

Tab 1	SB 932 by Bracy; Citizen Support Organization for Florida Missing Children's Day						
Tab 2	SB 936 by Powell (CO-INTRODUCERS) Rouson; (Similar to H 00509) Juvenile Justice						
348374	A	S	RCS	CJ, Powell	Delete L.83 - 92.	01/22 08:21 PM	
284830	A	S	RCS	CJ, Powell	Delete L.268 - 273:	01/22 08:21 PM	
392502	A	S	RCS	CJ, Powell	Delete L.389 - 433:	01/22 08:21 PM	
531932	A	S	RCS	CJ, Powell	Delete L.480 - 481:	01/22 08:21 PM	
Tab 3	SB 938 by Bracy; (Similar to H 06059) Department of Corrections' Direct-support Organization						
Tab 4	SB 942 by Bracy; Department of Juvenile Justice's Direct-support Organization						
337772	A	S	RCS	CJ, Bracy	Delete L.67 - 70:	01/22 08:21 PM	
Tab 5	SB 982 by Powell; (Identical to H 00763) Care for Retired Law Enforcement Dogs						
Tab 6	SB 1060 by Campbell; (Identical to H 06019) Defamation						
Tab 7	SB 1332 by Perry (CO-INTRODUCERS) Rouson; Restoration of Civil Rights						
611208	A	S	RCS	CJ, Perry	Delete L.59 - 132:	01/22 08:21 PM	
Tab 8	SB 1392 by Brandes; (Similar to CS/H 01197) Prearrest Diversion Programs						
445982	A	S	RCS	CJ, Brandes	Delete L.127 - 163:	01/22 08:21 PM	
699198	A	S	RCS	CJ, Brandes	Delete L.276 - 351:	01/22 08:21 PM	
148362	A	S	RCS	CJ, Brandes	Delete L.421 - 433:	01/22 08:21 PM	
413792	A	S	WD	CJ, Baxley	Delete L.115:	01/22 08:21 PM	
Tab 9	SB 1394 by Brandes; (Similar to H 01199) Public Records/Prearrest Diversion Program						
234838	A	S		CJ, Brandes	Delete L.52:	01/19 03:41 PM	
Tab 10	SB 1460 by Montford; (Similar to CS/H 01177) State Agency Law Enforcement Radio System						
244294	D	S	RCS	CJ, Montford	Delete everything after	01/22 08:21 PM	

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

CRIMINAL JUSTICE
Senator Bracy, Chair
Senator Baxley, Vice Chair

MEETING DATE: Monday, January 22, 2018

TIME: 3:30—5:30 p.m.

PLACE: Mallory Horne Committee Room, 37 Senate Office Building

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

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 932 Bracy	Citizen Support Organization for Florida Missing Children's Day; Abrogating the scheduled repeal of provisions governing the citizen support organization, etc. CJ 01/22/2018 Favorable ACJ AP	Favorable Yeas 4 Nays 0
2	SB 936 Powell (Similar H 509, Compare H 195, S 288, S 1552)	Juvenile Justice; Creating an exception to the suspension of civil rights upon the conviction of a felony for children convicted as adults; revising the list of crimes for which children of specified ages who are charged with committing, attempting to commit, or conspiring to commit may have an information filed against them by a state attorney; requiring children of certain ages who are convicted and sentenced to the Department of Corrections to be kept completely separated from adult offenders in the facility, etc. CJ 01/16/2018 Temporarily Postponed CJ 01/22/2018 Fav/CS ACJ AP	Fav/CS Yeas 5 Nays 1
3	SB 938 Bracy (Similar H 6059)	Department of Corrections' Direct-support Organization; Abrogating the scheduled repeal of provisions governing a direct-support organization that is permitted use of fixed properties and facilities of the state correctional system by the Department of Corrections, etc. CJ 01/22/2018 Favorable ACJ AP	Favorable Yeas 4 Nays 0
4	SB 942 Bracy	Department of Juvenile Justice's Direct-support Organization; Abrogating the scheduled repeal of provisions governing a direct-support organization established by the department, etc. CJ 01/22/2018 Fav/CS ACJ AP	Fav/CS Yeas 4 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Criminal Justice

Monday, January 22, 2018, 3:30—5:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	SB 982 Powell (Identical H 763)	Care for Retired Law Enforcement Dogs; Designating the "Care for Retired Law Enforcement Dogs Program Act"; requiring the Department of Law Enforcement to contract with a corporation not for profit to administer and manage the program; providing requirements for the disbursement of funds for the veterinary care of eligible retired law enforcement dogs, etc. CJ 01/22/2018 Favorable ACJ AP	Favorable Yeas 7 Nays 0
6	SB 1060 Campbell (Identical H 6019)	Defamation; Repealing provisions relating to defamation by falsely and maliciously imputing a woman's want of chastity and relating to defamation by making certain derogatory statements concerning banks and building and loan associations, etc. CJ 01/22/2018 Favorable BI RC	Favorable Yeas 5 Nays 0
7	SB 1332 Perry	Restoration of Civil Rights; Requiring an application for the restoration of civil rights that has been submitted before a specified date which qualifies as a priority application to be processed and the investigation completed before certain other applications; requiring the Department of Law Enforcement to conduct the portion of the investigation related to an applicant's criminal history background screening under certain circumstances; requiring the applicant to keep the Florida Commission on Offender Review informed of his or her correct address, including his or her e-mail address, throughout the clemency process; requiring an applicant to be given a specified period of time to remedy any incomplete portions or discrepancies of the application, etc. CJ 01/22/2018 Fav/CS ACJ AP	Fav/CS Yeas 5 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Criminal Justice

Monday, January 22, 2018, 3:30—5:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	SB 1392 Brandes (Similar CS/H 1197, Compare H 489, H 1199, CS/S 644, Linked S 1394)	Pearrrest Diversion Programs; Encouraging counties, municipalities, and public or private educational institutions to implement prearrest diversion programs; requiring that in each judicial circuit the public defender, the state attorney, the clerks of the court, and representatives of participating law enforcement agencies create a prearrest diversion program and develop its policies and procedures; requiring, rather than authorizing, the Department of Law Enforcement to adopt rules for the expunction of certain nonjudicial records of the arrest of a minor upon his or her successful completion of a certain diversion program, etc. CJ 01/22/2018 Fav/CS ACJ AP	Fav/CS Yeas 5 Nays 1
9	SB 1394 Brandes (Similar H 1199, Compare CS/H 1197, Linked S 1392)	Public Records/Pearrrest Diversion Program; Creating an exemption from public records requirements for the personal identifying information of adults who participate in a prearrest diversion program; providing for future review and repeal of the exemption; providing a statement of public necessity, etc. CJ 01/22/2018 Not Considered GO RC	Not Considered
10	SB 1460 Montford (Similar CS/H 1177)	State Agency Law Enforcement Radio System; Adding to the Joint Task Force on State Agency Law Enforcement Communications a representative of the Florida Sheriffs Association, to be appointed by the president of the association, etc. CJ 01/22/2018 Fav/CS RC	Fav/CS Yeas 5 Nays 0

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: SB 932

INTRODUCER: Senator Bracy

SUBJECT: Citizen Support Organization for Florida Missing Children's Day

DATE: January 19, 2017

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Erickson	Jones	CJ	Favorable
2. _____	_____	ACJ	_____
3. _____	_____	AP	_____

I. Summary:

SB 932 reenacts statutory authority (s. 683.23, F.S.) for the Florida Department of Law Enforcement to establish a citizen support organization to provide assistance, funding, and promotional support for activities authorized for Florida Missing Children's Day. The bill removes a provision that repeals s. 683.23, F.S., on October 1, 2018, unless the repeal date is removed and the statute is reenacted.

Florida Missing Children's Day Foundation, Inc., is the citizen support organization designated by the Florida Department of Law Enforcement to provide assistance, funding, and support for Florida Missing Children's Day.

Staff of the Senate Committee on Criminal Justice finds that the Florida Department of Law Enforcement and the Florida Missing Children's Day Foundation, Inc., are in compliance with all statutory requirements relevant to citizen support organizations.

The bill has no fiscal impact on state government.

II. Present Situation:

Florida Missing Children's Day

Section 683.23, F.S., provides that the second Monday in September of each year is designated as "Florida Missing Children's Day" in remembrance of Florida's past and present missing children and in recognition of our state's continued efforts to protect the safety of children through prevention, education, and community involvement"¹ "Each year parents, children, law enforcement officers and citizens convene on the steps of the Old Capitol Building in

¹ Section 683.23, F.S., was created in 2000 by ch. 2000-139, L.O.F.

Tallahassee to remember Florida's missing children who are still missing and those who will never come home again. The Governor, Lieutenant Governor, and [Florida Department of Law Enforcement] Commissioner are invited as speakers.”²

Florida Missing Children's Day Foundation, Inc.

Citizen support organizations (CSOs) and direct support organizations (DSOs) are statutorily-created private entities that are generally required to be non-profit corporations and are authorized to carry out specific tasks in support of public entities or public causes. The functions and purpose of a CSO or DSO are prescribed by its enacting statute and, for most, by a written contract with the agency the CSO or DSO was created to support.

In 2008, the Legislature created s. 683.231, F.S., which authorizes the Florida Department of Law Enforcement (FDLE) to establish a CSO to provide assistance, funding, and promotional support for activities authorized for Florida Missing Children's Day.³ In 2008, the Florida Missing Children's Day Foundation, Inc. (Foundation) was established to provide such assistance, funding, and promotional support.⁴

Repeal of s. 683.231, F.S., and CSO Compliance Review

Section 20.058(5), F.S., provides that laws creating or authorizing a CSO or DSO repeal on October 1 of the fifth year after enactment, unless reviewed and saved from repeal by the Legislature. This subsection further provides that CSOs or DSOs in existence prior to July 1, 2014, must be reviewed by the Legislature by July 1, 2019. Section 683.231, F.S., provides that the section is repealed October 1, 2018, unless reviewed and saved from repeal by the Legislature.

Staff of the Senate Committee on Criminal Justice reviewed relevant materials to determine if the FDLE and the Foundation comply with the requirements of s. 683.231, F.S., and with other statutory requirements for CSOs: s. 20.058, F.S. (CSO/DSO Transparency and Reporting Requirements); s. 215.981, F.S. (CSO/DSO Audit Requirements); and s. 112.3251, F.S. (CSO/DSO Ethics Code Requirement). *Staff finds that the FDLE and the Foundation are in compliance with all relevant CSO statutory requirements.*

Staff Review of Compliance with s. 683.231, F.S. (CSO to Support Florida Missing Children's Day)

Establishment of CSO

Section 683.231(1), F.S., authorizes the FDLE to establish a CSO to provide assistance, funding, and promotional support for activities authorized for Florida Missing Children's Day. For purposes of s. 683.231, F.S., “citizen support organization” means an organization that is:

² *Florida Missing Children's Day* (“Florida Statute 683.23”), Florida Department of Law Enforcement, available at <http://www.fdle.state.fl.us/mcic/fmcd.aspx> (last visited on Dec. 21, 2017).

³ Section 683.231(1), F.S. Section 683.231, F.S., was created by ch. 2008-249, L.O.F.

⁴ Letter from FDLE Commissioner Richard L. Swearingen to Senate President Joe Negron, dated July 6, 2017, available at www.fdle.state.fl.us/Open-Government/Documents/CSO_FMCDLetter_2017.aspx (last visited on Dec. 21, 2017).

- A Florida corporation not for profit incorporated under ch. 617, F.S., and approved by the Department of State; and
- Organized and operated to conduct programs and activities; raise funds; request and receive grants, gifts, and bequests of money; acquire, receive, hold, invest, and administer, in its own name, securities, funds, objects of value, or other property, either real or personal; and make expenditures to or for the direct or indirect benefit of the FDLE in furtherance of Florida Missing Children's Day.⁵

Staff Finding: Compliance. The Foundation meets the definition of “citizen support organization.” In 2008, the Foundation was established.⁶ The Foundation is a Florida non-profit corporation under ch. 617, F.S., and is approved by the Department of State.⁷ “[S]ponsorship funds are used for the annual Florida Missing Children's Day event, as well as for safety materials aimed at preventing abductions and protecting children from exploitation.”⁸ “Expenses include: awards; invitations; printing; postage; event coordination; sound and stage equipment rentals; hotel and travel costs for award winners and victim family members; and incidental costs related to hosting the event.”⁹

The letter of agreement between the FDLE and the Foundation (letter of agreement) provides the following:

- The Foundation is a duly-qualified CSO established in compliance with s. 683.231, F.S.;
- The FDLE has determined that the provision of services provided by the Foundation is consistent with FDLE's goals and in the best interest of the state;
- The Foundation is authorized to collect, administer, and raise funds through program revenues, direct appeals, campaigns, events, grants for special programs, membership drives, etc.¹⁰

Lobbying

Section 683.231(3), F.S., provides that the CSO is not a registered lobbyist within the meaning of s. 11.045, F.S.¹¹

Staff findings: Compliance. The Foundation is not a registered lobbyist.¹² Additionally, the letter of agreement prohibits the Foundation from soliciting or knowingly accepting any donations from any executive branch lobbyist or principal that is known by the Foundation to have direct

⁵ Section 683.231(2), F.S.

⁶ *Florida Missing Children's Day Foundation (FMCDF)*, Missing Endangered Persons Clearinghouse, Florida Department of Law Enforcement, available at <http://www.fdle.state.fl.us/MCICSearch/FMCDFoundation.asp> (last visited on Dec. 21, 2017). The Foundation's 2017 *Florida Not for Profit Corporation Annual Report* is available at <http://www.fmcdf.org/forms/2017-Annual-Report-Website.pdf> (last visited on Dec. 21, 2017).

⁷ *Id.*

⁸ *Supra*, n. 4.

⁹ *Id.*

¹⁰ Letter of Agreement (amended) between the Florida Department of Law Enforcement and the Florida Missing Children's Day Foundation, Inc. (effective September 8, 2014) (on file with the Senate Committee on Criminal Justice).

¹¹ Section 11.045, F.S., sets forth registration requirements for lobbyists who lobby the Legislature.

¹² See 2017 *Lobbyist Firm Directory*, available at https://floridalobbyist.gov/reports/lobfirm1_2017.pdf?cp=0.8835648984166902 (last visited on Dec. 21, 2017).

contact with the FDLE, or for the purpose of attempting to influence the FDLE with respect to a FDLE policy decision or procurement.¹³

Requirements Relating to Collection and Expenditure of Funds

Section 683.231(4), F.S., authorizes the CSO to collect and expend funds to be used for awards; public awareness and awards ceremonies, workshops, and other meetings, including distribution materials for public education and awareness; travel; Internet and web-hosting services; administrative costs, including personnel costs; costs of audits; and costs of rental facilities.

Staff findings: Compliance. The letter of agreement authorizes the Foundation to collect, administer, and raise funds through program revenues, direct appeals, campaigns, events, grants for special programs, membership drives, etc.¹⁴

Activities of the CSO

Section 683.231(5), F.S., provides that the activities of the CSO must be determined by the FDLE to be consistent with the goals and mission of the FDLE and in the best interests of the state and approved in writing by the FDLE to operate for the direct or indirect benefit of the FDLE. The approval must be given in a letter of agreement from the FDLE.

Staff findings: Compliance. The letter of agreement states that the FDLE has determined that the provision of services provided by the Foundation is consistent with FDLE's goals and in the best interest of the state.¹⁵ Further, in 2017, FDLE Commissioner Swearingen also expressed his strong support for the continued efforts of the Foundation and recommended the Foundation continue to support Florida Missing Children's Day.¹⁶

Requirements Relating to Rental of Facilities and Properties

Section 683.231(6)(a), F.S., authorizes the FDLE to fix and collect charges for the rental of facilities and properties managed by the FDLE and to permit, without charge, appropriate use of administrative services, property, and facilities of the FDLE by the CSO, subject to s. 683.231, F.S. The use must be directly in keeping with the approved purposes of the CSO and may not be made at times or places that would unreasonably interfere with opportunities for the public to use such facilities for established purposes. Any money received from rentals of facilities and properties managed by the FDLE may be held in the Operating Trust Fund of the FDLE or in a separate depository account in the name of the CSO and subject to the provisions of the letter of agreement with the FDLE. The letter of agreement must provide that any funds held in the separate depository account in the name of the CSO must revert to the FDLE if the CSO is no longer approved by the department to operate in the best interests of the state.

Staff findings: Not currently applicable. The FDLE has not rented any facilities or properties to the Foundation.¹⁷

¹³ *Supra*, n. 10.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Supra*, n. 4.

¹⁷ E-mail from FDLE staff to staff of the Senate Committee on Criminal Justice, dated Oct. 18, 2017 (on file with the Senate Committee on Criminal Justice).

Permitted Adoption of Rules

Section 683.231(6)(b), F.S., authorizes the FDLE to adopt rules with which a CSO must comply in order to use FDLE administrative services, property, or facilities.

Staff finding: Not currently applicable. The FDLE has not adopted rules with which a CSO must comply in order to use FDLE administrative services, property, or facilities.¹⁸ The adoption of such rules is discretionary. Further, as previously noted, the FDLE has not rented any facilities or properties to the Foundation.¹⁹

Requirements Relating to Use of Services, Property, and Facilities

Section 683.231(6)(c), F.S., prohibits the FDLE from permitting the use of any administrative services, property, or facilities of the state by a CSO that does not provide equal membership and employment opportunities to all persons regardless of race, color, religion, gender, age, or national origin.

Staff findings: Compliance. As previously noted, the FDLE has not rented any facilities or properties to the Foundation. However, the letter of agreement requires the Foundation to provide equal membership and employment opportunities to all persons regardless of race, color, religion, gender, age, or national origin as required and specified by appropriate federal and state laws.²⁰

Independent Annual Financial Audit

Section 683.231(7), F.S., requires the CSO to provide for an independent annual financial audit in accordance with s. 215.981, F.S. Copies of the audit must be provided to the FDLE, the Office of Policy and Budget in the Executive Office of the Governor, and the Florida Cabinet.

Section 215.981(1), F.S., generally requires a CSO or DSO created or authorized pursuant to law with annual expenditures in excess of \$100,000 to provide for an annual financial audit of its accounts and records.²¹ The audit must be conducted by an independent certified public accountant in accordance with rules adopted by the Auditor General and the state agency that created, approved, or administers the CSO or DSO. The audit report must be submitted within nine months after the end of the fiscal year to the Auditor General and to the state agency the CSO or DSO supports. Additionally, the Auditor General may, pursuant to his or her own authority, or at the direction of the Legislative Auditing Committee, conduct audits or other engagements of a CSO's or DSO's accounts and records.²²

¹⁸ *Id.*

¹⁹ *Supra*, n. 17.

²⁰ *Supra*, n. 10.

²¹ The independent audit requirement does not apply to a CSO or DSO for a university, district board of trustees of a community college, or district school board. Section 215.981(1), F.S. Additionally, the expenditure threshold for an independent audit is \$300,000 for a CSO or DSO for the Department of Environmental Protection and the Department of Agriculture and Consumer Services. Section 215.981(2), F.S.

²² Section 11.45(3)(d), F.S.

Staff findings: Not currently applicable. The Foundation does not have annual expenditures in excess of \$100,000.²³ Therefore, the Foundation is not currently subject to the auditing requirements of s. 215.981, F.S. However, in the event the Foundation should ever have annual expenditures in excess of \$100,000, the letter of agreement provides for such audit.²⁴ Copies of such audit must be provided to the Auditor General, the FDLE, the Missing Endangered Persons Information Clearinghouse (MEPIC) Advisory Board, the Office of Policy and Budget in the Executive Office of the Governor, and the Florida Cabinet.²⁵

According to FDLE staff, “[a]ll donations are received by the Florida Missing Children’s Day Foundation treasurer. The treasurer maintains records of donations and also sends the receipt of donation to the Florida Department of Law Enforcement.”²⁶ All monies solicited for Florida Missing Children’s Day are held in a separate account in the name of the Foundation, and used only as authorized by the FDLE. No revenues may be expended without the joint approval of the Foundation and the FDLE. All excess funds are to be permanently restricted and carried over in the budget.²⁷

Further, according to FDLE staff, there is a staff member whose primary job is to serve as support to the MEPIC Advisory Board and as the FDLE liaison to the Foundation. Part of this staff member’s responsibilities includes “working closely with the Foundation Treasurer, President, and their event planner to monitor and review the expenses and budget accounting and report the findings to leadership at FDLE and the Foundation Officers.” FDLE staff also notes that the department is currently “planning to conduct informal fiscal reviews quarterly, and then assess the need to adjust that frequency as looks appropriate.” FDLE will determine in the future whether a semiannual review is more appropriate. “[T]he great bulk of the Foundation expenditures all naturally occur in the ramp up to and immediately following Florida Missing Children’s Day[.]”²⁸

Staff Review of Compliance with s. 20.058, F.S. (CSO/DSO Transparency and Reporting Requirements)

Section 20.058, F.S., establishes a comprehensive set of transparency and reporting requirements for CSOs and DSOs.

²³ Total contributions for 2016 were \$27,680. Documents pertaining to the Florida Missing Children’s Foundation in compliance with s. 20.058, F.S., and transmittal letter dated August 8, 2017, from FDLE Commissioner Richard L. Swearingen to Senate President Joe Negron, available at http://www.fdle.state.fl.us/Open-Government/Documents/CSO_FMCDLetter_2017.aspx (last visited on Dec. 21, 2017).

²⁴ *Supra*, n. 10.

²⁵ *Id.*

²⁶ E-mail from FDLE staff to staff of the Senate Committee on Criminal Justice, dated Aug. 18, 2017 (on file with the Senate Committee on Criminal Justice).

²⁷ *Supra*, n. 10.

²⁸ E-mail from FDLE staff to staff of the Senate Committee on Criminal Justice, dated Sept. 18, 2017 (on file with the Senate Committee on Criminal Justice).

Reporting Requirements

Section 20.058(1), F.S., requires each CSO and DSO to annually submit, by August 1, the following information to the agency it supports:

- The CSO or DSO's name, mailing address, telephone number, and website address;
- The statutory authority or executive order that created the CSO or DSO;
- A brief description of the mission and results obtained by the CSO or DSO;
- A brief description of the CSO or DSO's plans for the next three fiscal years;
- A copy of the CSO or DSO's code of ethics; and
- A copy of the CSO or DSO's most recent Internal Revenue Service (IRS) Form 990.²⁹

Staff findings: Compliance. In 2017, the FDLE reported all of the information required by s. 20.058(1), F.S., except for providing a copy of the IRS Form 990.³⁰ According to FDLE staff, “[b]ecause the Foundation’s annual gross receipts total less than \$50,000, they file a ‘Form 990-N.’ Using a series of system prompts, the 990-N is entirely electronic through an IRS system that the CSO is registered with as a user. There is no physical or singular electronic ‘form’ in the traditional sense of the word.”³¹ The IRS provides a confirmation of the filing composed of the responses to the system prompts for filing, which is “the only ‘documentation’ available for Form 990-N filings.”³² The confirmation is provided in the annual report of information that the FDLE provides pursuant to s. 20.58, F.S.³³

Transparency of Reported CSO or DSO Information

Section 20.058(2), F.S., provides that each agency receiving information from a CSO or DSO pursuant to s. 20.058(1), F.S., shall make such information available to the public through the agency’s website. If the organization maintains a website, the agency’s website must provide a link to the organization’s website.

