daly
4:38:32 PM	Sen. Clemens
4:38:40 PM	Sec. Daly
4:39:01 PM	Sen. Clemens
4:39:09 PM	Sec. Daly
4:39:30 PM	Sen. Clemens
4:39:36 PM	Sec. Daly
4:41:01 PM	Sen. Clemens
4:41:23 PM	Sec. Daly
4:41:29 PM	Sen. Clemens
4:41:38 PM	Sec. Daly
4:42:05 PM	Sen. Clemens
4:42:11 PM	Sec. Daly
4:42:54 PM	Sen. Bradley
4:43:30 PM	Sec. Daly
4:43:48 PM	Sen. Bradley
4:43:53 PM	Sec. Daly
4:43:57 PM	Sen. Bradley
4:44:03 PM	Sec. Daly
4:44:12 PM	Sen Bradley
4:44:25 PM	Sec. Daly
4:44:30 PM	Sen. Bradley
4:44:38 PM	Sec. Daly
4:44:54 PM	Sen. Bradley
4:45:53 PM	Sec. Daly
4:46:36 PM	Sen. Bradley
4:47:17 PM	Sec. Daly
4:47:52 PM	Sen. Bradley
4:48:30 PM	Sec. Daly
4:49:09 PM	Sen. Bradley
4:49:14 PM	Sec. Daly
4:49:32 PM	Sen. Bradley
4:49:40 PM	Sec. Daly
4:50:07 PM	Sen. Bradley
4:50:39 PM	Sec. Daly
4:51:45 PM	Sen. Bradley
4:52:14 PM	Sec. Daly
4:54:23 PM	Sen. Bradley
4:54:40 PM	Sec. Daly
4:54:51 PM	Sen. Bradley
4:55:35 PM	Sec. Daly

4:55:43 PM	Sen. Bradley
4:56:01 PM	Sen. Bradley
4:56:31 PM	Chair Bracy
4:56:37 PM	Sen. Brandes
4:56:44 PM	Sec. Daly
4:56:51 PM	Sen. Rouson
4:57:26 PM	Sec. Daly
4:58:34 PM	Sen. Rouson
4:59:45 PM	Sec. Daly
5:02:12 PM	Chair Bracy
5:03:12 PM	Sen. Baxley
5:05:27 PM	Chair Bracy
5:06:33 PM	Information, Brian Pitts, Justice 2 Jesus
5:08:16 PM	Cont'd, Brian Pitts, Justice 2 Jesus
5:10:12 PM	Chair Bracy
5:10:19 PM	Tab 1 Presentation by the Dept. of Corrections on Programming by Secretary Julie Jones
5:21:47 PM	Chair Bracy
5:22:26 PM	Sec. Jones
5:31:46 PM	Video Presentation, Sec. Jones
5:36:18 PM	Sec. Jones
5:37:25 PM	Chair Bracy
5:37:30 PM	Sen. Clemens
5:38:28 PM	Sec. Jones
5:39:34 PM	Sen. Clemens
5:39:42 PM	Sec. Jones
5:40:42 PM	Sen. Clemens
5:40:53 PM	Sec. Jones
5:42:19 PM	Sen. Clemens
5:43:22 PM	Sec. Jones
5:43:47 PM	Sen. Clemens
5:44:24 PM	Sen. Baxley
5:45:19 PM	Sec. Jones
5:47:13 PM	Chair Bracy
5:47:52 PM	Sen. Clemens
5:49:44 PM	Chair Bracy
5:50:37 PM	Tab 3 SB 298 by Sen. Bracy
5:51:01 PM	Sen. Bracy
5:51:28 PM	Sen. Baxley is Chairing Meeting
5:51:34 PM	AM 631680
5:51:46 PM	SA 422842 to AM 631680
5:52:04 PM	Sen. Bracy explains
5:52:52 PM	Sen. Bradley has questions
5:53:08 PM	Sen. Bracy replies
5:53:49 PM	Sen. Bradley
5:54:06 PM	Sen. Bracy
5:54:30 PM	Sen. Bradley
5:55:10 PM	Sen. Bracy
5:55:32 PM	Sen. Bracy requests Staff Director. Lauren Jones to respond
5:56:10 PM	Sen. Bradley
5:56:36 PM	Lauren Jones
5:57:26 PM	Sen. Bradley
5:57:45 PM	Sen. Bradley
5:57:46 PM	Chair Baxley
5:57:56 PM	Andy Thomas, FL Public Defender Assoc., Waives in Support on SA 422842
5:58:00 PM	SA 422842 Adopted
5:58:10 PM	Brian Pitts, Justice 2 Jesus, waived speaking
5:58:25 PM	Barney Bishop, III, Pres. & CEO, FL Smart Justice Alliance, waved speaking in support
5:58:35 PM	Sen. Bracy waived closing
5:58:47 PM	Roll Call on CS/SB 298
5:59:16 PM	Favorable as Committee Substitute
5:59:27 PM	Chair Bracy resumed Chair
5:59:37 PM	Meeting Adjourned