Staff findings: Compliance. The information described in s. 20.58(1) F.S., is available on the FDLE website³⁴ and the FDLE website also provides a link to the Foundation’s website.³⁵

Section 20.058(3), F.S., provides that, by August 15 of each year, each agency shall report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability the information provided by

²⁹ The IRS Form 990 is an annual information return required to be filed with the IRS by most organizations exempt from federal income tax under 26 U.S.C. s. 501.

³⁰ Documents pertaining to the Florida Missing Children’s Foundation in compliance with s. 20.058, F.S., and transmittal letter dated August 8, 2017, from FDLE Commissioner Richard L. Swearingen to Senate President Joe Negron, available at http://www.fdle.state.fl.us/Open-Government/Documents/CSO_FMCDLetter_2017.aspx (last visited on Dec. 21, 2017).

³¹ E-mail from FDLE staff to staff of the Senate Committee on Criminal Justice, dated Sept. 20, 2017 (on file with the Senate Committee on Criminal Justice).

³² *Id.*

³³ *Supra*, n. 30.

³⁴ *Supra*, n. 30 and “Florida Missing Children’s Day Foundation (FMCDF)” (“2017 Annual Report” tab), Missing Endangered Persons Clearinghouse, Florida Department of Law Enforcement, available at <http://www.fdle.state.fl.us/MCICSearch/FMCDFoundation.asp> (last visited on Dec. 21, 2017).

³⁵ “Florida Missing Children’s Day Foundation (FMCDF)” (“Florida Missing Children’s Foundation” tab), Missing Endangered Persons Clearinghouse, Florida Department of Law Enforcement, available at <http://www.fdle.state.fl.us/MCICSearch/FMCDFoundation.asp> (last visited on Dec. 21, 2017).

each CSO and DSO. The report must also include a recommendation by the agency, with supporting rationale, to continue, terminate, or modify the agency's association with each organization.

Staff findings: Compliance. The FDLE submitted its report by August 15, 2017,³⁶ and FDLE Commissioner Swearingen expressed his strong support for the continued efforts of the Foundation and recommended the Foundation continue to support Florida Missing Children's Day.³⁷

Contract Requirements

Section 20.05(4), F.S., provides that any contract between an agency and a CSO or DSO must be contingent upon the CSO or DSO submitting and posting information pursuant to s. 20.058(1) and (2), F.S. The contract must also include a provision for the orderly cessation of operations and reversion to the state of state funds held in trust by the organization within 30 days after its authorizing statute is repealed, the contract is terminated, or the organization is dissolved. If an organization fails to submit the required information for two consecutive years, the agency head shall terminate any contract between the agency and the organization.

Staff findings: Substantial compliance. The letter of agreement requires the Foundation, by August 1 of each year, to submit and post the information required by s. 20.058(1) and (2), F.S. It also specifies that the letter of agreement is contingent upon the Foundation's submission and posting of this information, and that termination of the agreement will result if the Foundation fails to submit this information for two consecutive years.

The letter of agreement also requires the Foundation to "promptly" return to the FDLE, as directed by the FDLE, all funds and property managed by the Foundation if:

- The Foundation, for any reason, ceases to be a CSO for the FDLE;
- The letter of agreement is cancelled by the FDLE because the Foundation is no longer approved by the FDLE to operate in the best interests of the state, if it is breached by the Foundation (as determined by the FDLE), or if it has expired and is not renewed; or
- If the Foundation is dissolved, if its articles of incorporation are revoked or cancelled, or if the Foundation loses its tax exempt status.³⁸

Staff Review of Compliance with s. 215.981, F.S. (CSO/DSO Audit Requirements)

As previously noted, s. 215.981(1), F.S., requires each CSO and DSO created or authorized pursuant to law with annual expenditures in excess of \$100,000 to provide for an annual financial audit of its accounts and records. (For a full description of the statute, *see* discussion, *supra*, of s. 683.231(7), F.S. (independent annual financial audit)).

³⁶ *Supra*, n. 30.

³⁷ *Supra*, n. 4.

³⁸ *Supra*, n. 10. Funds and property returned are to be used for one or more exempt purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code or for a public purpose. *Id.*

Staff findings: Not currently applicable. As previously noted, the Foundation does not have annual expenditures in excess of \$100,000. Therefore, the Foundation is not currently subject to the auditing requirements of s. 215.981, F.S.³⁹

Staff Review of Compliance with s. 112.3251, F.S. (CSO/DSO Ethics Code Requirement)

Section 112.3251, F.S., requires a CSO or DSO created or authorized pursuant to law to adopt its own ethics code. The ethics code must contain the specified standards of conduct and disclosures provided in ss. 112.313 and 112.3143(2), F.S.⁴⁰ A CSO or DSO may adopt additional or more stringent standards of conduct and disclosure requirements and must conspicuously post its code of ethics on its website.⁴¹

Staff findings: Compliance. The Foundation has a code of ethics which is conspicuously posted at its website.⁴²

III. Effect of Proposed Changes:

The bill removes a repeal date of October 1, 2018, and reenacts authority for the FDLE to establish a CSO to provide assistance, funding, and promotional support for activities authorized for Florida Missing Children's Day. The Florida Missing Children's Day Foundation, Inc., currently provides such assistance, funding, and support.

Staff of the Senate Committee on Criminal Justice finds that the FDLE and the Florida Missing Children's Day Foundation, Inc., are in compliance with all statutory requirements relevant to CSOs.

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.

³⁹ *Supra*, n. 23.

⁴⁰ Some of the standards of conduct and disclosures in ss. 112.313 and 112.3143(2), F.S., include misuse of public position, solicitation or acceptance of gifts, unauthorized compensation, and voting conflicts.

⁴¹ Section 112.3251, F.S.

⁴² See <http://www.fmcdcf.org/forms/2017-Code-of-Ethics.pdf> and <http://www.fmcdcf.org/> ("2017 Code of Ethics" tab) (last visited on Dec. 21, 2017).

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

None.

B. Private Sector Impact:

By saving s. 683.231, F.S., from repeal, the CSO may continue to provide assistance, funding, and promotional support for activities authorized for Florida Missing Children's Day.

C. Government Sector Impact:

The bill has no fiscal impact on state government. By saving s. 683.231, F.S., from repeal, the CSO may continue to provide assistance, funding, and promotional support for activities authorized for Florida Missing Children's Day. If s. 683.231, F.S., is not saved from repeal, the FDLE may need to assume the responsibilities of the CSO or find another entity to assume those responsibilities.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 683.231 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

By Senator Bracy

11-00636-18

2018932__

1 A bill to be entitled
 2 An act relating to the citizen support organization
 3 for Florida Missing Children's Day; amending s.
 4 683.231, F.S.; abrogating the scheduled repeal of
 5 provisions governing the citizen support organization;
 6 providing an effective date.
 7
 8 Be It Enacted by the Legislature of the State of Florida:
 9
 10 Section 1. Section 683.231, Florida Statutes, is amended to
 11 read:
 12 683.231 Citizen support organization for Florida Missing
 13 Children's Day.—
 14 (1) The Department of Law Enforcement may establish a
 15 citizen support organization to provide assistance, funding, and
 16 promotional support for activities authorized for Florida
 17 Missing Children's Day under s. 683.23.
 18 (2) As used in this section, the term "citizen support
 19 organization" means an organization that is:
 20 (a) A Florida corporation not for profit incorporated under
 21 chapter 617 and approved by the Department of State.
 22 (b) Organized and operated to conduct programs and
 23 activities; raise funds; request and receive grants, gifts, and
 24 bequests of money; acquire, receive, hold, invest, and
 25 administer, in its own name, securities, funds, objects of
 26 value, or other property, either real or personal; and make
 27 expenditures to or for the direct or indirect benefit of the
 28 department in furtherance of Florida Missing Children's Day.
 29 (3) The citizen support organization is not a registered

Page 1 of 3

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

11-00636-18

2018932__

30 lobbyist within the meaning of s. 11.045.
 31 (4) The citizen support organization is specifically
 32 authorized to collect and expend funds to be used for awards;
 33 public awareness and awards ceremonies, workshops, and other
 34 meetings, including distribution materials for public education
 35 and awareness; travel; Internet and web-hosting services;
 36 administrative costs, including personnel costs; costs of
 37 audits; and costs of facilities rental.
 38 (5) The activities of the citizen support organization must
 39 be determined by the department to be consistent with the goals
 40 and mission of the department and in the best interests of the
 41 state and approved in writing by the department to operate for
 42 the direct or indirect benefit of the department. The approval
 43 shall be given in a letter of agreement from the department.
 44 (6) (a) The department may fix and collect charges for the
 45 rental of facilities and properties managed by the department
 46 and may permit, without charge, appropriate use of
 47 administrative services, property, and facilities of the
 48 department by the citizen support organization, subject to this
 49 section. The use must be directly in keeping with the approved
 50 purposes of the citizen support organization and may not be made
 51 at times or places that would unreasonably interfere with
 52 opportunities for the public to use such facilities for
 53 established purposes. Any money received from rentals of
 54 facilities and properties managed by the department may be held
 55 in the Operating Trust Fund of the department or in a separate
 56 depository account in the name of the citizen support
 57 organization and subject to the provisions of the letter of
 58 agreement with the department. The letter of agreement must

Page 2 of 3

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

11-00636-18

2018932

59 provide that any funds held in the separate depository account
60 in the name of the citizen support organization must revert to
61 the department if the citizen support organization is no longer
62 approved by the department to operate in the best interests of
63 the state.

64 (b) The department may adopt rules with which a citizen
65 support organization must comply in order to use department
66 administrative services, property, or facilities.

67 (c) The department may not authorize ~~permit~~ the use of any
68 administrative services, property, or facilities of the state by
69 a citizen support organization that does not provide equal
70 membership and employment opportunities to all persons
71 regardless of race, color, religion, gender, age, or national
72 origin.

73 (7) The citizen support organization shall provide for an
74 independent annual financial audit in accordance with s.
75 215.981. Copies of the audit shall be provided to the
76 department, the Office of Policy and Budget in the Executive
77 Office of the Governor, and the ~~Florida~~ Cabinet.

78 ~~(8) This section is repealed October 1, 2018, unless~~
79 ~~reviewed and saved from repeal by the Legislature.~~

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

THE FLORIDA SENATE
APPEARANCE RECORD

1.22.18

Meeting Date

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

932

Bill Number (if applicable)

Topic CSO for Florida's Missing Children's Day

Amendment Barcode (if applicable)

Name Barney Bishop

Job Title CEO

Address 204 South Monroe Street

Street

Tallahassee

City

FL

State

32301

Zip

Phone 510-9922

Email Barney@BarneyBishop.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida 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: CS/SB 936

INTRODUCER: Criminal Justice Committee and Senators Powell and Rouson

SUBJECT: Juvenile Justice

DATE: January 23, 2018

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 936 eliminates mandatory direct file of a child and changes the discretionary prosecution of children as adults by:

- Modifying the age in which a child can be prosecuted as an adult from 14 or 15 to 16 or 17 and limits the specified offenses that qualify a child to be prosecuted as an adult.
- Prohibiting the prosecution of a 16 or 17 year old as an adult for the offense of grand theft in violation of s. 812.014(2)(a), F.S.
- Providing a child transferred to adult court the opportunity to request a hearing before the court to determine if his or her case should remain in adult court.

The bill requires the court to include certain information in the disposition order or the judgment and sentence order at the time the court adjudicates a case eligible for transfer to adult court.

The bill removes involuntary mandatory waiver from the judicial waiver process and provides that only a child of 14 years of age or older can be subject to an indictment by a grand jury.

The bill prohibits a child who is incompetent or has a pending competency hearing from being transferred to adult court until his or her competency is restored.

The bill provides that a child transferred to adult court may be sentenced as an adult, a youthful offender under ch. 958, F.S., or a juvenile. The bill also modifies and adds criteria that the court must consider when determining what type of sanctions are appropriate.

The bill requires the Department of Juvenile Justice (DJJ) to collect and annually report data to the Governor, President of the Senate, and Speaker of the House of Representatives regarding children who qualify for prosecution as adults. The DJJ must work with the Office of Program Policy Analysis and Government Accountability (OPPAGA) to aggregate the data and create a report.

The bill will likely have a negative fiscal impact on the DJJ. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2018.

II. Present Situation:

Transferring of a Child to Adult Court

There are three methods of transferring a child to adult court for prosecution: judicial waiver, indictment by a grand jury, or direct filing an information.

Judicial Waiver

The judicial waiver process allows juvenile courts to waive jurisdiction to adult court on a case-by-case basis. Section 985.556, F.S., provides three types of judicial waivers:

- Voluntary Waiver – the child requests to have his or her case transferred to adult court;¹
- Involuntary Discretionary Waiver – the state attorney may file a motion requesting the court to transfer any case where the child is 14 years of age or older;² and
- Involuntary Mandatory Waiver – the state attorney must request the transfer of a child 14 years of age or older if the child:
 - Has been previously adjudicated delinquent for an enumerated felony³ and the child is currently charged with a second or subsequent violent crime against a person; or
 - Was 14 years of age or older at the time of commission of a fourth or subsequent felony offense and was previously adjudicated delinquent or had adjudication withheld for three felony offenses, one or more of which involved the use or possession of a firearm or violence against a person.⁴

If the state attorney files a motion to transfer a child to adult court, the court must hold a hearing to determine whether the child should be transferred.⁵ The court must consider the following factors to determine whether transfer is appropriate:

- The seriousness of the alleged offense to the community and whether the protection of the community is best served by transferring the child;
- Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner;

¹ Section 985.556(1), F.S.

² Section 985.556(2), F.S.

³ The enumerated felonies are: murder, sexual battery, armed or strong-armed robbery, carjacking, home-invasion robbery, aggravated battery, aggravated assault, or burglary with an assault or battery. See s. 985.556(3)(a), F.S.

⁴ Section 985.556(3), F.S.

⁵ Section 985.556(4), F.S.

- Whether the alleged offense was against persons or against property;
- The probable cause found in the report, affidavit, or complaint;
- The desirability of trial and disposition of the entire offense in one court when the child's associates in the alleged crime are adults or children who are to be tried as adults;
- The sophistication and maturity of the child;
- The record and previous history of the child, including:
 - Previous contacts with the DJJ, Department of Corrections (DOC), former Department of Health and Rehabilitative Services (HRS), Department of Children and Families (DCF), other law enforcement agencies, and court;
 - Prior periods of probation;
 - Prior adjudications that the child committed a delinquent act or violation of law; and
 - Prior commitments to institutions.
- The prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the child.⁶

The court must provide an order specifying the reasons for its decision to impose adult sanctions.⁷

If a child is transferred to adult court by a voluntary waiver or involuntary discretionary waiver and is found to have committed the offense or a lesser included offense, the court may sentence the child as an adult, a youthful offender, or a juvenile.⁸ If the transfer was by an involuntary mandatory waiver, the court must impose adult sanctions.⁹

Indictment by a Grand Jury

Section 985.56, F.S., specifies that a child of any age who is charged with an offense punishable by death or life imprisonment is subject to the jurisdiction of the juvenile courts unless and until an indictment by a grand jury. If the grand jury returns an indictment on the charge, the child's case must be transferred to adult court.¹⁰

If the child is found to have committed the offense punishable by death or life imprisonment, the court must sentence the child as an adult.¹¹ If the child is instead found to have committed a lesser included offense or any other offense for which he or she was indicted as part of the criminal episode, the court may sentence the child as an adult, a youthful offender, or a juvenile.¹²

⁶ Section 985.556(4)(c), F.S.

⁷ Section 985.556(4)(e), F.S.

⁸ Section 985.565(4)(a)2.a.-c., F.S.

⁹ Section 985.565(4)(a)3., F.S.

¹⁰ Section 985.56(1), F.S.

¹¹ Section 985.565(4)(a)1., F.S.

¹² Section 985.565(4)(a)1.a.-c., F.S.

Direct File

Direct file is when a state attorney files an information charging a child in adult court. Direct file under s. 985.557, F.S., can either be discretionary or mandatory. Direct file is the predominant transfer method to adult court, accounting for 97.7 percent of the transfers in 2016-17.¹³

Discretionary Direct File

Section 985.557(1), F.S., provides the state attorney with discretion to file a case in adult court for certain juvenile cases when he or she believes the offense requires that adult sanctions be considered or imposed. Specifically, the state attorney may file an information (direct file a child) in adult court when a child is:

- 14 or 15 years of age and is charged with one of the following felony offenses:
 - Arson;
 - Sexual battery;
 - Robbery;
 - Kidnapping;
 - Aggravated child abuse;
 - Aggravated assault;
 - Aggravated stalking;
 - Murder;
 - Manslaughter;
 - Unlawful throwing, placing, or discharging of a destructive device or bomb;
 - Armed burglary in violation of s. 810.02(2)(b), F.S.;
 - Burglary of a dwelling or structure in violation of s. 810.02(2)(c), F.S.;
 - Burglary with an assault or battery in violation of s. 810.02(2)(a), F.S.;
 - Aggravated battery;
 - Any lewd or lascivious offense committed upon or in the presence of a person less than 16;
 - Carrying, displaying, using, threatening, or attempting to use a weapon or firearm during the commission of a felony;
 - Grand theft in violation of s. 812.014(2)(a), F.S.;
 - Possessing or discharging any weapon or firearm on school property in violation of s. 790.115, F.S.;
 - Home invasion robbery;
 - Carjacking;
 - Grand theft of a motor vehicle in violation of s. 812.014(2)(c)6., F.S.; or
 - Grand theft of a motor vehicle valued at \$20,000 or more in violation of s. 812.014(2)(b), F.S., if the child has a previous adjudication for grand theft of a motor vehicle in violation of s. 812.014(2)(c)6. or (2)(b), F.S.¹⁴
- 16 or 17 years of age and is charged with any felony offense;¹⁵ or

¹³ Florida Department of Juvenile Justice, *2018 Bill Analysis for CS/SB 936*, (January 17, 2018) (on file with the Senate Criminal Justice Committee).

¹⁴ Section 985.557(1)(a)1.-19., F.S.

¹⁵ Section 985.557(1)(b), F.S.

- 16 or 17 years of age and is charged with a misdemeanor, provided the child has had at least two previous adjudications or adjudications withheld for delinquent acts, one of which was a felony.¹⁶

If a child transferred to adult court by discretionary direct file is found to have committed the offense or a lesser included offense, the court may sentence the child as an adult, a youthful offender, or a juvenile.¹⁷

Mandatory Direct File

Section 985.557(2), F.S., requires the state attorney to file a case in adult court when the child is:

- 16 or 17 years of age at the time of the alleged offense and:
 - Is charged with a second or subsequent violent crime against a person and has been previously adjudicated delinquent for an enumerated felony;¹⁸
 - Is charged with a forcible felony¹⁹ and has been previously adjudicated delinquent or had adjudication withheld for three felonies that each occurred at least 45 days apart from each other;²⁰ or
 - Is charged with committing or attempting to commit an offense listed in s. 775.087(2)1.a.-p., F.S.,²¹ and during the commission of the offense the child actually possessed or discharged a firearm or destructive device;²² or
- Any age and is alleged to have committed an act that involves stealing a vehicle in which the child, while possessing the vehicle, caused serious bodily injury or death to a person who was not involved in the underlying offense.

The court has the discretion to sentence a child transferred to adult court by mandatory direct file as an adult, a youthful offender, or a juvenile if:

- The child was 16 or 17 years old at the time of the offense, the charged offense is listed in s. 775.087(2)(a)1.a.-p., F.S., and during the commission of the offense the child actually possessed or discharged a firearm or destructive device; or

¹⁶ *Id.*

¹⁷ Sections 985.565(4)(a)2. and (b), F.S.

¹⁸ The enumerated felonies include: murder, sexual battery, armed or strong-armed robbery, carjacking, home-invasion robbery, aggravated battery, or aggravated assault. *See* s. 985.557(2)(a), F.S.

¹⁹ Section 776.08, F.S., defines “forcible felony” as treason; murder; manslaughter; sexual battery; carjacking; home-invasion robbery; robbery; burglary; arson; kidnapping; aggravated assault; aggravated battery; aggravated stalking; aircraft piracy; unlawful throwing, placing, or discharging of a destructive device or bomb; and any other felony which involves the threat of physical force or violence against any individual.

²⁰ Section 985.557(2)(b), F.S., provides that this provision does not apply when the state attorney has good cause to believe that exceptional circumstances exist which preclude the just prosecution of the child in adult court.

²¹ The offenses include murder; sexual battery; robbery; burglary; arson; aggravated battery; kidnapping; escape; aircraft piracy; aggravated child abuse; aggravated abuse of an elderly person or disabled adult; unlawful throwing, placing, or discharging of a destructive device or bomb; carjacking; home-invasion robbery; aggravated stalking; trafficking in cannabis; trafficking in cocaine; capital importation of cocaine; trafficking in illegal drugs; capital importation of illegal drugs; trafficking in phencyclidine; capital importation of phencyclidine; trafficking in methaqualone; capital importation of methaqualone; trafficking in amphetamine; capital importation of amphetamine; trafficking in flunitrazepam; trafficking in gamma-hydroxybutyric acid (GHB); trafficking in 1,4-Butanediol; trafficking in Phenethylamines; or other violation of s. 893.135(1), F.S. Section 775.087(2)(a)1.a.-p., F.S.

²² The terms “firearm” and “destructive device” are defined in s. 790.001, F.S.

- The charged offense involves stealing a vehicle in which the child, while possessing the vehicle, caused serious bodily injury or death to a person who was not involved in the underlying offense.²³

However, the court must impose adult sanctions for a child transferred to adult court by mandatory direct file who was 16 or 17 years old at the time of the offense and:

- Is charged with committing a second or subsequent violent crime against a person and has been previously adjudicated delinquent for an enumerated felony; or
- Is charged with committing a forcible felony and has been previously adjudicated delinquent or had adjudication withheld for three felonies that each occurred at least 45 days apart from each other.²⁴

Imposing Adult or Juvenile Sanctions

Judges often have discretion to impose adult or juvenile sanctions when a child is transferred to adult court and found to have committed an offense. In determining whether adult or juvenile sanctions are appropriate, the judge must consider the following factors:

- The seriousness of the offense to the community and whether the community would best be protected by juvenile or adult sanctions;
- Whether the offense was committed in an aggressive, violent, premeditated, or willful manner;
- Whether the offense was against persons or against property;²⁵
- The sophistication and maturity of the offender;
- The record and previous history of the offender, including:
 - Previous contacts with the DOC, DJJ, former HRS, DCF, law enforcement agencies, and the courts;
 - Prior periods of probation;
 - Prior adjudications that the offender committed a delinquent act or violation of law as a child; and
 - Prior commitments to the DJJ, former HRS, DCF, or other facilities or institutions;
- The prospects for adequate protection of the public and the likelihood of deterrence and reasonable rehabilitation of the offender if assigned to the DJJ's services and facilities;
- Whether the DJJ has appropriate programs, facilities, and services immediately available; and
- Whether adult sanctions would provide more appropriate punishment and deterrence to further violations of law than juvenile sanctions.²⁶

If juvenile sanctions are imposed, the court must adjudge the child to have committed a delinquent act²⁷ and may:

²³ Section 985.565(4)(a)2., F.S.

²⁴ Section 985.565(4)(a)3., F.S.

²⁵ Greater weight is given to offenses against persons, especially if personal injury resulted.

²⁶ Section 985.565(1)(b), F.S.

²⁷ Section 985.565(4)(b), F.S. Adjudication of delinquency is not deemed a conviction, nor does it operate to impose any of the civil disabilities ordinarily resulting from a conviction.

- Place the child on probation with the DJJ for an indeterminate period of time until he or she reaches the age of 19 years or sooner if discharged by order of the court;
- Commit the child to the DJJ for treatment in an appropriate program for an indeterminate period of time until he or she reaches 21 years of age or sooner if discharged by the DJJ;²⁸ or
- Order any of the following if the court determines not to impose youthful offender or adult sanctions:
 - Probation and postcommitment probation or community service under s. 985.435, F.S.;
 - Restitution under s. 985.437, F.S.;
 - Consequences for violation of probation or postcommitment probation under s. 985.439, F.S.;
 - Commitment under s. 985.441, F.S.;
 - Work program liability and remuneration under s. 985.45, F.S.; and
 - Other dispositional issues under s. 985.455, F.S.²⁹

If the court imposes a juvenile sanction and the DJJ determines that the sanction is unsuitable for the child, the DJJ must return custody of the child to the sentencing court for further proceedings, including the imposition of adult sanctions.³⁰

Any sentence imposing adult sanctions is presumed appropriate, and the court is not required to set forth specific findings or list the criteria used as any basis for its decision to impose adult sanctions.³¹

The court may not sentence a child to a combination of adult and juvenile sanctions.³²

Effect of Transferring a Child to Adult Court

If a child transferred to adult court is found to have committed the offense or a lesser included offense, the child must have any subsequent violations of law handled in adult court.³³ The court must also immediately transfer and certify all unresolved³⁴ felony cases pertaining to the child to adult court for prosecution.³⁵

If the child is acquitted of all charged offenses (or lesser included offenses) contained in the originally direct filed case, all felony cases transferred to adult court as a result of the originally transferred case must be subject to juvenile sanctions.³⁶

²⁸ The DJJ must notify the court of its intent to discharge no later than 14 days prior to discharge. Failure of the court to timely respond to the DJJ's notice shall be considered approval for discharge.

²⁹ Section 985.565(4)(b)1.-3., F.S.

³⁰ Section 985.565(4)(b), F.S.

³¹ Section 985.565(4)(a)4., F.S.

³² Section 985.565(4)(b), F.S.

³³ Sections 985.556(5), 985.56(4)(a), and 985.557(3)(a), F.S. This provision does not apply if the adult court imposes juvenile sanctions under s. 985.565, F.S.

³⁴ Unresolved cases include those which have not yet resulted in a plea of guilty or nolo contendere or in which a finding of guilt has not yet been made. See s. 985.557(3)(b), F.S.

³⁵ Sections 985.556(5), 985.56(4), and 985.557(3), F.S.

³⁶ *Id.*

Detention Transfer and Release

The court must order the delivery of a child to a jail or other facilities intended or used for the detention of adults in the following circumstances:

- When the child has been transferred or indicted for prosecution as an adult;³⁷ or
- When a child taken into custody in this state is wanted by another jurisdiction for prosecution as an adult.³⁸

III. Effect of Proposed Changes:**Judicial Waiver (Section 1, amending s. 985.556, F.S.)**

The bill eliminates involuntary mandatory waiver from the judicial waiver process. Related to hearings on transfer requests, the bill also repeals the factor which required the court to consider the desirability of the trial and disposition of the case be handled in the same court as the child's codefendants. Furthermore, the bill adds a factor to require the court to consider a child's mental development in determining whether a child should be transferred to adult court.

Indictment of a Juvenile (Section 3, amending s. 985.56, F.S.)

The bill specifies that only a child 14 years of age or older can be subject to an indictment by a grand jury.

The bill prohibits a child eligible for indictment from being transferred to adult court until his or her competency is restored if he or she has:

- A pending competency hearing in juvenile court; or
- Been previously found to be incompetent and has not been restored to competency by a court.

The bill provides that a pending competency hearing or a finding of incompetency tolls the time limits provided in s. 985.56(2), F.S.

Prosecuting Children as Adults (Direct File) (Section 2, amending s. 985.557, F.S.)

The bill eliminates mandatory direct file and modifies the discretionary prosecution of children as adults (discretionary direct file). The bill changes the age in which a child can be prosecuted as an adult from 14 or 15 to 16 or 17.

The bill narrows the discretion afforded to a state attorney in prosecuting a child as an adult, providing that a 16 or 17-year-old child may only be prosecuted as an adult when he or she commits one of the qualifying offenses enumerated in s. 985.557(1)(a), F.S. The bill removes grand theft in violation of s. 812.014(2)(a), F.S., from the list of qualifying offenses.

³⁷ The court may not order or allow a child alleged to have committed a misdemeanor who is being transferred for prosecution pursuant to either ss. 985.556 or 985.557, F.S., to be detained or held in a jail or other facility intended or used for the detention of adults; however, such child may be held temporarily in a detention facility. Section 985.265(5)(a), F.S.

³⁸ Section 985.265(5), F.S.

The bill requires the DOC to make every reasonable effort to ensure that any child between the ages of 16 and 18 years old who is convicted and sentenced be completely separated from adult offenders in the facility.

The bill requires the court, beginning October 1, 2018, with the assistance of the DJJ, prosecutor, and defense counsel, to include the following information in the disposition order or the judgement and sentence order at the time the court adjudicates a case eligible for transfer to adult court:

- Whether the case was adjudicated in juvenile or adult court;
- The length of time the child spent in a detention facility or jail awaiting disposition;
- If the case was adjudicated in juvenile court:
 - Whether the child had to waive statutory limits on secure detention in order to avoid being prosecuted as an adult and, if available, the amount of time the child who waived secure detention limits actually spent in secure detention;
 - Whether the child waived the right to trial in exchange for the case remaining in juvenile court;
 - If the decision not to transfer to adult court resulted in a plea agreement, the details of the plea agreement, including previous plea offers made by the state but not accepted by the child, and any conditions placed on the plea offer;
 - Whether any discovery was conducted on the case before the plea; and
 - Whether the judge sentenced the child to a disposition other than what the prosecutor was offering in exchange for the child not being prosecuted as an adult.
- If the case was adjudicated in adult court:
 - Whether any discovery was conducted on the case after the child's transfer to adult court;
 - Whether the sentence was the result of a plea agreement that did not involve the judge;
 - Whether the sentence was the result of a plea agreement that did involve the judge; and
 - Whether the sentence was the result of a trial.

The bill provides that the chief judge in each judicial circuit must collect the information specified above for all cases disposed of in the previous month and submit that information to the DJJ on or before the 15th of each month.

Fitness Hearings before a Judge (Section 2, amending s. 985.557, F.S.)

A child transferred to adult court by discretionary prosecution may request a hearing before the court to determine whether public safety would be best served by keeping the child in adult court. In making this determination, the court must consider:

- The seriousness of the offense;
- The extent of the child's alleged participation or role in the offense;
- The sophistication, maturity, and mental development of the child;
- Any prior adjudications or adjudications withheld of the child; and
- Any other consideration set forth in s. 985.556(3)(c), F.S.

Based on these considerations, the adult court may transfer the case back to juvenile court.

Transfer Prohibitions (Section 2, amending s. 985.557, F.S.)

A child eligible for discretionary prosecution as an adult who has a pending competency hearing in juvenile court or has been previously found to be incompetent cannot be transferred to adult court for criminal prosecution until his or her competency has been restored.

Data Collection Relating to Prosecuting Children as Adults (Section 2, amending s. 985.557, F.S.)

The bill requires the DJJ, beginning January 1, 2019, to collect data relating to children who qualify to be prosecuted as adults. This data includes, but is not limited to:

- Age;
- Race and ethnicity;
- Gender;
- Circuit and county of residence and offense;
- Prior adjudications or adjudications withheld;
- Prior periods of probation, including any violations of probation;
- Previous contact with law enforcement agencies or the court which resulted in a civil citation, arrest, or other charge being filed with the state;
- Initial charges;
- Charges at disposition;
- Whether child codefendants were involved who were transferred to adult court;
- Whether the child was represented by counsel or waived counsel;
- The child's risk assessment instrument score;
- The child's medical, mental health, substance abuse, or trauma history;
- The child's history of mental impairment or disability-related accommodations;
- The child's history of abuse or neglect;
- The child's history of foster care placements, including the number of prior placements;
- Whether the child has below-average intellectual functioning;
- Whether the child has received mental health services or treatment;
- Whether the child has been the subject of a child-in-need-of-services or families-in-need-of-services petition or a dependency petition;
- Whether the child was transferred for criminal prosecution as an adult;
- The case resolution in juvenile court;
- The case resolution in adult court; and
- Information included in the disposition order or the judgment and sentence order generated by the court pursuant to s. 985.557(1)(b)1., F.S.

Beginning January 1, 2019, the DJJ must also collect data relating to children transferred for prosecution as an adult. This data includes, but is not limited to:

- Disposition data, including, but not limited to, adult sanctions, juvenile sanctions, or diversions received and, if sentenced to prison, the length of the prison sentence or the length of the enhanced sentence; and
- Incompetence to proceed in juvenile court.

The DJJ must work with the OPPAGA to generate a report analyzing the aggregated data listed above for every juvenile case transferred between July 1, 2017, and June 30, 2018. Such report must be provided to the Governor, President of the Senate, and Speaker of the House of Representatives by January 31, 2019.

The DJJ must work with the OPPAGA analyzing the aggregated data listed above on an annual basis. Such report must be provided annually to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than January 31 of the following calendar year.

Imposing Adult or Juvenile Sanctions (Section 4, amending s. 985.565, F.S.)

The bill adds additional criteria and modifies existing criteria that the court must consider when determining whether to impose adult or juvenile sanctions.

The bill adds the following criteria that courts must consider:

- The extent of the child's participation in the offense.
- The effects, if any, of familial or peer pressure on the child's actions.
- Whether the DOC has appropriate programs, facilities, and services immediately available.

The bill modifies the following existing criteria that courts must consider:

- The sophistication, maturity, and mental development of the child, including:
 - The child's age, maturity, intellectual capacity, and mental and emotional health at the time of the offense;
 - The child's background, including his or her family, home, and community environment;
 - The effect, if any, of immaturity, impetuosity, or failure to appreciate the risks and consequences of the offense on the child's participation in the offense; and
 - The effect, if any, of characteristics attributable to the child's age on the child's judgment.
- The record and previous history of the child, including:
 - Previous contacts with the DOC, DJJ, former HRS, or DCF, and the adequacy and appropriateness of the services provided by the DJJ to address the child's needs;
 - Prior commitments to the DJJ, former HRS, DCF, or other facilities or institutions and the adequacy and appropriateness of the services provided by such entity to address the child's needs;
 - Previous contacts with law enforcement agencies and the courts;
 - History of abuse, abandonment, neglect, or foster care placements;
 - Identification of the child as having a disability; and
 - History of mental health services or treatment.

The bill provides that a child transferred pursuant to indictment, information (discretionary prosecution), or waiver of juvenile court jurisdiction and found to have committed a violation of law or a lesser included offense may be sentenced:

- As an adult;
- As a youthful offender under ch. 958, F.S.; or
- As a juvenile.

Detention Transfer and Release (Section 7, amending s. 985.265, F.S.)

The bill provides that the court is authorized, but not required, to order a child to be delivered to a jail or other facility intended or used for the detention of adults in certain circumstances.

Other (Sections 5, 6, 8, 9)

The bill also amends ss. 985.03 and 985.15, F.S., to reflect changes made by the bill and reenacts ss. 985.26(2)(c) and 985.514(3), F.S., to incorporate amendments by the bill to statutes that are cross-referenced in the reenacted section.

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.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference has not provided an estimate of the bill's impact. However, the bill is likely to reduce the number of children transferred to the adult system, thus increasing the DJJ's population, which will likely result in a significant negative prison bed impact (a decrease in the number of prison beds) on the DOC and a significant positive residential bed impact (an increase in the number of beds) on the DJJ.

The DJJ estimates that 516 youth would no longer be eligible for adult transfer under the bill. Providing accommodations for these additional youth is estimated to cost the DJJ

more than \$35 million for detention and treatment costs in year one.³⁹ Additionally, the DJJ predicts that new facilities will need to either be procured or retrofitted to serve this increased population. The fiscal impact for facilities is indeterminate.⁴⁰

Additionally, the bill requires the DJJ to collect data for review and analysis which would require modification of the Juvenile Justice Information System at an estimated cost of \$136,080.⁴¹

Tasks assigned to the OPPAGA in the proposed legislation may be accomplished with existing resources.⁴²

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 985.03, 985.15, 985.265, 985.556, 985.557, 985.56, and 985.565

The bill reenacts the following sections of the Florida Statutes: 985.26 and 985.514.

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 January 22, 2018:

The Committee Substitute:

- Removes section 1, amending s. 944.292, F.S., that would prohibit children who are convicted as adults from having their civil rights suspended;
- Requires the Department of Corrections to keep children between the ages of 16 and 18 years old who are convicted and sentenced under s. 985.557, F.S., separate from adult offenders;
- Prohibits a child who has a pending competency hearing in juvenile court or who has previously been found to be incompetent from being prosecuted as an adult until his or her competency has been restored;

³⁹ Following the second year of implementation, detention cost would be split 50/50 with counties via detention cost share. See Department of Juvenile Justice, *2018 Bill Analysis for CS/SB 936*, (January 17, 2018) (on file with the Senate Committee on Criminal Justice).

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² Office of Program Policy Analysis and Government Accountability, *2018 Bill Analysis for SB 936*, (December 6, 2017) (on file with the Senate Committee on Criminal Justice).

- Clarifies that a court must provide certain information in the disposition order or the judgment and sentence order for all cases eligible for transfer to adult court; and
- Clarifies that the DJJ must collect and annually report certain information that the court includes in the disposition order or the judgment and sentence order for each case eligible for transfer to adult court.

B. Amendments:

None.

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



348374

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/22/2018	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 83 - 92.

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

And the title is amended as follows:

Delete lines 2 - 5

and insert:

An act relating to juvenile justice; amending s.
985.556,



284830

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/22/2018	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 268 - 273
and insert:

(b)1. Beginning October 1, 2018, the court shall, with the assistance of the department, prosecutor, and defense counsel, include the following information in the disposition order or the judgment and sentence order for all cases eligible for transfer to adult court under this section, s. 985.556, or s. 985.56:



392502

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/22/2018	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 389 - 433
and insert:
reasonable effort to ensure that any child who is 16 years of
age or older but has not yet reached the age of 18 and 16 or 17
years of age who is convicted and sentenced under this section
is paragraph be completely separated such that there is no
physical contact with adult offenders in the facility, to the
extent that it is consistent with chapter 958.



392502

11 (2)~~(3)~~ EFFECT OF PROSECUTION OF CHILDREN AS ADULTS ~~DIRECT~~
12 FILE.—

13 (a) Once a child has been transferred for criminal
14 prosecution pursuant to an information and has been found to
15 have committed the presenting offense or a lesser included
16 offense, the child shall be handled thereafter in every respect
17 as if an adult for any subsequent violation of state law, unless
18 the court imposes juvenile sanctions under s. 985.565.

19 (b) When a child is transferred for criminal prosecution as
20 an adult, the court shall immediately transfer and certify to
21 the adult circuit court all felony cases pertaining to the
22 child, for prosecution of the child as an adult, which have not
23 yet resulted in a plea of guilty or nolo contendere or in which
24 a finding of guilt has not been made. If a child is acquitted of
25 all charged offenses or lesser included offenses contained in
26 the original case transferred to adult court, all felony cases
27 that were transferred to adult court as a result of this
28 paragraph shall be subject to the same penalties to which such
29 cases would have been subject before being transferred to adult
30 court.

31 (c) When a child has been transferred for criminal
32 prosecution as an adult and has been found to have committed a
33 violation of state law, the disposition of the case may be made
34 under s. 985.565 and may include the enforcement of any
35 restitution ordered in any juvenile proceeding.

36 (3) FITNESS HEARING BEFORE A JUDGE.—A child who is
37 transferred to adult court under this section may request, in
38 writing, a hearing before the court to determine whether he or
39 she shall remain in adult court. The adult court, in determining



392502

whether public safety would be best served by retaining jurisdiction, shall consider the seriousness of the offense; the extent of the child's alleged participation or role in the offense; the sophistication, maturity, and mental development of the child; any prior adjudications or adjudications withheld of the child; and any other consideration set forth in s. 985.556(3)(c). The adult court may, based on these considerations, transfer the case back to juvenile court.

(4) TRANSFER PROHIBITION.—Notwithstanding any other law, a child who is eligible for prosecution as an adult and who has a pending competency hearing in juvenile court or who has



531932

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/22/2018	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 480 - 481

and insert:

24. Information included in the disposition order or the judgment and sentence order under subparagraph (1)(b)1.

By Senator Powell

30-01093-18

2018936__

1 A bill to be entitled
 2 An act relating to juvenile justice; amending s.
 3 944.292, F.S.; creating an exception to the suspension
 4 of civil rights upon the conviction of a felony for
 5 children convicted as adults; amending s. 985.556,
 6 F.S.; deleting provisions requiring that a state
 7 attorney request the court to transfer and certify a
 8 child for prosecution as an adult under certain
 9 circumstances; revising the factors that a court must
 10 consider when determining whether a child should be
 11 transferred to adult court; amending s. 985.557, F.S.;
 12 eliminating discretionary direct filing for children
 13 of specified ages; revising the list of crimes for
 14 which children of specified ages who are charged with
 15 committing, attempting to commit, or conspiring to
 16 commit may have an information filed against them by a
 17 state attorney; requiring specified information to be
 18 included in certain orders; requiring chief judges of
 19 the judicial circuits to periodically collect and
 20 report certain data to the Department of Juvenile
 21 Justice; deleting provisions requiring that a child be
 22 prosecuted as an adult if the child committed or
 23 attempted to commit specified crimes; deleting
 24 provisions relating to sentencing a child who commits
 25 or attempts to commit specified crimes; requiring
 26 children of certain ages who are convicted and
 27 sentenced to the Department of Corrections to be kept
 28 completely separated from adult offenders in the
 29 facility; authorizing a child who is transferred to

Page 1 of 28

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

30-01093-18

2018936__

30 adult court to request, in writing, a hearing before
 31 the court to determine whether he or she shall remain
 32 in adult court; requiring the court to consider
 33 specified facts in determining whether the public
 34 safety would be served by retaining jurisdiction;
 35 authorizing the court to transfer a child back to a
 36 juvenile court; prohibiting the transfer of a child to
 37 adult court until his or her competency is restored in
 38 certain circumstances; requiring the department,
 39 beginning on a specified date, to collect specified
 40 information relating to children who qualify for
 41 prosecution as adults and children who are transferred
 42 for criminal prosecution as adults; requiring the
 43 department to work with the Office of Program Policy
 44 Analysis and Government Accountability to generate a
 45 report analyzing the data of juveniles transferred for
 46 prosecution as adults during a certain period and
 47 provide such report to the Governor and Legislature by
 48 a specified date; requiring the department to work
 49 with the Office of Program Policy Analysis and
 50 Government Accountability to generate an annual report
 51 analyzing certain data and provide such report to the
 52 Governor and Legislature by a specified date; amending
 53 s. 985.56, F.S.; providing a minimum age limit for
 54 children who are subject to the jurisdiction of a
 55 court if they are charged with a violation punishable
 56 by death or life imprisonment; prohibiting the
 57 transfer of a child to adult court until his or her
 58 competency is restored in certain circumstances;

Page 2 of 28

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

30-01093-18

2018936

providing for the tolling of time limits for specified purposes; making technical changes; amending s. 985.565, F.S.; revising the criteria to be used in determining whether to impose juvenile or adult sanctions; deleting provisions requiring the sentencing of children who commit offenses punishable by death or life imprisonment or other specified offenses; conforming provisions to changes made by the act; amending s. 985.03, F.S.; conforming a cross-reference; amending s. 985.15, F.S.; conforming provisions to changes made by the act; amending s. 985.265, F.S.; authorizing, rather than requiring, a court to order a child to be housed in an adult detention facility in certain circumstances; reenacting s. 985.26(2)(c), F.S., relating to the definition of the term "disposition," to incorporate the amendments made to ss. 985.557 and 985.56, F.S., in references thereto; reenacting s. 985.514(3), F.S., relating to responsibility for cost of care and fees, to incorporate the amendment made to s. 985.565, F.S., in a reference thereto; providing an effective date.

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

Section 1. Subsection (1) of section 944.292, Florida Statutes, is amended to read:

944.292 Suspension of civil rights.—

(1) Upon conviction of a felony as defined in s. 10, Art. X of the State Constitution, the civil rights of the person

30-01093-18

2018936

convicted, except for a child convicted as an adult pursuant to s. 985.56, s. 985.556, or s. 985.557, shall be suspended in Florida until such rights are restored by a full pardon, conditional pardon, or restoration of civil rights granted pursuant to s. 8, Art. IV of the State Constitution.

Section 2. Subsections (2) through (5) of section 985.556, Florida Statutes, are amended, and subsection (1) of that section is republished, to read:

985.556 Waiver of juvenile court jurisdiction; hearing.—

(1) VOLUNTARY WAIVER.—The court shall transfer and certify a child's criminal case for trial as an adult if the child is alleged to have committed a violation of law and, prior to the commencement of an adjudicatory hearing, the child, joined by a parent or, in the absence of a parent, by the guardian or guardian ad litem, demands in writing to be tried as an adult. Once a child has been transferred for criminal prosecution pursuant to a voluntary waiver hearing and has been found to have committed the presenting offense or a lesser included offense, the child shall be handled thereafter in every respect as an adult for any subsequent violation of state law, unless the court imposes juvenile sanctions under s. 985.565(4)(b).

(2) INVOLUNTARY DISCRETIONARY WAIVER.—~~Except as provided in subsection (3),~~ The state attorney may file a motion requesting the court to transfer the child for criminal prosecution if the child was 14 years of age or older at the time the alleged delinquent act or violation of law was committed.

~~(3) INVOLUNTARY MANDATORY WAIVER.—~~

~~(a) If the child was 14 years of age or older, and if the child has been previously adjudicated delinquent for an act~~

30-01093-18

2018936__

~~classified as a felony, which adjudication was for the commission of, attempt to commit, or conspiracy to commit murder, sexual battery, armed or strong-armed robbery, carjacking, home-invasion robbery, aggravated battery, aggravated assault, or burglary with an assault or battery, and the child is currently charged with a second or subsequent violent crime against a person, or~~

~~(b) If the child was 14 years of age or older at the time of commission of a fourth or subsequent alleged felony offense and the child was previously adjudicated delinquent or had adjudication withheld for or was found to have committed, or to have attempted or conspired to commit, three offenses that are felony offenses if committed by an adult, and one or more of such felony offenses involved the use or possession of a firearm or violence against a person,~~

~~the state attorney shall request the court to transfer and certify the child for prosecution as an adult or shall provide written reasons to the court for not making such request, or proceed under s. 985.557(1). Upon the state attorney's request, the court shall either enter an order transferring the case and certifying the case for trial as if the child were an adult or provide written reasons for not issuing such an order.~~

~~(3)-(4)~~ WAIVER HEARING BEFORE A JUDGE.—

(a) Within 7 days, excluding Saturdays, Sundays, and legal holidays, after the date a petition alleging that a child has committed a delinquent act or violation of law has been filed, or later with the approval of the court, but before an adjudicatory hearing and after considering the recommendation of

Page 5 of 28

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

30-01093-18

2018936__

the juvenile probation officer, the state attorney may file a motion requesting the court to transfer the child for criminal prosecution.

(b) After the filing of the motion of the state attorney, summonses must be issued and served in conformity with s. 985.319. A copy of the motion and a copy of the delinquency petition, if not already served, must be attached to each summons.

(c) The court shall conduct a hearing on all transfer request motions for the purpose of determining whether a child should be transferred. In making its determination, the court shall consider:

1. The seriousness of the alleged offense to the community and whether the protection of the community is best served by transferring the child for adult sanctions.

2. Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner.

3. Whether the alleged offense was against persons or against property, greater weight being given to offenses against persons, especially if personal injury resulted.

4. The probable cause as found in the report, affidavit, or complaint.

~~5. The desirability of trial and disposition of the entire offense in one court when the child's associates in the alleged crime are adults or children who are to be tried as adults.~~

~~5.6-~~ The sophistication, and maturity, and mental development of the child.

~~6.7-~~ The record and previous history of the child, including:

Page 6 of 28

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

30-01093-18

2018936__

a. Previous contacts with the department, the Department of Corrections, the former Department of Health and Rehabilitative Services, the Department of Children and Families, other law enforcement agencies, and courts.

b. Prior periods of probation.

c. Prior adjudications that the child committed a delinquent act or violation of law, greater weight being given if the child has previously been found by a court to have committed a delinquent act or violation of law involving an offense classified as a felony or has twice previously been found to have committed a delinquent act or violation of law involving an offense classified as a misdemeanor, and

d. Prior commitments to institutions.

~~7.8.~~ The prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the child, if the child is found to have committed the alleged offense, by the use of procedures, services, and facilities currently available to the court.

(d) Prior to a hearing on the transfer request motion by the state attorney, a study and report to the court relevant to the factors in paragraph (c) must be made in writing by an authorized agent of the department. The child and the child's parents or legal guardians and counsel and the state attorney shall have the right to examine these reports and to question the parties responsible for them at the hearing.

(e) Any decision to transfer a child for criminal prosecution must be in writing and include consideration of, and findings of fact with respect to, all criteria in paragraph (c). The court shall render an order including a specific finding of

30-01093-18

2018936__

fact and the reasons for a decision to impose adult sanctions. The order shall be reviewable on appeal under s. 985.534 and the Florida Rules of Appellate Procedure.

~~(4)(5)~~ EFFECT OF ORDER WAIVING JURISDICTION.—

(a) Once a child has been transferred for criminal prosecution pursuant to an involuntary waiver hearing and has been found to have committed the presenting offense or a lesser included offense, the child shall thereafter be handled in every respect as an adult for any subsequent violation of state law, unless the court imposes juvenile sanctions under s. 985.565.

(b) When a child is transferred for criminal prosecution as an adult, the court shall immediately transfer and certify to the adult circuit court all felony cases pertaining to the child, for prosecution of the child as an adult, which have not yet resulted in a plea of guilty or nolo contendere or in which a finding of guilt has not been made. If the child is acquitted of all charged offenses or lesser included offenses contained in the original case transferred to adult court, all felony cases that were transferred to adult court under this paragraph shall be subject to the same penalties such cases were subject to before being transferred to adult court.

Section 3. Section 985.557, Florida Statutes, is amended to read:

985.557 Prosecuting children as adults ~~Direct filing of an information;~~ discretionary ~~and mandatory~~ criteria.—

(1) DISCRETIONARY PROSECUTION OF CHILDREN AS ADULTS ~~DIRECT FILE.~~—

(a) With respect to any child who was 16 ~~14~~ or 17 ~~15~~ years of age at the time the alleged offense was committed, the state

30-01093-18

2018936__

attorney may file an information when in the state attorney's judgment and discretion the public interest requires that adult sanctions be considered or imposed and when the offense charged is for the commission of, attempt to commit, or conspiracy to commit:

1. Arson;
2. Sexual battery;
3. Robbery;
4. Kidnapping;
5. Aggravated child abuse;
6. Aggravated assault;
7. Aggravated stalking;
8. Murder;
9. Manslaughter;
10. Unlawful throwing, placing, or discharging of a destructive device or bomb;
11. Armed burglary in violation of s. 810.02(2)(b) or specified burglary of a dwelling or structure in violation of s. 810.02(2)(c), or burglary with an assault or battery in violation of s. 810.02(2)(a);
12. Aggravated battery;
13. Any lewd or lascivious offense committed upon or in the presence of a person less than 16 years of age;
14. Carrying, displaying, using, threatening, or attempting to use a weapon or firearm during the commission of a felony;
- ~~15. Grand theft in violation of s. 812.014(2)(a);~~
- ~~15.16.~~ Possessing or discharging any weapon or firearm on school property in violation of s. 790.115;
- ~~16.17.~~ Home invasion robbery;

30-01093-18

2018936__

~~17.18.~~ Carjacking; or

~~18.19.~~ Grand theft of a motor vehicle in violation of s. 812.014(2)(c)6. or grand theft of a motor vehicle valued at \$20,000 or more in violation of s. 812.014(2)(b) if the child has a previous adjudication for grand theft of a motor vehicle in violation of s. 812.014(2)(c)6. or s. 812.014(2)(b).

(b)1. Beginning October 1, 2018, at the time the court adjudicates a case eligible for transfer to adult court under this section, s. 985.556, or s. 985.56, the court shall, with the assistance of the department, prosecutor, and defense counsel, include the following information in the disposition order or the judgment and sentence order:

- a. Whether the case was adjudicated in juvenile or adult court.
- b. The length of time the child spent in a detention facility or jail awaiting disposition.
- c. If the case was adjudicated in juvenile court:
 - (I) Whether the child had to waive statutory limits on secure detention in order to avoid being prosecuted as an adult and, if available, the amount of time the child who waived secure detention limits actually spent in secure detention.
 - (II) Whether the child waived the right to trial in exchange for the case remaining in juvenile court.
 - (III) If the decision not to transfer to adult court resulted in a plea agreement, the details of the plea agreement, including previous plea offers made by the state but not accepted by the child, and any conditions placed on the plea offer.
 - (IV) Whether any discovery was conducted on the case before

30-01093-18

2018936__

the plea.

(V) Whether the judge sentenced the child to a disposition other than what the prosecutor was offering in exchange for the child not being prosecuted as an adult.

d. If the case was adjudicated in adult court:

(I) Whether any discovery was conducted on the case after the child's transfer to adult court.

(II) Whether the sentence was the result of a plea agreement that did not involve the judge.

(III) Whether the sentence was the result of a plea agreement that did involve the judge.

(IV) Whether the sentence was the result of a trial.

2. On or before the 15th of each month, the chief judge in each judicial circuit shall collect the information specified in subparagraph 1. for all cases disposed of in the previous month and submit such information to the department for data collection.

(b) With respect to any child who was 16 or 17 years of age at the time the alleged offense was committed, the state attorney may file an information when in the state attorney's judgment and discretion the public interest requires that adult sanctions be considered or imposed. However, the state attorney may not file an information on a child charged with a misdemeanor, unless the child has had at least two previous adjudications or adjudications withheld for delinquent acts, one of which involved an offense classified as a felony under state law.

(2) MANDATORY DIRECT FILE.—

(a) With respect to any child who was 16 or 17 years of age

30-01093-18

2018936__

at the time the alleged offense was committed, the state attorney shall file an information if the child has been previously adjudicated delinquent for an act classified as a felony, ~~which adjudication was for the commission of, attempt to commit, or conspiracy to commit murder, sexual battery, armed or strong-armed robbery, carjacking, home-invasion robbery, aggravated battery, or aggravated assault, and the child is currently charged with a second or subsequent violent crime against a person.~~

(b) With respect to any child 16 or 17 years of age at the time an offense classified as a forcible felony, as defined in s. 776.08, was committed, the state attorney shall file an information if the child has previously been adjudicated delinquent or had adjudication withheld for three acts classified as felonies each of which occurred at least 45 days apart from each other. This paragraph does not apply when the state attorney has good cause to believe that exceptional circumstances exist which preclude the just prosecution of the juvenile in adult court.

(c) The state attorney must file an information if a child, regardless of the child's age at the time the alleged offense was committed, is alleged to have committed an act that would be a violation of law if the child were an adult, that involves stealing a motor vehicle, including, but not limited to, a violation of s. 812.133, relating to carjacking, or s. 812.014(2)(c)6., relating to grand theft of a motor vehicle, and while the child was in possession of the stolen motor vehicle the child caused serious bodily injury to or the death of a person who was not involved in the underlying offense. For

30-01093-18

2018936

purposes of this section, the driver and all willing passengers in the stolen motor vehicle at the time such serious bodily injury or death is inflicted shall also be subject to mandatory transfer to adult court. "Stolen motor vehicle," for the purposes of this section, means a motor vehicle that has been the subject of any criminal wrongful taking. For purposes of this section, "willing passengers" means all willing passengers who have participated in the underlying offense.

(d) 1. With respect to any child who was 16 or 17 years of age at the time the alleged offense was committed, the state attorney shall file an information if the child has been charged with committing or attempting to commit an offense listed in s. 775.087(2)(a)1.a. p., and, during the commission of or attempt to commit the offense, the child:

a. Actually possessed a firearm or destructive device, as those terms are defined in s. 790.001.

b. Discharged a firearm or destructive device, as described in s. 775.087(2)(a)2.

c. Discharged a firearm or destructive device, as described in s. 775.087(2)(a)3., and, as a result of the discharge, death or great bodily harm was inflicted upon any person.

2. Upon transfer, any child who is:

a. Charged under sub-subparagraph 1.a. and who has been previously adjudicated or had adjudication withheld for a forcible felony offense or any offense involving a firearm, or who has been previously placed in a residential commitment program, shall be subject to sentencing under s. 775.087(2)(a), notwithstanding s. 985.565.

b. Charged under sub-subparagraph 1.b. or sub-subparagraph

30-01093-18

2018936

1.e., shall be subject to sentencing under s. 775.087(2)(a), notwithstanding s. 985.565.

3. Upon transfer, any child who is charged under this paragraph, but who does not meet the requirements specified in subparagraph 2., shall be sentenced under s. 985.565; however, if the court imposes a juvenile sanction, the court must commit the child to a high-risk or maximum-risk juvenile facility.

4. This paragraph shall not apply if the state attorney has good cause to believe that exceptional circumstances exist that preclude the just prosecution of the child in adult court.

(c) 5. The Department of Corrections shall make every reasonable effort to ensure that any child who is 14 years of age or older but has not yet reached the age of 18 and 16 or 17 years of age who is convicted and sentenced under this section is paragraph be completely separated such that there is no physical contact with adult offenders in the facility, to the extent that it is consistent with chapter 958.

(2)(3) EFFECT OF PROSECUTION OF CHILDREN AS ADULTS ~~DIRECT~~ FILE.

(a) Once a child has been transferred for criminal prosecution pursuant to an information and has been found to have committed the presenting offense or a lesser included offense, the child shall be handled thereafter in every respect as if an adult for any subsequent violation of state law, unless the court imposes juvenile sanctions under s. 985.565.

(b) When a child is transferred for criminal prosecution as an adult, the court shall immediately transfer and certify to the adult circuit court all felony cases pertaining to the child, for prosecution of the child as an adult, which have not

30-01093-18

2018936__

yet resulted in a plea of guilty or nolo contendere or in which a finding of guilt has not been made. If a child is acquitted of all charged offenses or lesser included offenses contained in the original case transferred to adult court, all felony cases that were transferred to adult court as a result of this paragraph shall be subject to the same penalties to which such cases would have been subject before being transferred to adult court.

(c) When a child has been transferred for criminal prosecution as an adult and has been found to have committed a violation of state law, the disposition of the case may be made under s. 985.565 and may include the enforcement of any restitution ordered in any juvenile proceeding.

(3) FITNESS HEARING BEFORE A JUDGE.—A child who is transferred to adult court under this section may request, in writing, a hearing before the court to determine whether he or she shall remain in adult court. The adult court, in determining whether public safety would be best served by retaining jurisdiction, shall consider the seriousness of the offense; the extent of the child's alleged participation or role in the offense; the sophistication, maturity, and mental development of the child; any prior adjudications or adjudications withheld of the child; and any other consideration set forth in s. 985.556(3)(c). The adult court may, based on these considerations, transfer the case back to juvenile court.

(4) TRANSFER PROHIBITION.—Notwithstanding any other law, a child who is eligible for prosecution as an adult and who has previously been found to be incompetent but has not been restored to competency by a court may not be transferred to

30-01093-18

2018936__

adult court for criminal prosecution until the child's competency has been restored.

(5) DATA COLLECTION RELATING TO PROSECUTING CHILDREN AS ADULTS.—

(a) Beginning January 1, 2019, the department shall collect data relating to children who qualify to be prosecuted as adults under this section and s. 985.556, regardless of the outcome of the case, including, but not limited to:

1. Age.

2. Race and ethnicity.

3. Gender.

4. Circuit and county of residence.

5. Circuit and county of offense.

6. Prior adjudications or adjudications withheld.

7. Prior periods of probation, including any violations of probation.

8. Previous contact with law enforcement agencies or the court which resulted in a civil citation, arrest, or other charge being filed with the state.

9. Initial charges.

10. Charges at disposition.

11. Whether child codefendants were involved who were transferred to adult court.

12. Whether the child was represented by counsel or waived counsel.

13. The child's risk assessment instrument score.

14. The child's medical, mental health, substance abuse, or trauma history.

15. The child's history of mental impairment or disability—

30-01093-18

2018936__

related accommodations.

16. The child's history of abuse or neglect.

17. The child's history of foster care placements, including the number of prior placements.

18. Whether the child has below-average intellectual functioning.

19. Whether the child has received mental health services or treatment.

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

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

22. The case resolution in juvenile court.

23. The case resolution in adult court.

24. Information generated by the office of the state attorney in each judicial circuit under subparagraph (1)(b)1.

(b) Beginning January 1, 2019, the department shall also collect data relating to children transferred for criminal prosecution as adults, including, but not limited to:

1. Disposition data, including, but not limited to, adult sanctions, juvenile sanctions, or diversions received and, if sentenced to prison, the length of the prison sentence or the length of the enhanced sentence.

2. Incompetence to proceed in juvenile court.

(c) For every juvenile case transferred between July 1, 2017, and June 30, 2018, the department shall work with the Office of Program Policy Analysis and Government Accountability to generate a report analyzing the aggregated data under

30-01093-18

2018936__

paragraphs (a) and (b). The department must provide the report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 31, 2019.

(d) The department must work with the Office of Program Policy Analysis and Government Accountability to generate a report analyzing the aggregated data under paragraphs (a) and (b) on an annual basis. The department shall provide the report annually to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than January 31 of the following calendar year.

(6)(4) An information filed pursuant to this section may include all charges that are based on the same act, criminal episode, or transaction as the primary offenses.

Section 4. Section 985.56, Florida Statutes, is amended to read:

985.56 Indictment of a juvenile.—

(1) A child 14 years of age or older ~~of any age~~ who is charged with a violation of state law punishable by death or by life imprisonment is subject to the jurisdiction of the court as set forth in s. 985.0301(2) unless and until an indictment on the charge is returned by the grand jury. When such indictment is returned, the petition for delinquency, if any, must be dismissed and the child must be tried and handled in every respect as an adult:

(a) On the indicting offense punishable by death or by life imprisonment; and

(b) On all other felonies or misdemeanors charged in the indictment which are based on the same act or transaction as the indicting offense punishable by death or by life imprisonment or

30-01093-18

2018936__

on one or more acts or transactions connected with the offense punishable by death or by life imprisonment.

(2) An adjudicatory hearing may not be held until 21 days after the child is taken into custody and charged with having committed an indictable offense punishable by death or by life imprisonment, unless the state attorney advises the court in writing that he or she does not intend to present the case to the grand jury, or has presented the case to the grand jury and the grand jury has not returned an indictment. If the court receives such a notice from the state attorney, or if the grand jury fails to act within the 21-day period, the court may proceed as otherwise authorized under this part.

(3) Notwithstanding any other law, a child who is eligible for indictment and who has a pending competency hearing in juvenile court or who has been previously found to be incompetent and has not been restored to competency by a court may not be transferred to adult court for criminal prosecution until the child's competency is restored. A pending competency hearing or a finding of incompetency tolls the time limits in subsection (2). If the child is found to have committed the offense punishable by death or by life imprisonment, the child shall be sentenced as an adult. If the juvenile is not found to have committed the indictable offense but is found to have committed a lesser included offense or any other offense for which he or she was indicted as a part of the criminal episode, the court may sentence under s. 985.565.

(4) (a) ~~If Once~~ a child has been indicted pursuant to this section and has been found to have committed any offense for which he or she was indicted as a part of the criminal episode,

30-01093-18

2018936__

the child shall be handled thereafter in every respect as if an adult for any subsequent violation of state law, unless the court imposes juvenile sanctions under s. 985.565.

(b) ~~If When~~ a child has been indicted pursuant to this section, the court shall immediately transfer and certify to the adult circuit court all felony cases pertaining to the child, for prosecution of the child as an adult, which have not yet resulted in a plea of guilty or nolo contendere or in which a finding of guilt has not been made. If the child is acquitted of all charged offenses or lesser included offenses contained in the indictment case, all felony cases that were transferred to adult court pursuant to this paragraph shall be subject to the same penalties such cases were subject to before being transferred to adult court.

Section 5. Subsection (1) and paragraphs (a) and (b) of subsection (4) of section 985.565, Florida Statutes, are amended to read:

985.565 Sentencing powers; procedures; alternatives for juveniles prosecuted as adults.—

(1) POWERS OF DISPOSITION.—

(a) A child who is found to have committed a violation of law may, as an alternative to adult dispositions, be committed to the department for treatment in an appropriate program for children outside the adult correctional system or be placed on juvenile probation.

(b) In determining whether to impose juvenile sanctions instead of adult sanctions, the court shall consider the following criteria:

1. The seriousness of the offense to the community and

30-01093-18

2018936__

whether the protection of the community would be best served be
~~protected~~ by juvenile or adult sanctions.

2. The extent of the child's participation in the offense.

3. The effect, if any, of familial or peer pressure on the
child's actions.

4.2- Whether the offense was committed in an aggressive,
 violent, premeditated, or willful manner.

5.3- Whether the offense was against persons or against
 property, with greater weight being given to offenses against
 persons, especially if personal injury resulted.

6.4- The sophistication, ~~and~~ maturity, and mental
development of the child, including: offender.

a. The child's age, maturity, intellectual capacity, and
mental and emotional health at the time of the offense.

b. The child's background, including his or her family,
home, and community environment.

c. The effect, if any, of immaturity, impetuosity, or
failure to appreciate the risks and consequences of the offense
on the child's participation in the offense.

d. The effect, if any, of characteristics attributable to
the child's age on the child's judgment.

7.5- The record and previous history of the child offender,
 including:

a. Previous contacts with the Department of Corrections,
the Department of Juvenile Justice, the former Department of
Health and Rehabilitative Services, or the Department of
Children and Families, and the adequacy and appropriateness of
the services provided by the Department of Juvenile Justice to
address the child's needs law enforcement agencies, and the

30-01093-18

2018936__

~~courts.~~

b. Prior periods of probation.

c. Prior adjudications that the offender committed a
delinquent act or violation of law as a child.

d. Prior commitments to the Department of Juvenile Justice,
the former Department of Health and Rehabilitative Services, the
Department of Children and Families, or other facilities or
institutions and the adequacy and appropriateness of the
services provided by such entity to address the child's needs.

e. Previous contacts with law enforcement agencies and the
courts.

f. History of abuse, abandonment, or neglect.

g. History of foster care placements.

h. Identification of the child as having a disability.

i. History of mental health services or treatment.

8.6- The prospects for adequate protection of the public
 and the likelihood of deterrence and reasonable rehabilitation
 of the offender if assigned to services and facilities of the
 Department of Juvenile Justice.

9.7- Whether the Department of Juvenile Justice has
 appropriate programs, facilities, and services immediately
 available.

10.8- Whether adult sanctions would provide more
 appropriate punishment and deterrence to further violations of
 law than the imposition of juvenile sanctions.

11. Whether the Department of Corrections has appropriate
programs, facilities, and services immediately available.

(4) SENTENCING ALTERNATIVES.-

(a) *Adult sanctions.-*

30-01093-18

2018936__

639 1. Cases prosecuted on indictment. If the child is found to
 640 have committed the offense punishable by death or life
 641 imprisonment, the child shall be sentenced as an adult. If the
 642 juvenile is not found to have committed the indictable offense
 643 but is found to have committed a lesser included offense or any
 644 other offense for which he or she was indicted as a part of the
 645 criminal episode, the court may sentence as follows:

- 646 a. As an adult;
- 647 b. Under chapter 958; or
- 648 c. As a juvenile under this section.

649 1.2. Other cases. If a child who has been transferred for
 650 criminal prosecution pursuant to indictment, information, or
 651 waiver of juvenile court jurisdiction is found to have committed
 652 a violation of state law or a lesser included offense for which
 653 he or she was charged as a part of the criminal episode, the
 654 court may sentence as follows:

- 655 a. As an adult;
- 656 b. Under chapter 958; or
- 657 c. As a juvenile under this section.

658 3. Notwithstanding any other provision to the contrary, if
 659 the state attorney is required to file a motion to transfer and
 660 certify the juvenile for prosecution as an adult under s.
 661 985.556(3) and that motion is granted, or if the state attorney
 662 is required to file an information under s. 985.557(2)(a) or
 663 (b), the court must impose adult sanctions.

664 4. Any sentence imposing adult sanctions is presumed
 665 appropriate, and the court is not required to set forth specific
 666 findings or enumerate the criteria in this subsection as any
 667 basis for its decision to impose adult sanctions.

Page 23 of 28

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

30-01093-18

2018936__

668 2.5. If ~~When~~ a child who has been transferred for criminal
 669 prosecution as an adult is ~~and has been~~ found to have committed
 670 a violation of state law, the disposition of the case may
 671 include the enforcement of any restitution ordered in any
 672 juvenile proceeding.

673 (b) Juvenile sanctions. ~~For juveniles transferred to adult~~
 674 ~~court but who do not qualify for such transfer under s.~~
 675 ~~985.556(3) or s. 985.557(2)(a) or (b),~~ The court may impose
 676 juvenile sanctions under this paragraph for juveniles
 677 transferred to adult court. If juvenile sentences are imposed,
 678 the court shall, under this paragraph, adjudge the child to have
 679 committed a delinquent act. Adjudication of delinquency shall
 680 not be deemed a conviction, nor shall it operate to impose any
 681 of the civil disabilities ordinarily resulting from a
 682 conviction. The court shall impose an adult sanction or a
 683 juvenile sanction and may not sentence the child to a
 684 combination of adult and juvenile punishments. An adult sanction
 685 or a juvenile sanction may include enforcement of an order of
 686 restitution or probation previously ordered in any juvenile
 687 proceeding. However, if the court imposes a juvenile sanction
 688 and the department determines that the sanction is unsuitable
 689 for the child, the department shall return custody of the child
 690 to the sentencing court for further proceedings, including the
 691 imposition of adult sanctions. Upon adjudicating a child
 692 delinquent under subsection (1), the court may:

- 693 1. Place the child in a probation program under the
- 694 supervision of the department for an indeterminate period of
- 695 time until the child reaches the age of 19 years or sooner if
- 696 discharged by order of the court.

Page 24 of 28

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

30-01093-18

2018936

2. Commit the child to the department for treatment in an appropriate program for children for an indeterminate period of time until the child is 21 or sooner if discharged by the department. The department shall notify the court of its intent to discharge no later than 14 days prior to discharge. Failure of the court to timely respond to the department's notice shall be considered approval for discharge.

3. Order disposition under ss. 985.435, 985.437, 985.439, 985.441, 985.45, and 985.455 as an alternative to youthful offender or adult sentencing if the court determines not to impose youthful offender or adult sanctions.

It is the intent of the Legislature that the criteria and guidelines in this subsection are mandatory and that a determination of disposition under this subsection is subject to the right of the child to appellate review under s. 985.534.

Section 6. Subsection (54) of section 985.03, Florida Statutes, is amended to read:

985.03 Definitions.—As used in this chapter, the term:

(54) "Waiver hearing" means a hearing provided for under s. 985.556(3) ~~s. 985.556(4)~~.

Section 7. Subsection (1) of section 985.15, Florida Statutes, is amended to read:

985.15 Filing decisions.—

(1) The state attorney may in all cases take action independent of the action or lack of action of the juvenile probation officer and shall determine the action that is in the best interest of the public and the child. ~~If the child meets the criteria requiring prosecution as an adult under s. 985.556,~~

30-01093-18

2018936

~~the state attorney shall request the court to transfer and certify the child for prosecution as an adult or shall provide written reasons to the court for not making such a request. In all other cases,~~ The state attorney may:

(a) File a petition for dependency;

(b) File a petition under chapter 984;

(c) File a petition for delinquency;

(d) File a petition for delinquency with a motion to transfer and certify the child for prosecution as an adult;

(e) File an information under s. 985.557;

(f) Refer the case to a grand jury;

(g) Refer the child to a diversionary, pretrial intervention, arbitration, or mediation program, or to some other treatment or care program if such program commitment is voluntarily accepted by the child or the child's parents or legal guardian; or

(h) Decline to file.

Section 8. Subsection (5) of section 985.265, Florida Statutes, is amended to read:

985.265 Detention transfer and release; education; adult jails.—

(5) The court may ~~shall~~ order the delivery of a child to a jail or other facility intended or used for the detention of adults:

(a) When the child has been transferred or indicted for criminal prosecution as an adult under part X, except that the court may not order or allow a child alleged to have committed a misdemeanor who is being transferred for criminal prosecution pursuant to either s. 985.556 or s. 985.557 to be detained or

30-01093-18

2018936__

held in a jail or other facility intended or used for the detention of adults; however, such child may be held temporarily in a detention facility; or

(b) When a child taken into custody in this state is wanted by another jurisdiction for prosecution as an adult.

The child shall be housed separately from adult inmates to prohibit a child from having regular contact with incarcerated adults, including trustees. "Regular contact" means sight and sound contact. Separation of children from adults shall permit no more than haphazard or accidental contact. The receiving jail or other facility shall contain a separate section for children and shall have an adequate staff to supervise and monitor the child's activities at all times. Supervision and monitoring of children includes physical observation and documented checks by jail or receiving facility supervisory personnel at intervals not to exceed 10 minutes. This subsection does not prohibit placing two or more children in the same cell. Under no circumstances shall a child be placed in the same cell with an adult.

Section 9. For the purpose of incorporating the amendments made by this act to sections 985.557 and 985.56, Florida Statutes, in references thereto, paragraph (c) of subsection (2) of section 985.26, Florida Statutes, is reenacted to read:

985.26 Length of detention.—

(2)

(c) A prolific juvenile offender under s. 985.255(1)(j) shall be placed on nonsecure detention care with electronic monitoring or in secure detention care under a special detention

30-01093-18

2018936__

order until disposition. If secure detention care is ordered by the court, it must be authorized under this part and may not exceed:

1. Twenty-one days unless an adjudicatory hearing for the case has been commenced in good faith by the court or the period is extended by the court pursuant to paragraph (b); or

2. Fifteen days after the entry of an order of adjudication.

As used in this paragraph, the term "disposition" means a declination to file under s. 985.15(1)(h), the entry of nolle prosequi for the charges, the filing of an indictment under s. 985.56 or an information under s. 985.557, a dismissal of the case, or an order of final disposition by the court.

Section 10. For the purpose of incorporating the amendment made by this act to section 985.565, Florida Statutes, in a reference thereto, subsection (3) of section 985.514, Florida Statutes, is reenacted to read:

985.514 Responsibility for cost of care; fees.—

(3) When the court under s. 985.565 orders any child prosecuted as an adult to be supervised by or committed to the department for treatment in any of the department's programs for children, the court shall order the child's parents to pay fees as provided in s. 985.039.

Section 11. 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)

936

Meeting Date

Bill Number (if applicable)

Topic

Direct file

Amendment Barcode (if applicable)

Name

Sheena Meade

Job Title

Organizing Director

Address

4081 L B Mc Cleod Rd

Phone

Street

Orlando, FL

32811

Email

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

Waive Speaking:

☒

In Support

☐

Against

(The Chair will read this information into the record.)

Representing

Florida Rights Restoration

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☐

Yes

☒

No

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

SB 936

Meeting Date

Bill Number (if applicable)

Topic Direct File

Amendment Barcode (if applicable)

Name Desmond Meade

Job Title Executive Director

Address 4081 L.B. McNeal Unit-C

Phone

Street

Orlando

FL

32811

Email

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against

(The Chair will read this information into the record.)

Representing Florida Rights Restoration Coalition

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 (10/11/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

SB 936
Bill Number (if applicable)

Meeting Date _____

Topic Direct File

Name Nail Volz

Job Title Political Director

Address 2200 Caracas Ct

Street Fort Myers State FL Zip 33907

City _____

Amendment Barcode (if applicable) _____

Phone 239-848-5502

Email nail@floridare.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Rights Restoration Coalition

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)

1/22/18

Meeting Date

SB 936

Bill Number (if applicable)

Topic Juvenile Justice

Amendment Barcode (if applicable)

Name Amy Liem

Job Title Director of Policy & Advocacy

Address 603 N. Martin Luther King Jr. Blvd

Street

Tallahassee

City

FL

State

32301

Zip

Phone 407-801-4339

Email amy@floridalegal.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Legal Services

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/22/18

Meeting Date

SB 936

Bill Number (if applicable)

Topic Prosecuting Children as Adults

Amendment Barcode (if applicable)

Name Kara Gross

Job Title Legislative Counsel

Address PO Box 10788

Phone 850-347-6994

Street

Tallahassee

FL

32302

Email kgross@aclufl.org

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing American Civil Liberties Union of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/22/18
Meeting Date

936
Bill Number (if applicable)

Topic Juvenile Justice

Amendment Barcode (if applicable)

Name Ingrid Delgado

Job Title Associate for Social Concerns & Respect Life

Address 201 W Park Av Phone _____
Street

Tallahassee FL 32301 Email _____
City State Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Conference of Catholic Bishops

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/22/18

Meeting Date

936

Bill Number (if applicable)

Topic JUVENILE JUSTICE

Amendment Barcode (if applicable)

Name DAPHNEE SAINVIL

Job Title POLICY ADVISOR

Address 115 S. ANDREWS AVE

Street

Phone 954-253-7320

FT. LAUDERDALE

City

FL

State

33301

Zip

Email dsainvil@broward.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing BROWARD COUNTY GOVT

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)

1.22.18

Meeting Date

936

Bill Number (if applicable)

Topic Juvenile Justice

Amendment Barcode (if applicable)

Name Barney Bishop

Job Title CEO

Address 204 South Monroe Street

Phone 510-9922

Street

Tallahassee

FL

32301

Email Barney@BarneyBishop.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida 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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

1-22-18
Meeting Date

936
Bill Number (if applicable)

Topic JJ

Amendment Barcode (if applicable)

Name DAWN STEWARD

Job Title _____

Address 2130 Blossom Lane
Street
Winter Park FL 32789
City State Zip

Phone 407-645-0223

Email sta2130@aol.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FLORIDA PTA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

01/22/18
Meeting Date

936
Bill Number (if applicable)

Topic Juvenile Justice

Amendment Barcode (if applicable)

Name Celieng Hart

Job Title Operations manager

Address 111 S magnolia Dr. suite 4
Street

Phone 850 425 2600

Tallahassee FL 32301
City State Zip

Email contact@iamforkids.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing The childrens campaign

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)

1/22/18
Meeting Date

936
Bill Number (if applicable)

Topic Direct File

Amendment Barcode (if applicable)

Name Jorge Chamizo

Job Title Attorney

Address 108 South Monroe Street

Phone (850) 681-0024

Tallahassee FL 32301
City State Zip

Email jorge@flapartners.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Fla. Assoc. of Criminal Defense Lawyers

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)

1/22/2018

Meeting Date

SB 936

Bill Number (if applicable)

Topic Juvenile Justice -- Direct File Reform

Amendment Barcode (if applicable)

Name Scott D. McCoy

Job Title Senior Policy Counsel

Address P.O. Box 10788

Phone 850-521-3042

Street

Tallahassee

FL

32302

Email scott.mccoy@splcenter.org

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Southern Poverty Law Center & No Place for a Child Coalition

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 is a 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)

1/22/18

Meeting Date

SB 936

Bill Number (if applicable)

Topic DIRECT FILE

Amendment Barcode (if applicable)

Name CARLOS J. MARTINEZ

Job Title PUBLIC DEFENDER, 11TH JUDICIAL CIRCUIT

Address 1320 NW 14TH ST.

Phone 305-545-1900

Street

MIAMI

City

FL

State

33125

Zip

Email cmartinez@pdmiami.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FLORIDA PUBLIC DEFENDER ASSOCIATION

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

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)

1/22/18
Meeting Date

936
Bill Number (if applicable)

Topic Prosecuting Children & adults

Amendment Barcode (if applicable)

Name Karen Woodall

Job Title _____

Address 579 E. Call St.
Street

Phone 850-321-9386

Tallahassee FL 32301
City State Zip

Email fcfep@yahoo.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FL Center for Fiscal & Economic Policy

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

JAN 22

Meeting Date

SB 936

Bill Number (if applicable)

Topic CRIMINAL JUSTICE (SS)

Amendment Barcode (if applicable)

Name brianna auker auker

Job Title STUDENT

Address 19223 RIDGETAKE DR

Street

TAMPA

City

FL

State

33649

Zip

Phone 813 407 7798

Email brianna@outlook.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FREEDOM HIGH SCHOOL PTSA

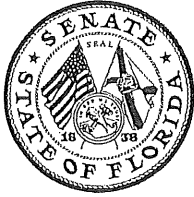
Appearing at request of Chair: ☐ Yes ☒ No

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

Committee Agenda Request

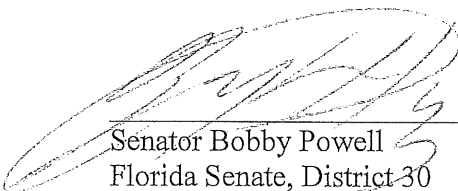
To: Senator Randolph Bracy, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: December 6, 2017

I respectfully request that **Senate Bill #936**, relating to Juvenile Justice, be placed on the:

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



Senator Bobby Powell
Florida Senate, District 30

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: SB 938

INTRODUCER: Senator Bracy

SUBJECT: Department of Corrections' Direct-support Organization

DATE: January 19, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cox	Jones	CJ	Favorable
2.			ACJ	
3.			AP	

I. Summary:

SB 938 reenacts statutory authority (s. 944.802, F.S.) for the Florida Department of Corrections (DOC) to establish a direct-support organization to provide assistance, funding, and promotional support for the DOC or staff within the correctional system in carrying out the core mission. The bill removes a provision that repeals s. 944.802, F.S., on October 1, 2018, unless the repeal date is removed and the statute is reenacted.

The Corrections Foundation, Inc., is the direct-support organization designated by the DOC to provide assistance, funding, and support for the DOC and its staff.

Staff of the Senate Committee on Criminal Justice finds that the Florida Department of Corrections and the Corrections Foundation, Inc., are in compliance with all statutory requirements relevant to direct-support organizations.

The bill has no fiscal impact on state government.

The bill is effective July 1, 2018.

II. Present Situation:

Florida Department of Corrections

The DOC is the third largest state prison system in the country with a budget of \$2.4 billion,¹ almost 97,000 inmates incarcerated, and another almost 137,000 offenders on active community supervision.² The mission of the DOC is to “provide a continuum of services to meet the needs

¹ The DOC, *About the Florida DOC*, available at <http://www.dc.state.fl.us/about.html> (last visited January 5, 2018).

² Email from Jared Torres, Director of Legislative Affairs, The DOC, RE: Number of inmates and offenders (January 5, 2018).

of those entrusted to our care, creating a safe and professional environment with the outcome of reduced victimization, safer communities and an emphasis on the premium of life.”³

The DOC has 148 facilities statewide: 50 prisons, seven private partner prisons, 17 prison annexes, 35 work camps, three re-entry centers, 13 state-run community release centers, 19 privately operated community release centers, two road prisons, one forestry camps, and one basic training camp.⁴ Approximately two thirds of its staff of more than 24,000 employees are either certified correctional officers or probation officers.⁵

To successfully achieve its mission, the DOC provides academic, vocational, and substance abuse programs to inmates and offenders, including in such areas as general education development, also known as the GED; adult basic education and mandatory literacy; printing and graphics, carpentry and digital design; and Alcoholics Anonymous and Narcotics Anonymous.⁶

The Corrections Foundation, Inc.

Direct-support organizations (DSOs) are statutorily created private entities that are generally required to be non-profit corporations and are authorized to carry out specific tasks in support of public entities or public causes. The functions and purpose of a DSO are prescribed by its enacting statute and also, for most, by a written contract with the agency the DSO was created to support.⁷

In 1996, the Florida Legislature created s. 944.802, F.S., establishing a DSO for the exclusive benefit of the DOC.⁸ The Corrections Foundation, Inc. (Foundation) initially filed for incorporation as a not-for-profit organization on December 6, 1996.⁹ The Foundation consists of an executive staff and a volunteer board of directors.¹⁰ Membership in the Foundation consists of current and retired employees of the DOC, contractors, and individuals from other state and private agencies.¹¹

³ The DOC, *Our Vision*, available at <http://www.dc.state.fl.us/vision.html> (last visited January 13, 2018).

⁴ The DOC, *About the Florida DOC*, available at <http://www.dc.state.fl.us/about.html> (last visited January 5, 2018).

⁵ During FY 2015-16 there were 17,836 certified employees in institutions or probation/parole offices consisting of: 15,769 certified employees in institutions (10,667 Correctional Officers, 4,092 Sergeants, 440 Lieutenants, 311 Captains, 81 Majors, 43 Colonels, and 135 Correctional Inspectors in the Office of the Inspector General) and 2,067 certified Correctional Probation Officers. Department of Corrections, *Annual Report Fiscal Year 2015-2016*, p. 5, available at http://www.dc.state.fl.us/pub/annual/1516/FDC_AR2015-16.pdf (last visited January 18, 2018).

⁶ *Supra*, n. 1.

⁷ Section 944.802, F.S., is the enacting statute for the DOC’s DSO, which requires a written letter of agreement between the DOC and the Foundation, rather than a contract.

⁸ Chapter 96-312, L.O.F.

⁹ Department of State, Division of Corporations, *Corrections Foundation, Inc., Detail by Entity Name*, available at <http://search.sunbiz.org/Inquiry/CorporationSearch/SearchResultDetail?inquirytype=EntityName&directionType=Initial&searchNameOrder=CORRECTIONSFOUNDATION%20N960000062141&aggregateId=domnp-n96000006214-bebf4ba6-69dc-49c7-85e6-5f773e468d97&searchTerm=corrections%20foundation&listNameOrder=CORRECTIONSFOUNDATION%20N960000062141> (last visited January 5, 2018).

¹⁰ Corrections Foundation, *About*, available at <https://www.correctionsfoundation.org/about/> (last visited January 5, 2018).

¹¹ *Id.*

The Foundation reports that it supports the DOC and its staff through two main functions, including:

- Accepting donations and grant money from private entities that must be donated through a non-profit entity and cannot be accepted directly by the DOC; and
- Providing direct financial support to employees of the DOC in times of death, fire, critical illness, or other tragic circumstances through the Employee Assistance Program (EAP).¹²

Repeal of s. 944.802, F.S., and DSO Compliance Review

Section 20.058(5), F.S., provides that laws creating or authorizing a DSO repeal on October 1 of the fifth year after enactment, unless reviewed and saved from repeal by the Legislature. This subsection further provides that DSOs in existence prior to July 1, 2014, must be reviewed by the Legislature by July 1, 2019. Section 944.802(4), F.S., provides that the section is repealed October 1, 2018, unless reviewed and saved from repeal by the Legislature.

Staff of the Senate Committee on Criminal Justice reviewed relevant materials to determine if the DOC and the Foundation comply with the requirements of s. 944.802, F.S., and with other statutory requirements for DSOs: s. 20.058, F.S. (CSO/DSO Transparency and Reporting Requirements); s. 215.981, F.S. (CSO/DSO Audit Requirements); and s. 112.3251, F.S. (CSO/DSO Ethics Code Requirement).

Staff Review of Compliance with s. 944.802, F.S. (DSO to Support the DOC)

Establishment of the DSO

Section 944.802(1), F.S., authorizes the DOC to establish a DSO to provide assistance, funding, and promotional support for activities authorized for the DOC. For purposes of s. 944.802, F.S., “direct support organization” means an organization that is:

- A corporation not for profit that is incorporated under ch. 617, F.S., exempted from filing fees, and approved by the Department of State;
- Organized and operated to conduct programs and activities; initiate developmental projects; raise funds; request and receive grants, gifts, and bequests of money; acquire, receive, hold, invest, and administer, in its own name, securities, funds, objects of value, or other property, either real or personal; and make expenditures to or for the direct or indirect benefit of the DOC or individual units of the state correctional system;
- Determined by the DOC to be consistent with the priority issues and objectives of the DOC and in the best interest of the state; and
- Approved in writing, through a letter of agreement, by the Secretary of the DOC to operate for the direct or indirect benefit of the DOC or individual units of the state correctional institution.¹³

¹² Email from Jared Torres, Director of Legislative Affairs, RE: The Corrections Foundation – FDC’s DSO, *The Corrections Foundation – Background Information* (September 7, 2017) (on file with the Senate Committee on Criminal Justice).

¹³ Section 944.802(1), F.S.

The letter of agreement between the DOC and the Foundation provides the following:

- The Foundation is specifically re-authorized to act as the DSO “for the direct and indirect benefit of the Department of Corrections or individual units of the state correctional system”;
- The Foundation’s mission is expressly consistent with the statutory mission of the DOC to support the programs, personnel, and services of the DOC as is required in s. 944.802, F.S.; and
- The DOC will provide support to the Foundation in the form of staffing, office space, access to OIT support, and inclusion of the Foundation’s information in all employee orientation materials.¹⁴

Staff Finding: Compliance. The Foundation meets the definition of “direct support organization.” In 1996, the Foundation was established as a Florida non-profit corporation under ch. 617, F.S., and is approved by the Department of State.¹⁵ “[T]he Corrections Foundation has been able to undertake numerous initiatives that directly benefit the Department.”¹⁶ The Foundation is also in compliance with the “use of property” requirements of s. 944.802, F.S.¹⁷

Activities of the DSO

Section 944.802(1), F.S., provides that the activities of the DSO must be determined by the DOC to be consistent with the goals and mission of the DOC and in the best interests of the state. The approval must be given in a letter of agreement from the DOC.

Some of the projects operated by the Foundation include, but are not limited to:

- Employee Assistance Program, which has provided direct financial support to over 5,700 employees of the DOC in times of need;
- Fallen Officers Fund,¹⁸ which has provided funding to the families of officers that have been killed in the line of duty;
- Florida State Prison Officer Safety Project, which provided funds to install openings within cell doors of higher risk inmates to allow food trays to be passed through the cell door, thereby reducing contact and the risk of injury to officers;
- Flags for Freedom,¹⁹ which has sent care packages to employees of the DOC that are deployed in the military on active duty; and

¹⁴ Letter of Agreement between the DOC and the Foundation (effective June 15, 2017) (on file with the Senate Committee on Criminal Justice). The letter further states that use of the state e-mail system to notify agency employees must be approved by the Secretary or Chief of Staff on a case-by-case basis.

¹⁵ *Supra*, n. 9.

¹⁶ Letter from the DOC Secretary, Julie L. Jones, to Senate President, Joe Negron, dated August 8, 2017, Corrections Foundation, 2017 *Corrections Foundation Report*, p. 1, available at <https://www.correctionsfoundation.org/wp-content/uploads/2011/06/2017-Corrections-Foundation-Report.pdf> (last visited on January 12, 2018) (hereinafter cited as “Foundation Annual Report”).

¹⁷ *Id.*

¹⁸ This project has raised funds for two officers that were killed in the line of duty, Officer Greg Malloy and Sergeant Ruben Thomas. Funds are raised for a period of time and then disbursed to the family in one lump sum. Email from Scotti Vaughan, Deputy Director of Legislative Affairs, RE: FW: The Corrections Foundation – FDC’s DSO (January 16, 2018).

¹⁹ The Corrections Foundation, Inc., reports that more than 400 employees of the DOC have served in the nation’s military since 2001. The deployed employees have received care packages that include items such as gift cards and prepaid phone cards from the Foundation. Foundation Annual Report, p. 4.

- Disaster Relief Fund,²⁰ which has raised funds to benefit almost 1,500 employees of the DOC who have been impacted by catastrophic storms or flooding over the last 13 years.²¹

The community donations and grants accepted by the Foundation for the benefit of the DOC have been utilized to enhance operational programs within the DOC, such as the:

- Inspector General's Office K-9 unit;²²
- K-9 tracking units;²³
- Dog obedience prison programs;²⁴
- Farm Worker Housing Initiative; and
- Chaplaincy programs.²⁵

Staff findings: Compliance. The letter of agreement states that the DOC has determined that the provision of services provided by the Foundation is consistent with DOC's goals and in the best interest of the state.²⁶

Requirements Relating to Use of Services, Property, and Facilities

Section 944.802(2)(a), F.S., authorizes the DOC to allow the Foundation to use fixed property and facilities of the state correctional system, provided the use is for the approved purpose of the DSO and does not interfere with the opportunities for inmates and staff to use the areas for established purposes. The DOC is prohibited from allowing the DSO to use fixed properties or facilities if such DSO does not provide equal membership and employment opportunities to all persons regardless of race, color, religion, gender, age, or national origin as required and specified by appropriate federal and state laws.²⁷

Staff findings: Compliance. The DOC reports that it has not rented any facilities or properties to the Foundation.²⁸ The letter of agreement requires the inclusion of the Foundation's information in all employees' orientation materials, thereby ensuring equal membership and employment opportunities to all persons regardless of race, color, religion, gender, age, or national origin as required and specified by appropriate federal and state laws.²⁹ Additionally, the DOC reports that the Foundation provides equal membership and employment opportunities to all persons as required by law.³⁰

²⁰ Email from Scotti Vaughan, Deputy Director of Legislative Affairs, DOC, RE: FW: The Corrections Foundation – FDC's DSO (January 16, 2018).

²¹ Foundation Annual Report, p. 4.

²² The Foundation has purchased needed supplies such as vehicles, K-9 cell phone and drug detection dogs, and equipment for the K-9 officers. Foundation Annual Report, p. 4.

²³ The Foundation has utilized funds for GPS tracking collars and other equipment for K-9 teams that are used statewide by local law enforcement to locate missing children or elders and inmates that have escaped. Foundation Annual Report at p. 4-5.

²⁴ There are 21 dog obedience training programs operated at various facilities throughout the state. The Foundation has utilized funds to support these programs. Foundation Annual Report, p. 5.

²⁵ Foundation Annual Report, p. 5.

²⁶ *Supra*, n. 14 and 16.

²⁷ Section 944.802(2)(c), F.S.

²⁸ Email from Scotti Vaughan, Deputy Director of Legislative Affairs, DOC, RE: Question (January 16, 2018).

²⁹ *Supra*, n. 14.

³⁰ *Supra*, n. 28.

Independent Annual Financial Audit

Section 944.802(3), F.S., requires the DSO to provide for an independent annual financial audit in accordance with s. 215.981, F.S.

Section 215.981(1), F.S., generally requires a DSO created or authorized pursuant to law with annual expenditures in excess of \$100,000 to provide for an annual financial audit of its accounts and records.³¹ The audit must be conducted by an independent certified public accountant in accordance with rules adopted by the Auditor General and the state agency that created, approved, or administers the DSO. The audit report must be submitted within nine months after the end of the fiscal year to the Auditor General and to the state agency the DSO supports. Additionally, the Auditor General may, pursuant to his or her own authority, or at the direction of the Legislative Auditing Committee, conduct audits or other engagements of a DSO's accounts and records.³²

Staff findings: Compliance. The Foundation has annual expenditures in excess of \$100,000 and is therefore subject to the auditing requirements of s. 215.981, F.S. Records of the independent financial audits from 2007 through 2016 are posted on the Foundation's website and submitted with the annual report.³³

Staff Review of Compliance with s. 20.058, F.S. (CSO/DSO Transparency and Reporting Requirements)

In 2014, the Legislature created s. 20.058, F.S., establishing a comprehensive set of transparency and reporting requirements for DSOs.³⁴

Reporting Requirements

Specifically, the law requires each DSO to annually submit, by August 1, the following information to the agency it supports:³⁵

- The DSO's name, mailing address, telephone number, and website address;
- The statutory authority or executive order that created the DSO;
- A brief description of the mission and results obtained by the DSO;
- A brief description of the DSO's plans for the next three fiscal years;
- A copy of the DSO's code of ethics; and
- A copy of the DSO's most recent Internal Revenue Service (IRS) Form 990.³⁶

³¹ The independent audit requirement does not apply to a CSO or DSO for a university, district board of trustees of a community college, or district school board. Section 215.981(1), F.S. Additionally, the expenditure threshold for an independent audit is \$300,000 for a CSO or DSO for the Department of Environmental Protection and the Department of Agriculture and Consumer Services. Section 215.981(2), F.S.

³² Section 11.45(3)(d), F.S.

³³ Foundation Annual Report, p. 9-52. *See also* Corrections Foundation, Forms and Publications, Audits, available at <https://www.correctionsfoundation.org/about/forms-and-publications/> (last visited January 16, 2018).

³⁴ Chapter 2014-96, L.O.F.

³⁵ Section 20.058(1), F.S.

³⁶ The IRS Form 990 is an annual information return required to be filed with the IRS by most organizations exempt from federal income tax under 26 U.S.C. 501.

Staff findings: Compliance. In 2017, the DOC reported all of the information required by s. 20.058(1), F.S. The copy of the IRS Form 990 provided in the 2017 Corrections Foundation Annual Report is for Fiscal Year 2015-16. The Foundation provided in email the IRS 990 form for Fiscal year 2016-17, which ended on June 30, 2017.³⁷

Transparency of Reported CSO or DSO Information

Additionally, the information submitted annually by a DSO must be available on the respective agency's website along with a link to the DSO's website, if one exists.³⁸

Staff findings: Compliance. The DOC website provides a link to the Foundation's website³⁹ and the information described in s. 20.58(1) F.S., is available on the Foundation's website.⁴⁰

Section 20.058(3), F.S., provides that, by August 15 of each year, the agency must report the above required information to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability along with the agency's recommendation to continue, terminate, or modify the agency's association with the DSO.⁴¹

Staff findings: Compliance. The DOC submitted its report by August 15, 2017, and the DOC Secretary, Julie L. Jones, expressed support for the continuation of the Corrections Foundation, Inc.⁴²

Contract Requirements

Section 20.05(4), F.S., provides that any contract between an agency and a DSO must be contingent upon the DSO submitting and posting information pursuant to s. 20.058(1) and (2), F.S. The contract must also include a provision for the orderly cessation of operations and reversion to the state of state funds held in trust by the organization within 30 days after its authorizing statute is repealed, the contract is terminated, or the organization is dissolved. If an organization fails to submit the required information for two consecutive years, the agency head shall terminate any contract between the agency and the organization.

Staff findings: Substantial compliance. The letter of agreement provides that the agreement is written pursuant to the requirements of s. 944.802(1), F.S.⁴³

³⁷ Email from Scotti Vaughan, Deputy Director of Legislative Affairs, DOC, RE: FW: DSO Review (January 16, 2018), including attachment Corrections Foundation, *IRS 990 Form, Fiscal Year 2016-17* (on file with the Senate Committee on Criminal Justice).

³⁸ Section 20.058(2), F.S. Further, s. 20.058(4), F.S., requires that any contract between an agency and a DSO must be contingent upon the DSO submitting the required information to the agency and posting the information on the agency's website. If a DSO fails to submit the required information to the agency for two consecutive years, the agency head must terminate its contract with the DSO.

³⁹ DOC, *About Us*, Corrections Foundation Tab, available at <http://www.dc.state.fl.us/index.html> (last visited January 16, 2018). See also Corrections Foundation, available at <https://www.correctionsfoundation.org/> (last visited January 18, 2018).

⁴⁰ Corrections Foundation, Forms and Publications, available at <https://www.correctionsfoundation.org/about/forms-and-publications/> (last visited January 16, 2018).

⁴¹ Section 20.058(3), F.S.

⁴² *Supra*, n. 16.

⁴³ *Supra*, n. 14.

Staff Review of Compliance with s. 215.981, F.S. (DSO Audit Requirements)

As previously noted, s. 215.981(1), F.S., requires each DSO created or authorized pursuant to law with annual expenditures in excess of \$100,000 to provide for an annual financial audit of its accounts and records. [For a full description of the statute, *see* discussion, *supra*, of s. 944.802(3), F.S. (Independent Annual Financial Audit)].

Staff findings: Compliance. As previously noted, the Foundation is in full compliance of the auditing requirements of ss. 215.981 and 944.802, F.S.⁴⁴

Staff Review of Compliance with s. 112.3251, F.S. (CSO/DSO Ethics Code Requirement)

Section 112.3251, F.S., requires a DSO created or authorized pursuant to law to adopt its own ethics code. The ethics code must contain the specified standards of conduct and disclosures provided in ss. 112.313 and 112.3143(2), F.S.⁴⁵ A DSO may adopt additional or more stringent standards of conduct and disclosure requirements and must conspicuously post its code of ethics on its website.⁴⁶

Staff findings: Compliance. The Foundation has a code of ethics which is conspicuously posted on its website⁴⁷ and that contains the specified standards of conduct and disclosures.

III. Effect of Proposed Changes:

The bill removes a repeal date of October 1, 2018, and reenacts authority for the DOC to establish a DSO to provide assistance, funding, and promotional support for activities authorized for the DOC and its staff. The Corrections Foundation, Inc., currently provides such assistance, funding, and support.

Staff of the Senate Committee on Criminal Justice finds that the Florida Department of Corrections and the Corrections Foundation, Inc., are in compliance with all statutory requirements relevant to DSOs

The bill is effective July 1, 2018.

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

None.

⁴⁴ *Supra*, n. 33.

⁴⁵ Some of the standards of conduct and disclosures in ss. 112.313 and 112.3143(2), F.S., include misuse of public position, solicitation or acceptance of gifts, unauthorized compensation, and voting conflicts.

⁴⁶ Section 112.3251, F.S.

⁴⁷ *See* Corrections Foundation, Forms and Publications, Operational and Governing Documents, (“Code of Ethics” tab) available at <https://www.correctionsfoundation.org/about/forms-and-publications/> (last visited on January 16, 2018).

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

By saving s. 944.802, F.S., from repeal, the DSO may continue to provide assistance, financial support, and other direct and indirect assistance for employees of the state correctional system in addition to the families of such staff.

C. Government Sector Impact:

The bill has no fiscal impact on state government. By saving the DSO from repeal, the bill enables the DSO to continue to fund and administer projects and activities such as those described above.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 944.802 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

By Senator Bracy

11-00637-18

2018938__

A bill to be entitled

An act relating to the Department of Corrections' direct-support organization; amending s. 944.802, F.S.; abrogating the scheduled repeal of provisions governing a direct-support organization that is permitted use of fixed properties and facilities of the state correctional system by the Department of Corrections; providing an effective date.

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

Section 1. Section 944.802, Florida Statutes, is amended to read:

944.802 Direct-support organization; definition; use of property; board of directors; audit.—

(1) DEFINITION.—For the purpose of this section, the term "direct-support organization" means an organization:

(a) That ~~which~~ is a corporation not for profit that is incorporated under the provisions of chapter 617, exempted from filing fees, and approved by the Department of State;

(b) Organized and operated to conduct programs and activities; initiate developmental projects; raise funds; request and receive grants, gifts, and bequests of moneys; acquire, receive, hold, invest, and administer, in its own name, securities, funds, objects of value, or other property, real or personal; and make expenditures to or for the direct or indirect benefit of the Department of Corrections or individual units of the state correctional system;

(c) Determined by the Department of Corrections to be

Page 1 of 3

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

11-00637-18

2018938__

consistent with the priority issues and objectives of the Department of Corrections and in the best interest of the state; and

(d) Approved in writing by the Secretary of Corrections to operate for the direct or indirect benefit of the Department of Corrections or individual units of the state correctional system. Such approval shall be in a letter of agreement from the Department of Corrections.

(2) USE OF PROPERTY.—

(a) The Department of Corrections may permit, without charge, appropriate use of fixed property and facilities of the state correctional system by a direct-support organization subject to ~~the provisions in~~ this section. Such use must be directly in keeping with the approved purpose of the direct-support organization, and may not be made at times or places that would unreasonably interfere with opportunities for inmates and staff to use the areas for established purposes.

(b) The Department of Corrections may prescribe by rule any condition with which a direct-support organization shall comply in order to use fixed property or facilities of the state correctional system.

(c) The Department of Corrections may ~~shall~~ not permit the use of any fixed property or facilities of the Department of Corrections by a direct-support organization that does not provide equal membership and employment opportunities to all persons regardless of race, color, religion, sex, age, or national origin.

(3) ANNUAL AUDIT.—The direct-support organization shall provide for an annual financial audit in accordance with s.

Page 2 of 3

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

11-00637-18

2018938__

59 215.981.

60 ~~(4) REPEAL. This section is repealed October 1, 2018,~~
61 ~~unless reviewed and saved from repeal by the Legislature.~~

62 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)

1.22.18

Meeting Date

938

Bill Number (if applicable)

Topic Depratment of Corrections DSO

Amendment Barcode (if applicable)

Name Barney Bishop

Job Title CEO

Address 204 South Monroe Street

Phone 510-9922

Street

Tallahassee

FL

32301

Email Barney@BarneyBishop.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida 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
APPEARANCE RECORD

01/22/2018

Meeting Date

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

SB 938

Bill Number (if applicable)

Topic SB 938 Department of Corrections' Direct-support Organization

Amendment Barcode (if applicable)

Name Jared Torres

Job Title Legislative Affairs Director

Address 501 S Calhoun St.

Street

Tallahassee

City

FL

State

32399

Zip

Phone 850-717-3045

Email Jared.Torres@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)

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 942

INTRODUCER: Criminal Justice Committee and Senator Bracy

SUBJECT: Department of Juvenile Justice's Direct-support Organization

DATE: January 23, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Storch	Jones	CJ	Fav/CS
2.			ACJ	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 942 reenacts statutory authority (s. 985.672, F.S.) for the Florida Department of Juvenile Justice (DJJ) to establish a direct-support organization (DSO) to provide assistance, funding, and support to assist the DJJ in furthering its goals. The bill removes a provision that repeals s. 985.672, F.S., on October 1, 2018, unless the repeal date is removed and the statute is reenacted.

The Florida Juvenile Justice Foundation, Inc., is the DSO designated by the DJJ to provide assistance, funding, and support for the DJJ.

Staff of the Senate Committee on Criminal Justice finds that the DJJ and the Florida Juvenile Justice Foundation, Inc., are in compliance with most statutory requirements relevant to DSOs.

The bill requires the DJJ to appoint members to the DSO's board of directors according to the DSO's bylaws.

The bill has no fiscal impact on state government.

The bill is effective July 1, 2018.

II. Present Situation:

Florida Department of Juvenile Justice

The DJJ was established in 1994 in an effort to shift the state's juvenile justice system away from a social services model. The Legislature created the DJJ to provide for the transfer of powers, duties, property, records, personnel, and unexpended balances of related appropriations and other funds from the Juvenile Justice Program Office within the Department of Health and Rehabilitative Services. This transition assigned responsibility to the DJJ for cases involving juvenile delinquency and children and families in need of services.¹ The DJJ is tasked with developing and coordinating comprehensive services and programs statewide for the prevention, early intervention, control, and rehabilitative treatment of delinquent behavior.²

Florida Juvenile Justice Foundation, Inc.

Citizen support organizations (CSOs) and direct-support organizations (DSOs) are statutorily-created private entities that are generally required to be non-profit corporations and are authorized to carry out specific tasks in support of public entities or public causes. The purpose and functions of a CSO or DSO are prescribed by its enacting statute and, for most, by a written contract with the agency the CSO or DSO was created to support.

From 1994-1999, the DJJ had an ongoing partnership with the Florida Business Partners for Prevention (FBPP). At the time, the DJJ lacked statutory authority to have a DSO. In 1999, the Legislature created s. 985.672, F.S., authorizing the DJJ to establish a DSO to provide assistance, funding, and support for the DJJ in carrying out its mission.³ In 2000, the FBPP incorporated by the name of Florida Business Partners for Juvenile Justice, Inc., to provide such assistance, funding, and support to the DJJ.⁴ The name was changed to the Florida Juvenile Justice Foundation, Inc. (Foundation) in 2006.⁵

Repeal of s. 985.672, F.S., and DSO Compliance Review

Section 20.058(5), F.S., provides that laws creating or authorizing a CSO or DSO repeal on October 1 of the fifth year after enactment, unless reviewed and saved from repeal by the Legislature. This subsection further provides that CSOs or DSOs in existence prior to July 1, 2014, must be reviewed by the Legislature by July 1, 2019. Section 985.672, F.S., provides that the section is repealed October 1, 2018, unless reviewed and saved from repeal by the Legislature.

Staff of the Senate Committee on Criminal Justice reviewed relevant materials to determine if the DJJ and the Foundation comply with the requirements of s. 985.672, F.S., and with other

¹ Florida Department of Juvenile Justice, *History*, available at <http://www.djj.state.fl.us/about-us/history> (last visited January 3, 2018).

² Section 985.02(3), F.S.

³ Section 985.672, F.S., was created in 1999 by ch. 1999-284, L.O.F.

⁴ Articles of Incorporation of Florida Business Partners for Juvenile Justice, Inc. (Approved and filed January 28, 2000) (on file with the Senate Committee on Criminal Justice).

⁵ Articles of Amendment to Articles of Incorporation of Florida Business Partners for Juvenile Justice, Inc. (Filed February 8, 2006) (on file with the Senate Committee on Criminal Justice).

statutory requirements for DSOs: s. 20.058, F.S. (CSO/DSO Transparency and Reporting Requirements); s. 215.981, F.S. (CSO/DSO Audit Requirements); and s. 112.3251, F.S. (CSO/DSO Ethics Code Requirements). Staff finds that the DJJ and the Foundation are in compliance with most of the relevant DSO statutory requirements.

Staff Review of Compliance with s. 985.672, F.S. (DSO to Florida Department of Juvenile Justice)

Establishment of DSO

Section 985.672, F.S., authorizes the DJJ to establish a DSO whose sole purpose is to support the juvenile justice system. For purposes of s. 985.672, F.S., “direct-support organization” means an organization that is:

- A corporation not-for-profit incorporated under ch. 617, F.S., and approved by the Department of State;
- Organized and operated to conduct programs and activities; raise funds; request and receive grants, gifts, and bequests of moneys; acquire, receive, hold, invest, and administer, in its own name, securities, funds, objects of value, or other property, real or personal; and make expenditures to or for the direct or indirect benefit of the DJJ or the juvenile justice system operated by a county commission or a circuit board; and
- Determined by the DJJ to be consistent with the goals of the juvenile justice system, in the best interest of the state, and in accordance with the adopted goals and mission of the DJJ.⁶

Staff Finding: Compliance. The Foundation meets the definition of “direct-support organization.” In 2000, the Foundation was established.⁷ The Foundation is a Florida non-profit corporation under ch. 617, F.S., and is approved by the Department of State.⁸ The DJJ’s mission is, “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.”⁹ The Foundation works toward advancing the DJJ’s mission by funding programs such as the Youth Investment Award program, which provides financial assistance designed to further the education and employability of juvenile justice-involved youth. Additionally, the Foundation funds back-to-school drives, Youth Success Week, the Human Trafficking Summit, in addition to running a national grant to support the Juvenile Detention Alternatives initiative.¹⁰

Expenditures of the Foundation

Section 985.672(1), F.S., provides that expenditures of the DSO shall be used for the prevention and amelioration of juvenile delinquency and may not be used for the purpose of lobbying as defined in s. 11.045, F.S.

⁶ Section 985.672(1)(a)-(c), F.S.

⁷ *Supra*, n. 4.

⁸ The Foundation’s information is available at <http://search.sunbiz.org/Inquiry/CorporationSearch/ByName> by searching Florida Juvenile Justice Foundation, Inc. (last visited January 16, 2018).

⁹ Florida Department of Juvenile Justice, *Mission*, available at <http://www.djj.state.fl.us/about-us/mission> (last visited January 18, 2018).

¹⁰ Transmittal letter dated August 15, 2017, from the DJJ Secretary Christina K. Daly to Senate President Joe Negron, available at <http://floridafiscalportal.state.fl.us/Document.aspx?ID=16596&DocType=PDF> (last visited on January 16, 2018).

Staff findings: Compliance. The Foundation's IRS Form 990 for 2015-16 shows that the majority of expenditures were for conferences, conventions, meetings, and youth programs. Additionally, the form shows that there were no expenditures made for the purposes of lobbying.¹¹

Contractual Agreement Between the DJJ and the Foundation

Section 985.672(2), F.S., provides that the DSO must operate under a written contract with the DJJ and the contract must include certain provisions.

Approval of the Articles of Incorporation and Bylaws

The contract must provide for approval of the articles of incorporation and bylaws of the DSO by the DJJ.¹²

Staff findings: Compliance. The contract between the DJJ and the Foundation provides for the approval of the Foundation's articles of incorporation and bylaws by the DJJ prior to adoption by the Foundation.¹³

Submission of an Annual Budget

The contract must provide for the DSO to submit an annual budget for the approval of the DJJ.¹⁴

Staff findings: Compliance. The contract between the DJJ and the Foundation provides for the review and approval of the Foundation's annual budget prior to adoption by the Foundation.¹⁵

Certification by the DJJ that the DSO is in Compliance

The contract must provide for certification by the DJJ that the DSO is complying with the terms of the contract and in a manner consistent with the goals and purposes of the DJJ and in the best interest of the state. Such certification must be made annually and reported in the official minutes of a meeting of the DSO.¹⁶

Staff findings: Not in compliance. The contract between the DJJ and the Foundation provides for such annual certification of the Foundation by the DJJ. However, the contract does not provide for the annual certification to be reported in the official minutes of a meeting of the Foundation and such certification has not been made in the minutes of a meeting as prescribed.¹⁷

¹¹ The IRS Form 990 for 2015-16 is the most recent tax form provided by the DJJ and the Foundation. According to DJJ staff, this is because the deadline for the submission of the tax form is in September, while the deadline to report information pursuant to DSO requirements found in s. 20.058, F.S. (described *infra*) is August. E-mail from DJJ staff to staff of the Senate Committee on Criminal Justice, dated August 17, 2017 (on file with the Senate Committee on Criminal Justice). See also IRS Form 990 for the Florida Juvenile Justice Foundation, Inc. (on file with the Senate Committee on Criminal Justice).

¹² Section 985.672(2)(a), F.S.

¹³ Contract between the Florida Department of Juvenile Justice and the Florida Juvenile Justice Foundation, Inc. (executed June 4, 2009) (on file with the Senate Committee on Criminal Justice).

¹⁴ Section 985.672(2)(b), F.S.

¹⁵ *Supra*, n. 13.

¹⁶ Section 985.672(2)(c), F.S.

¹⁷ *Supra*, n. 13. Board meeting minutes of the Florida Juvenile Justice Foundation, Inc. (on file with the Senate Committee on Criminal Justice).

Staff recommendation: The contract between the DJJ and the Foundation should be amended to provide for such annual certification to be reported in the official minutes of a meeting of the Foundation. Subsequently, the board of directors must report such annual certification in the official minutes of a meeting of the Foundation.

Reversion of Moneys and Property

The contract must provide for the reversion of moneys and property held in trust by the DSO for the benefit of the juvenile justice system to the state if the DJJ ceases to exist or to the DJJ if the DSO is no longer approved to operate for the DJJ, a county commission, or a circuit board or if the DSO ceases to exist.¹⁸

Staff findings: Compliance. The contract between the DJJ and the Foundation provides for such reversion of moneys and property.¹⁹

Fiscal Year of the DSO

The contract must provide for the fiscal year of the DSO to begin July 1 of each year and end June 30 of the following year.²⁰

Staff findings: Compliance. The contract between the DJJ and the Foundation provides for such information.²¹

Disclosure Made to Donors

The contract must provide for the disclosure of material provisions of the contract, and the distinction between the DJJ and the DSO, to donors of gifts, contributions, or bequests, including such disclosure on all promotional and fundraising publications.²²

Staff findings: Compliance. The contract provides that the Foundation must distinguish itself as “the 501(c)(3) direct-support organization for the Florida Department of Juvenile Justice” to all donors of gifts, contributions, or bequests, including such disclosure on all promotional and fundraising publications. The contract further provides for the disclosure of material provisions of the contract to donors of gifts, contributions, or bequests.²³

Board of Directors

Section 985.672(3), F.S., requires the Secretary of the DJJ to appoint a board of directors for the DSO. The board’s membership must comprise representatives from businesses, representatives from each of the juvenile justice service districts, and one representative appointed at large.²⁴

¹⁸ Section 985.672(2)(d), F.S.

¹⁹ *Supra*, n. 13.

²⁰ Section 985.672(2)(e), F.S.

²¹ *Supra*, n. 13.

²² Section 985.672(2)(f), F.S.

²³ *Supra*, n. 13.

²⁴ Section 985.672(3), F.S.

Staff findings: Not in compliance. The board's membership is not in compliance with the statute's requirements because the juvenile justice system no longer utilizes service districts. Thus, the membership is not made up of representatives from each district.

Staff recommendation: Section 985.672(3), F.S., should be amended to reflect the current organization of the DJJ in order for the board membership to comply. Alternatively, the statute could be amended to provide the DJJ with broad discretion to appoint members to the board, without regard to specific representation as the statute currently prescribes.

Use of Property

Section 985.672(4), F.S., provides that the DJJ may permit, without charge, appropriate use by the DSO of fixed property, facilities, and personnel services of the juvenile justice system. The DJJ may prescribe any condition with which the DSO must comply in order to use such fixed property or facilities of the juvenile justice system. The DJJ may not permit the use of any fixed property or facilities of the juvenile justice system by the DSO if it does not provide equal membership and employment opportunities to all persons regardless of race, color, religion, sex, age, or national origin. The DJJ must adopt rules prescribing the procedures by which the DSO is governed and any conditions with which a DSO must comply to use property or facilities of the DJJ.²⁵

Staff findings: Compliance. The contract between the DJJ and the Foundation provides permission for the Foundation's use of the DJJ's property, facilities, and personnel services. However, the contract is silent on prohibiting the Foundation's use of the DJJ's property and facilities if the Foundation does not provide equal membership and employment opportunities to all persons regardless of race, color, religion, sex, age, or national origin.²⁶ Further, the DJJ adopted rules prescribing the conditions in which the Foundation may use the DJJ's property, facilities, and personnel services.²⁷

Staff recommendation: The contract between the DJJ and the Foundation should be amended to include language that prohibits the Foundation's use of the DJJ's fixed property or facilities if the Foundation does not provide equal membership and employment opportunities to all persons regardless of race, color, religion, sex, age, or national origin. This language is not required to be in the contract, but its inclusion would enable the DJJ and the Foundation to be in compliance with s. 985.672(4)(b), F.S., because it would apply broadly to the required practices of the Foundation.

Deposit of Funds

Section 985.672(5), F.S., provides that money may be held in a separate depository account in the name of the DSO and subject to the provisions of the contract with the DJJ.²⁸

²⁵ Section 985.672(4)(a)-(c), F.S.

²⁶ *Supra*, n. 13.

²⁷ Fla. Admin. Code R. 63J-1.002 (2007).

²⁸ Section 985.672(5), F.S.

Staff findings: Not in compliance. The Foundation has a separate depository account in their name.²⁹ However, the contract between the DJJ and the Foundation does not include any provisions regarding the separate depository account.³⁰

Staff recommendation: The contract between the DJJ and the Foundation should be amended to include provisions addressing the separate depository account.

Annual Financial Audit

Section 985.672(6), F.S., requires the DSO to provide for an annual financial audit in accordance with s. 215.981, F.S.

Staff findings: Not currently applicable. Section 215.981, F.S., requires each CSO and DSO created or authorized pursuant to law with annual expenditures in excess of \$100,000 to provide for an annual financial audit of its accounts and records.³¹ The audit must be conducted by an independent certified public accountant in accordance with rules adopted by the Auditor General and the state agency that created, approved, or administers the CSO or DSO. The audit report must be submitted within nine months after the end of the fiscal year to the Auditor General and to the state agency the CSO or DSO supports. Additionally, the Auditor General may, pursuant to his or her own authority, or at the direction of the Legislative Auditing Committee, conduct audits or other engagements of a CSO's or DSO's accounts and records.³²

The Foundation does not have annual expenditures in excess of \$100,000.³³ Therefore, the Foundation is not currently subject to the auditing requirements of s. 215.981, F.S.³⁴

Staff Review of Compliance with s. 20.058, F.S. (CSO/DSO Transparency and Reporting Requirements)

Section 20.058, F.S., establishes a comprehensive set of transparency and reporting requirements for CSOs and DSOs.

Reporting Requirements

Section 20.058(1), F.S., requires each CSO and DSO to annually submit, by August 1, the following information to the agency it supports:

- The CSO or DSO's name, mailing address, telephone number, and website address;

²⁹ E-mail from DJJ staff to staff of the Senate Committee on Criminal Justice, dated January 16, 2017 (on file with the Senate Committee on Criminal Justice).

³⁰ *Supra*, n. 13.

³¹ The independent audit requirement does not apply to a CSO or DSO for a university, district board of trustees of a community college, or district school board. Section 215.981(1), F.S. Additionally, the expenditure threshold for an independent audit is \$300,000 for a CSO or DSO for the Department of Environmental Protection and the Department of Agriculture and Consumer Services. Section 215.981(2), F.S.

³² Section 11.45(3)(d), F.S.

³³ Total expenditures for 2015-16 were \$97,254. IRS Form 990 for Florida Juvenile Justice Foundation, Inc. (on file with the Senate Committee on Criminal Justice).

³⁴ While the Foundation's expenditures do not currently exceed \$100,000 and thus, the Foundation is not currently subjected to an annual financial audit pursuant to s. 215.981, F.S., the contract between the DJJ and the Foundation provides that the Foundation must provide a copy of its annual financial audit to the DJJ. *Supra*, n. 13.

- The statutory authority or executive order that created the CSO or DSO;
- A brief description of the mission and results obtained by the CSO or DSO;
- A brief description of the CSO or DSO's plans for the next three fiscal years;
- A copy of the CSO or DSO's code of ethics; and
- A copy of the CSO or DSO's most recent Internal Revenue Service (IRS) Form 990.³⁵

Staff findings: Compliance. In 2017, the Foundation reported all of the information required by s. 20.058(1), F.S.³⁶

Transparency of Reported CSO or DSO Information

Section 20.058(2), F.S., provides that each agency receiving information from a CSO or DSO pursuant to s. 20.058(1), F.S., shall make such information available to the public through the agency's website. If the organization maintains a website, the agency's website must provide a link to the organization's website.

Staff findings: Compliance. The information required in s. 20.058(1), F.S., is available to the public through the DJJ's website.³⁷ Additionally, the DJJ provides a link to the Foundation's website.³⁸

Section 20.058(3), F.S., provides that, by August 15 of each year, each agency shall report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability the information provided by each CSO and DSO. The report must also include a recommendation by the agency, with supporting rationale, to continue, terminate or modify the agency's association with each organization.

Staff findings: Compliance. The DJJ submitted its report by August 15, 2017, and the DJJ Secretary Daly expressed her strong recommendation for the continued collaboration and association between the DJJ and the Foundation. The letter explained that the DJJ and the Foundation share a long history of working together to improve the lives of at-risk children and their families. The Foundation promotes delinquency prevention, intervention, and educational opportunities for youth, in addition to stewarding all funds raised to enhance the activities of the DJJ. "The Foundation is an integral part of the Department of Juvenile Justice and shares a long and collaborative relationship that is rare amongst direct-support organizations."³⁹

³⁵ The IRS Form 990 is the an annual information return required to be filed with the IRS by most organizations exempt from federal income tax under 26 U.S.C. s. 501. The most recent Form 990 provided by the Foundation is from 2015-16 because the deadline for the form is September, while the deadline for the submission of the required information is August.

³⁶ Transmittal letter dated August 1, 2017, from Foundation Executive Director Caroline Ray to the DJJ Secretary Christina K. Daly, available at <http://floridafiscalportal.state.fl.us/Document.aspx?ID=16596&DocType=PDF> (last visited January 16, 2018).

³⁷ *Supra*, n. 10.

³⁸ Florida Department of Juvenile Justice, "Get Involved" available at <http://www.djj.state.fl.us/fjif/foundation> (last visited January 16, 2018).

³⁹ *Supra*, n. 10.

Contract Requirements

Section 20.058(4), F.S., provides that any contract between an agency and a CSO or DSO must be contingent upon the CSO or DSO submitting and posting information pursuant to s. 20.058(1) and (2), F.S. The contract must also include a provision for the orderly cessation of operations and reversion to the state of state funds held in trust by the organization within 30 days after its authorizing statute is repealed, the contract is terminated, or the organization is dissolved. If an organization fails to submit the required information for two consecutive years, the agency head shall terminate any contract between the agency and the organization.

Staff findings: Not in compliance. The contract between the DJJ and the Foundation is not contingent upon the Foundation's submission and posting of the information pursuant to s. 20.058(1) and (2), F.S. The contract also does not provide for the orderly cessation of operations and reversion to the state of state funds held in trust by the Foundation *within 30 days* after its authorizing statute is repealed, the contract is terminated, or the organization is dissolved. The contract also does not provide for the DJJ Secretary to terminate the contract between the DJJ and the Foundation in the event that the Foundation fails to submit the required information for two consecutive years.⁴⁰

Staff recommendation: The DJJ and the Foundation should execute a revised contract that includes the requirements prescribed by s. 20.058(4), F.S. The contract between the DJJ and the Foundation was executed in 2009, while s. 20.058, F.S., was enacted by the Legislature in 2014.⁴¹ Additionally, the contract provides that, "The parties agree to renegotiate this agreement and any affected agreements if revisions of any applicable laws or regulations make changes in this agreement necessary."⁴²

Staff Review of Compliance with s. 215.981, F.S. (CSO/DSO Audit Requirements)

As previously noted, s. 215.981(1), F.S., requires each CSO and DSO created or authorized pursuant to law with annual expenditures in excess of \$100,000 to provide for an annual financial audit of its accounts and records. (For a full description of the statute, see discussion, *supra*, of s. 985.672(6), F.S. (annual financial audit)).

Staff findings: Not currently applicable. As previously noted, the Foundation does not have annual expenditures in excess of \$100,000. Therefore, the Foundation is not currently subject to the auditing requirements of s. 215.981, F.S.⁴³

Staff Review of Compliance with s. 112.3251, F.S. (CSO/DSO Ethics Code Requirement)

Section 112.3251, F.S., requires a CSO or DSO created or authorized pursuant to law to adopt its own ethics code. The ethics code must contain the specified standards of conduct and disclosures provided in ss. 112.313 and 112.3143(2), F.S.⁴⁴ A CSO or DSO may adopt additional or more

⁴⁰ *Supra*, n. 13.

⁴¹ Section 20.058, F.S., was created in 2014 by ch. 2014-96, L.O.F.

⁴² *Supra*, n. 13.

⁴³ *Supra*, n. 33.

⁴⁴ Some of the standards of conduct and disclosures in ss. 112.313 and 112.3143(2), F.S., include misuse of public position, solicitation or acceptance of gifts, unauthorized compensation, and voting conflicts.

stringent standards of conduct and disclosure requirements and must conspicuously post its code of ethics on its website.⁴⁵

Staff findings: Not in compliance. The Foundation has a code of ethics which is conspicuously posted on its website.⁴⁶ However, the Foundation's code of ethics is not in compliance with s. 112.313(2), (4), (5), and (8), F.S.

Staff recommendation: The Foundation should adopt a revised code of ethics to include requirements prescribed by s. 112.3251, F.S.

III. Effect of Proposed Changes:

The bill reenacts statutory authority (s. 985.672, F.S.) for the DJJ to establish a DSO to provide assistance, funding, and support to assist the DJJ in furthering its goals.

Current law requires the DSO's board of directors to consist of representatives from businesses, each juvenile justice service district, and one representative appointed at large. The bill amends the requirements relating to the DSO's board representation to permit the DJJ to appoint members to the DSO's board of directors pursuant to the DSO's bylaws.

The bill removes a provision that repeals s. 985.672, F.S., on October 1, 2018, unless the repeal date is removed and the statute is reenacted.

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.

⁴⁵ Section 112.3251, F.S.

⁴⁶ Florida Juvenile Justice Foundation, *2017 Annual Report*, available at <http://www.djj.state.fl.us/fjjf/resources> (last visited January 16, 2018).

B. Private Sector Impact:

By saving the Foundation from repeal, the bill sustains a source of financial and other direct assistance for advancing the DJJ's mission to increase public safety by reducing juvenile delinquency.

C. Government Sector Impact:

The bill has no fiscal impact on state government. By saving s. 985.672, F.S., from repeal, the DSO may continue to provide assistance, funding, and support for activities authorized by the DJJ. If s. 985.672, F.S., is not saved from repeal, the DJJ may need to assume the responsibilities of the DSO or find another entity to assume those responsibilities.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 985.672 of the Florida Statutes.

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

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

CS by Criminal Justice on January 22, 2018:

The committee substitute requires the DJJ to appoint members to the DSO's board of directors according to the bylaws of the DSO.

B. Amendments:

None.



337772

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/22/2018	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 67 - 70
and insert:
organization according to the direct-support organization's
established bylaws. ~~Members of the organization must include~~
~~representatives from businesses, representatives from each of~~
~~the juvenile justice service districts, and one representative~~
~~appointed at large.~~



337772

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

12 And the title is amended as follows:

13 Delete line 4

14 and insert:

15 985.672, F.S.; requiring that a board of directors for
16 the department's direct-support organization be
17 appointed according to the organization's established
18 bylaws; abrogating the scheduled repeal of

By Senator Bracy

11-00638-18

2018942__

1 A bill to be entitled
 2 An act relating to the Department of Juvenile
 3 Justice's direct-support organization; amending s.
 4 985.672, F.S.; abrogating the scheduled repeal of
 5 provisions governing a direct-support organization
 6 established by the department; providing an effective
 7 date.
 8
 9 Be It Enacted by the Legislature of the State of Florida:
 10
 11 Section 1. Section 985.672, Florida Statutes, is amended to
 12 read:
 13 985.672 Direct-support organization; definition; use of
 14 property; board of directors; audit.—
 15 (1) DEFINITION.—As used in this section, the term "direct-
 16 support organization" means an organization whose sole purpose
 17 is to support the juvenile justice system and which is:
 18 (a) A corporation not-for-profit incorporated under chapter
 19 617 and which is approved by the Department of State;
 20 (b) Organized and operated to conduct programs and
 21 activities; to raise funds; to request and receive grants,
 22 gifts, and bequests of moneys; to acquire, receive, hold,
 23 invest, and administer, in its own name, securities, funds,
 24 objects of value, or other property, real or personal; and to
 25 make expenditures to or for the direct or indirect benefit of
 26 the Department of Juvenile Justice or the juvenile justice
 27 system operated by a county commission or a circuit board; and
 28 (c) Determined by the Department of Juvenile Justice to be
 29 consistent with the goals of the juvenile justice system, in the

Page 1 of 4

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

11-00638-18

2018942__

30 best interest of the state, and in accordance with the adopted
 31 goals and mission of the Department of Juvenile Justice.
 32
 33 Expenditures of the organization shall be used for the
 34 prevention and amelioration of juvenile delinquency. The
 35 expenditures of the direct-support organization may not be used
 36 for the purpose of lobbying as defined in s. 11.045.
 37 (2) CONTRACT.—The direct-support organization shall operate
 38 under written contract with the department. The contract must
 39 provide for:
 40 (a) Approval of the articles of incorporation and bylaws of
 41 the direct-support organization by the department.
 42 (b) Submission of an annual budget for the approval of the
 43 department.
 44 (c) Certification by the department that the direct-support
 45 organization is complying with the terms of the contract and in
 46 a manner consistent with the goals and purposes of the
 47 department and in the best interest of the state. Such
 48 certification must be made annually and reported in the official
 49 minutes of a meeting of the direct-support organization.
 50 (d) The reversion of moneys and property held in trust by
 51 the direct-support organization for the benefit of the juvenile
 52 justice system to the state if the department ceases to exist or
 53 to the department if the direct-support organization is no
 54 longer approved to operate for the department, a county
 55 commission, or a circuit board or if the direct-support
 56 organization ceases to exist.
 57 (e) The fiscal year of the direct-support organization,
 58 which must begin July 1 of each year and end June 30 of the

Page 2 of 4

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

11-00638-18

2018942__

59 following year.⁺

60 (f) The disclosure of material provisions of the contract,
61 and the distinction between the department and the direct-
62 support organization, to donors of gifts, contributions, or
63 bequests, including such disclosure on all promotional and
64 fundraising publications.

65 (3) BOARD OF DIRECTORS.—The Secretary of Juvenile Justice
66 shall appoint a board of directors of the direct-support
67 organization. Members of the organization must include
68 representatives from businesses, representatives from each of
69 the juvenile justice service districts, and one representative
70 appointed at large.

71 (4) USE OF PROPERTY.—The department may permit, without
72 charge, appropriate use of fixed property, facilities, and
73 personnel services of the juvenile justice system by the direct-
74 support organization, subject to this section. For the purposes
75 of this subsection, the term "personnel services" includes full-
76 time or part-time personnel, as well as payroll processing
77 services.

78 (a) The department may prescribe any condition with which
79 the direct-support organization must comply in order to use
80 fixed property or facilities of the juvenile justice system.

81 (b) The department may not permit the use of any fixed
82 property or facilities of the juvenile justice system by the
83 direct-support organization if it does not provide equal
84 membership and employment opportunities to all persons
85 regardless of race, color, religion, sex, age, or national
86 origin.

87 (c) The department shall adopt rules prescribing the

Page 3 of 4

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

11-00638-18

2018942__

88 procedures by which the direct-support organization is governed
89 and any conditions with which a direct-support organization must
90 comply to use property or facilities of the department.

91 (5) DEPOSIT OF FUNDS.—Any moneys may be held in a separate
92 depository account in the name of the direct-support
93 organization and subject to the provisions of the contract with
94 the department.

95 (6) AUDIT.—The direct-support organization shall provide
96 for an annual financial audit in accordance with s. 215.981.

97 ~~(7) REPEAL.—This section is repealed October 1, 2018,~~
98 ~~unless reviewed and saved from repeal by the Legislature.~~

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

Page 4 of 4

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

THE FLORIDA SENATE
APPEARANCE RECORD

1/22/18

Meeting Date

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

SB 942

Bill Number (if applicable)

337772

Amendment Barcode (if applicable)

Topic DJJ Direct-support Organization

Name Rachel Moscoso

Job Title Legislative Affairs Director

Address 2737 Centerview Dr, Suite 3200

Street

Tallahassee

City

FL

State

32399

Zip

Phone 850-717-2716

Email rachel.moscoso@djj.state.fl.us

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida 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)

1/22/18

Meeting Date

SB 942

Bill Number (if applicable)

Topic DJJ Direct-support Organization

Amendment Barcode (if applicable)

Name Rachel Moscoso

Job Title Legislative Affairs Director

Address 2737 Centerview Dr, Suite 3200

Phone 850-717-2716

Street

Tallahassee

FL

32399

Email rachel.moscoso@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 Florida 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)

1.22.18

Meeting Date

942

Bill Number (if applicable)

Topic Department of Juvenile Justice DSO

Amendment Barcode (if applicable)

Name Barney Bishop

Job Title CEO

Address 204 South Monroe Street

Phone 510-9922

Street

Tallahassee

FL

32301

Email Barney@BarneyBishop.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida 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: SB 982

INTRODUCER: Senator Powell

SUBJECT: Care for Retired Law Enforcement Dogs

DATE: January 19, 2018

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Cellon	Jones	CJ	Favorable
2. _____	_____	ACJ	_____
3. _____	_____	AP	_____

I. Summary:

SB 982 creates the Care for Retired Law Enforcement Dogs Program. The program will provide reimbursement for up to \$1,500 of annual veterinary costs associated with caring for a retired law enforcement dog by the former handler or adopter who incurs the costs.

The bill provides legislative findings and definitions. The bill requires valid documentation of the dog's retirement from the law enforcement agency the dog served and a valid paid invoice from the veterinarian for veterinary care for reimbursement of costs to occur.

The program will be administered and managed by a not-for-profit corporation in a contractual arrangement with the Florida Department of Law Enforcement (FDLE) after a competitive grant award process.

The bill includes an appropriation of \$300,000 in recurring General Revenue Funds for the purpose of implementing and administering the program.

The bill is effective July 1, 2018.

II. Present Situation:

Law enforcement dogs have become an integral part of many law enforcement efforts statewide, including suspect apprehension through tracking and searching, evidence location, drug and bomb detection, and search and rescue operations.¹ Law enforcement dogs cannot work forever

¹ Panama City Beach Police Department, *K-9 Patrol*, available at <http://www.pcbgov.com/departments-services/police-department/specialized-units/k-9-patrol> (last visited January 18, 2018); Coral Springs Police Department, *K-9 Unit*, available at <https://www.coral Springs.org/government/other-departments-and-services/police/divisions/k-9> (last visited January 18, 2018); Hillsborough County Sheriff's Office, *K-9 Unit*, available at <http://www.hcso.tampa.fl.us/A-Z-Directory/K/K9-Unit.aspx> (last visited January 18, 2018); Jacksonville Sheriff's Office, *Canine Unit*, available at

and are faced with natural aging conditions and may have sustained injuries in the line of duty. When it is time for a law enforcement dog to retire the dog typically lives with their law enforcement officer partner. However, retired law enforcement dogs can experience costly medical expenses that the owner is unable to handle.²

Just one example of a law enforcement dog's invaluable service is Koda, who worked with the Leon County Sheriff's Office. K-9 Koda was shot and killed in January 2013 as he attempted to immobilize a subject following a vehicle pursuit. Deputies pursued a vehicle several blocks until the vehicle crashed into a ditch. The subject continued to flee on foot and then opened fire on K-9 Koda and the deputies. Two deputies returned fire and wounded the subject before taking him into custody. It was later determined that the subject was wanted on warrants for attempted first degree murder, aggravated battery with a deadly weapon, and discharging a firearm from a vehicle.³

III. Effect of Proposed Changes:

The bill creates the Care for Retired Law Enforcement Dogs Program (program) within the Florida Department of Law Enforcement (FDLE). The program will provide up to \$1,500 annually to any former handler or adopter of a retired law enforcement dog for reimbursement of veterinary care for the dog if the agency from which the dog retired provides verification of the dog's service. The former handler or adopter must submit a valid invoice from a veterinarian for care provided in Florida and proof of payment for reimbursement to occur. When the annual funding for the program is depleted, reimbursements must be discontinued for the remainder of the year.

The program is created within the FDLE to provide a stable funding source for veterinary care for retired law enforcement dogs.

"Retired law enforcement dog" is defined by the bill as a dog who has been in the service of or employed by a law enforcement agency in this state for the purpose of aiding in the detection of criminal activity, enforcement of laws, or apprehension of offenders. The retired law enforcement dog must have received certification in obedience and apprehension work from a certifying organization, such as the National Police Canine Association, Inc.⁴

The bill defines "law enforcement agency" as a state or local public agency that has primary responsibility for the prevention and detection of crime or the enforcement of the penal, traffic, highway, regulatory, game, immigration, postal, customs, or controlled substance laws.

<http://www.coj.net/departments/sheriffs-office/departments-of-patrol-and-enforcement/patrol-support-division/canine-unit> (last visited January 18, 2018); Brevard County Sheriff's Office, *K-9 Unit*, available at <http://www.brevardsheriff.com/home/commands-services/operational-services/k-9-unit/> (last visited January 17, 2018).

² South Florida Fund for Retired Law Enforcement K-9's, *Who We Help*, *The Fund*, available at <https://soflretiredk9fund.com/about/who-we-help/> (last visited January 18, 2018).

³ Officer Down Memorial Page, United States, Florida, Leon County Sheriff's Office, *K-9 Koda*, available at <http://www.odmp.org/k9/1497-k9-koda#ixzz2vrveuHYu> (last visited January 17, 2018).

⁴ National Police Canine Association, available at <http://www.npca.net/> (last visited January 18, 2018). The National Police Canine Association is one of many such organizations in the country, including The Florida Law Enforcement Canine Association (FLECA) dedicated to the training and certification of Florida's Law Enforcement Canine Teams. Florida Law Enforcement Canine Association, FLECA, available at <http://www.flecak9.com/> (last visited January 17, 2018).

The bill adopts the term “veterinarian” from s. 474.202, F.S. Section 474.202(11), F.S., defines “veterinarian” as a health care practitioner who is licensed to engage in the practice of veterinary medicine in Florida under the authority of ch. 474, F.S.⁵ The bill defines “veterinary care” as the practice of veterinary medicine as defined in s. 474.202, F.S. Section 474.202(13), F.S., defines “veterinary medicine” to include, with respect to animals, surgery, acupuncture, obstetrics, dentistry, physical therapy, radiology, theriogenology, and other branches or specialties of veterinary medicine. The bill specifies that the term also includes:

- Annual wellness examinations;
- Vaccines;
- Internal and external parasite prevention treatments;
- Testing and treatment of illnesses and diseases;
- Medications;
- Emergency care and surgeries; and
- Care provided in specialties of veterinary medicine such as veterinary oncology, euthanasia, and cremation services.

The FDLE is directed to contract with a corporation not-for-profit, organized under ch. 617, F.S., to administer and manage the program.⁶ The corporation will be selected through a competitive grant award process. The corporation must:

- Be dedicated to the protection or care of retired law enforcement dogs.
- Hold tax-exempt status under the Internal Revenue code as a s. 501(c)(3) organization.⁷
- Have held tax-exempt status for at least five years.
- Agree to be subject to review and audit at the discretion of the Auditor General to ensure accurate accounting and disbursement of state funds.
- Demonstrate the ability to effectively and efficiently disseminate information and assist former handlers and adopters of retired law enforcement dogs in complying with the bill.

The bill provides that notwithstanding ch. 287, F.S., the FDLE must select the corporation not-for-profit through a competitive grant award process.⁸ The corporation is the disbursing authority for the funds appropriated by the Legislature to the FDLE for the program. The FDLE must pay the corporation, and the corporation may use, up to ten percent of appropriated funds for administrative expenses, including salaries and benefits.

The bill contains legislative findings related to the value of law enforcement dogs to the residents of Florida.

⁵ Section 474.202(9), F.S., defines “practice of veterinary medicine” to mean “diagnosing the medical condition of animals and prescribing, dispensing, or administering drugs, medicine, appliances, applications, or treatment of whatever nature for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease thereof; performing any manual procedure for the diagnosis of or treatment for pregnancy or fertility or infertility of animals; or representing oneself by the use of titles or words, or undertaking, offering, or holding oneself out, as performing any of these functions. The term includes the determination of the health, fitness, or soundness of an animal.

⁶ Section 617.01401(5), F.S., defines “corporation not for profit” as a corporation no part of the income or profit of which is distributable to its members, directors, or officers, except as otherwise provided under ch. 617, F.S.

⁷ See 26 U.S.C. s. 501(c)(3).

⁸ Chapter 287, F.S., governs public procurement of personal property and services.

The bill includes an appropriation of \$300,000 in recurring General Revenue Funds for the purpose of implementing the program. The program will be administered and managed by a not-for-profit corporation in a contractual arrangement with the FDLE.

The FDLE is given rulemaking authority to implement the provisions in the bill.

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.

B. Private Sector Impact:

To the extent that the retired K-9's former handler or adopter is reimbursed for the dog's on-going veterinary care, the bill will have a positive fiscal impact for those persons.

C. Government Sector Impact:

The bill includes an appropriation of \$300,000 in recurring General Revenue Funds for the purpose of implementing the program. The program will be administered and managed by a not-for-profit corporation in a contractual arrangement with the FDLE.

The FDLE does not report any fiscal impact from the bill.⁹

VI. Technical Deficiencies:

None.

⁹ Florida Department of Law Enforcement, *2018 Legislative Bill Analysis SB 982*, November 27, 2017 (on file with the Senate Committee on Criminal Justice).

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 943.69 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.)

B. Amendments:

None.

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

By Senator Powell

30-00831-18

2018982__

1 A bill to be entitled
 2 An act relating to care for retired law enforcement
 3 dogs; creating s. 943.69, F.S.; providing a short
 4 title; providing legislative findings; defining terms;
 5 creating the Care for Retired Law Enforcement Dogs
 6 Program within the Department of Law Enforcement;
 7 requiring the department to contract with a
 8 corporation not for profit to administer and manage
 9 the program; providing requirements for the
 10 corporation not for profit; providing requirements for
 11 the disbursement of funds for the veterinary care of
 12 eligible retired law enforcement dogs; placing an
 13 annual cap on the amount of funds available for the
 14 care of an eligible retired law enforcement dog;
 15 prohibiting a former handler or adopter from receiving
 16 reimbursement if funds are depleted for the year for
 17 which such reimbursement is sought; requiring the
 18 department to pay to the corporation not for profit,
 19 and authorizing the corporation not for profit to use,
 20 up to a certain percentage of appropriated funds for
 21 administrative purposes; requiring the department to
 22 adopt rules; providing an appropriation; providing an
 23 effective date.
 24
 25 Be It Enacted by the Legislature of the State of Florida:
 26
 27 Section 1. Section 943.69, Florida Statutes, is created to
 28 read:
 29 943.69 Care for Retired Law Enforcement Dogs Program.—

Page 1 of 5

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

30-00831-18

2018982__

30 (1) SHORT TITLE.—This section may be cited as the "Care for
 31 Retired Law Enforcement Dogs Program Act."
 32 (2) LEGISLATIVE FINDINGS.—The Legislature finds that:
 33 (a) Law enforcement dogs have become an integral part of
 34 many law enforcement efforts statewide, including the
 35 apprehension of suspects through tracking and searching,
 36 evidence location, drug and bomb detection, and search and
 37 rescue operations;
 38 (b) Law enforcement agencies agree that the use of law
 39 enforcement dogs is an extremely cost-effective means of crime
 40 control and that these dogs possess skills and abilities that
 41 frequently exceed those of existing technology;
 42 (c) The service of law enforcement dogs is often dangerous
 43 and can expose them to injury at a rate higher than that of
 44 non-service dogs; and
 45 (d) Law enforcement dogs provide significant contributions
 46 to the residents of this state.
 47 (3) DEFINITIONS.—As used in this section, the term:
 48 (a) "Law enforcement agency" means a lawfully established
 49 state or local public agency having primary responsibility for
 50 the prevention and detection of crime or the enforcement of the
 51 penal, traffic, highway, regulatory, game, immigration, postal,
 52 customs, or controlled substance laws.
 53 (b) "Retired law enforcement dog" means a dog that was
 54 previously in the service of or employed by a law enforcement
 55 agency in this state for the principal purpose of aiding in the
 56 detection of criminal activity, enforcement of laws, or
 57 apprehension of offenders and that received certification in
 58 obedience and apprehension work from a certifying organization

Page 2 of 5

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

30-00831-18 2018982__

such as the National Police Canine Association, Inc., or other certifying organization.

(c) "Veterinarian" has the same meaning as provided in s. 474.202.

(d) "Veterinary care" means the practice of veterinary medicine as defined in s. 474.202 by a veterinarian. The term includes annual wellness examinations, vaccinations, internal and external parasite prevention treatments, testing and treatment of illnesses and diseases, medications, emergency care and surgeries, specialty care such as veterinary oncology, euthanasia, and cremation.

(4) ESTABLISHMENT OF PROGRAM.—The Care for Retired Law Enforcement Dogs Program is created within the department to provide a stable funding source for veterinary care that is provided to these dogs.

(5) ADMINISTRATION.—The department shall contract with a corporation not for profit organized under chapter 617 to administer and manage the Care for Retired Law Enforcement Dogs Program. Notwithstanding chapter 287, the department shall select the corporation not for profit through a competitive grant award process. The corporation not for profit must meet all of the following criteria:

(a) Be dedicated to the protection or care of retired law enforcement dogs.

(b) Be exempt from taxation under s. 501(a) of the Internal Revenue Code as an organization described in s. 501(c)(3) of that code.

(c) Have maintained such tax-exempt status for at least 5 years.

30-00831-18 2018982__

(d) Agree to be subject to review and audit at the discretion of the Auditor General in order to ensure accurate accounting and disbursement of state funds.

(e) Demonstrate the ability to effectively and efficiently disseminate information and to assist former handlers and adopters of retired law enforcement dogs in complying with this section.

(6) FUNDING.—

(a) The corporation not for profit shall be the disbursing authority for funds appropriated by the Legislature to the department for the Care for Retired Law Enforcement Dogs Program. These funds shall be disbursed to the former handler or adopter of a retired law enforcement dog upon receipt of:

1. Valid documentation from the law enforcement agency from which the dog retired which verifies that the dog was in the service of or employed by such agency; and

2. A valid invoice from a veterinarian for veterinary care provided in this state to a retired law enforcement dog and documentation establishing payment of the invoice by the former handler or adopter of a retired law enforcement dog.

(b) Annual disbursements to a former handler or adopter to reimburse him or her for the cost of veterinary care provided to a retired law enforcement dog may not exceed \$1,500 per dog. A former handler or adopter of a retired law enforcement dog may not accumulate unused funds from a current year for use in a future year.

(c) A former handler or adopter of a retired law enforcement dog who seeks reimbursement for veterinary care may not receive reimbursement if funds appropriated for the Care for

30-00831-18

2018982

Retired Law Enforcement Dogs Program are depleted in the year
for which the reimbursement is sought.

(7) ADMINISTRATIVE FEES.—The department shall pay to the
corporation not for profit, and the corporation not for profit
may use, up to 10 percent of appropriated funds for its
administrative expenses, including salaries and benefits.

(8) RULEMAKING AUTHORITY.—The department shall adopt rules
pursuant to ss. 120.536(1) and 120.54 to implement this section.

Section 2. For the 2018-2019 fiscal year, and each fiscal
year thereafter, the sum of \$300,000 in recurring funds is
appropriated from the General Revenue Fund to the Department of
Law Enforcement for the purpose of implementing and
administering the Care for Retired Law Enforcement Dogs Program.

Section 3. 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)

1/22/18

Meeting Date

5B 982

Bill Number (if applicable)

Topic

Care of Retired Law Enforcement Dogs

Name

Rebecca Dela Rosa

Job Title

Legislative Affairs Director

Address

301 N Olive Ave., 1101.3

Street

City

West Palm Beach

State

Zip

Phone

560.284.7235

Email

rdelaros@flbcgov.org

Speaking:



For



Against



Information

Waive Speaking:



In Support



Against

(The Chair will read this information into the record.)

Representing

Palm Beach County

Appearing at request of Chair:



Yes



No

Lobbyist registered with Legislature:



Yes



No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/22/17

Meeting Date

982

Bill Number (if applicable)

Topic CARE FOR RETIRED LAW ENFORCEMENT DOGS

Amendment Barcode (if applicable)

Name JENNIFER HOBGOOD, Ph.D.

Job Title DIRECTOR, STATE LEGISLATION, SOUTHEAST REGION

Address PO BOX 20554 Phone 445.5245
Street

TALLAHASSEE FL 32316 Email jenhobgood23@aspcanet.org
City State Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing ASPCA AMERICAN SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS

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)

1.22.18

Meeting Date

982

Bill Number (if applicable)

Topic Care for Retired Law Enforcement Dogs

Amendment Barcode (if applicable)

Name Barney Bishop

Job Title CEO

Address 204 South Monroe Street

Phone 510-9922

Street

Tallahassee

FL

32301

Email Barney@BarneyBishop.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida 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

Committee Agenda Request

To: Senator Randolph Bracy, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: December 18, 2017

I respectfully request that **Senate Bill #982** relating to Care for Retired Law Enforcement Dogs, be placed on the:

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

A handwritten signature in dark ink, appearing to read "Bobby Powell".

Senator Bobby Powell
Florida Senate, District 30

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: SB 1060

INTRODUCER: Senator Campbell

SUBJECT: Defamation

DATE: January 19, 2018

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Cellon	Jones	CJ	Favorable
2. _____	_____	BI	_____
3. _____	_____	RC	_____

I. Summary:

SB 1060 repeals two statutes that punish specific slanderous or libelous acts as first degree misdemeanor offenses.

The bill repeals:

- Section 836.04, F.S., relating to a person speaking of and concerning any woman, married or unmarried, falsely and maliciously imputing to her a want of chastity; and
- Section 836.06, F.S., making derogatory statements concerning banks or building and loan associations.

The bill is effective upon becoming a law.

II. Present Situation:

Defamation, False Statements, Slander and Libel as Criminal Offenses

In modern society, we tend to think of the offenses of slander or libel as civil causes of action litigated between private citizens.¹ However, criminal actions for slander and libel exist in criminal statutes because such offenses were viewed at the time the statutes were created as affecting the public at large.² Two such Florida criminal statutes, ss. 836.04 and 836.06, F.S., became law in 1883 and 1915 respectively.

¹ The Law Dictionary, *When to Sue for Defamation, Slander, and Libel*, available at <https://thelawdictionary.org/article/when-to-sue-for-defamation-slander-and-libel/> (last visited January 13, 2018).

² *Kennerly v. Hennessy*, 68 Fla. 138, 140 (Fla. 1914). “At common law a criminal prosecution for libel was warranted only when the alleged libel affects the public, as when it corrupts the public morals, or incites to violations of the criminal law, or when the necessary or natural effect of the alleged publication is to cause an injury to a person or persons of such a nature and extent as to render a breach of the peace imminent or probable.” *Kennerly v. Hennessy*, 68 Fla. 138, 140 (Fla. 1914).

The crime of defamation is found in s. 836.04, F.S. Section 836.04, F.S., makes it a first degree misdemeanor, for a person who speaks of and concerning any woman, married or unmarried, falsely and maliciously imputing to her a want of chastity.³

At one time 15 states had criminal statutes prohibiting imputing unchastity to women, whether in writing or orally.⁴ In addition to Florida, these states included Oklahoma,⁵ Alabama,⁶ and North Carolina.⁷

Section 836.06, F.S., makes the crime of making derogatory statements concerning banks or building and loan associations a first degree misdemeanor.

Specifically, s. 836.06, F.S., provides any person who willfully and maliciously makes, circulates or transmits to another or others any false statement, rumor or suggestion, written, printed or by word of mouth, which is directly or by inference derogatory to the financial condition or affects the solvency or financial standing of any banking institution or building and loan association doing business in this state, or who shall counsel, aid, procure or induce another to start, transmit or circulate any such statement or rumor, is guilty of a first degree misdemeanor.

Although the policy behind the crime of making derogatory statements against banks is unclear, it would seem that the Florida statute as well as those enacted in other states may be a product of financial crises and may have been enacted to avert bank runs.⁸

III. Effect of Proposed Changes:

The bill repeals two sections of the Florida Statutes:

- Section 836.04, F.S., enacted in 1883 and criminalizing defamation related to a woman's want of chastity; and
- Section 836.06, F.S., enacted in 1915 and criminalizing making derogatory statements concerning banks or building and loan associations.

The bill is effective upon becoming a law.

³ A first degree misdemeanor is punishable by up to one year in the county jail and a \$1,000 fine. Sections 775.082 and 775.083, F.S. Section 836.04, F.S., was amended in 1971 when the penalty was increased to the standard first degree misdemeanor penalties. Chapter 71-136, L.O.F. See *Burnham v. State*, 37 Fla. 327 (Fla. 1896) which states the penalties in 1896: "Section 2419 of the Revised Statutes provides as follows: Whoever speaks of and concerning any woman, married or unmarried, falsely and maliciously, imputing to her a want of chastity, shall be punished by imprisonment not exceeding one year, or by fine not exceeding five hundred dollars."

⁴ *The Social Utility of the Criminal Law of Defamation*, Robert A. Leflar, 34 Tex. L. Rev. 984, fn. 120 (Oct. 1956).

⁵ 21 Okl.St. Ann. s. 779, repealed in 2017.

⁶ Section 13A-11-163, Code of Alabama.

⁷ N.C.G.S.A. s. 14-48, repealed by Laws 1975, c. 402.

⁸ Bank panics or "bank runs" occurred during the Great Depression in the early 1930's, when large numbers of people withdrew their deposits in cash which forced banks to liquidate loans and often led to bank failure. "Bank Run" History.com, available at <http://www.history.com/topics/bank-run> (last visited January 12, 2018).

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill repeals the following sections of the Florida Statutes: 836.04 and 836.06.

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

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

None.

B. Amendments:

None.

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

By Senator Campbell

38-01382-18

20181060__

A bill to be entitled

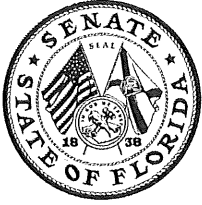
An act relating to defamation; repealing s. 836.04,
F.S., relating to defamation by falsely and
maliciously imputing a woman's want of chastity;
repealing s. 836.06, F.S., relating to defamation by
making certain derogatory statements concerning banks
and building and loan associations; providing an
effective date.

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

Section 1. Section 836.04, Florida Statutes, is repealed.

Section 2. Section 836.06, Florida Statutes, is repealed.

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Subcommittee on Finance and Tax
Appropriations Subcommittee on General Government
Children, Families, and Elder Affairs
Communications, Energy, and Public Utilities
Community Affairs

JOINT COMMITTEE:

Joint Administrative Procedures Committee

SENATOR DAPHNE CAMPBELL

38th District

January 16, 2018

Chair Randolph Bracy
Committee on Criminal Justice
510 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Bracy,

I respectfully request that SB 1060 Defamation be placed on the next available committee agenda. This bill is designed to repeal the provisions relating to defamation by falsely and maliciously imputing a woman's want of chastity and relating to defamation by making certain derogatory statements concerning banks and building and loan associations, etc.

Sincerely,

A handwritten signature in cursive script, appearing to read "D Campbell".

Daphne Campbell, RN
State Senator, District 38

REPLY TO:

- ☐ 633 N.E. 167th Street, Suite 1101, North Miami Beach, Florida 33162 (305) 493-6009
- ☐ 218 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5038

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

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 1332

INTRODUCER: Criminal Justice Committee and Senators Perry and Rouson

SUBJECT: Restoration of Civil Rights

DATE: January 23, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cox	Jones	CJ	Fav/CS
2.			ACJ	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1332 creates s. 947.131, F.S., providing for the priority processing of restoration of civil rights cases for applicants that have never been convicted of a specified offense. The bill defines a priority case to mean an application for the restoration of civil rights submitted by an applicant who has never been convicted of a violent offense. A violent offense is defined to mean the commission of, an attempt to commit, or a conspiracy to commit any of the offenses enumerated in the bill.

The bill requires the Florida Commission on Offender Review (FCOR) to complete investigations for priority applications that are submitted prior to July 1, 2018, before a priority application submitted after such date, or any nonpriority application. The FCOR must complete an investigation by:

- July 1, 2022, for a priority application that is submitted before July 1, 2018;
- July 1, 2023, for a priority application submitted on or after July 1, 2018, but before July 1, 2021;
- July 1, 2024, for a priority application submitted on or after July 1, 2021, but before July 1, 2023.

Beginning July 1, 2023, the bill requires the FCOR to complete the investigation for a priority application within one year after its submission. The bill does not impose deadlines on the completion of an investigation for an application that is not designated as a priority application.

The bill also provides various provisions to any application for the restoration of civil rights, regardless of whether such application is designated a priority application or not, which are designed to enhance communication between an applicant and the FCOR.

The bill will likely have a negative indeterminate fiscal impact on the FCOR and the FDLE. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2018.

II. Present Situation:

Restoration of Civil Rights

A person convicted of a felony forfeits specified rights as a result of the conviction. The Florida Constitution requires the loss of the right to vote and the right to hold public office as consequences of a felony conviction.¹ Additional civil rights are lost in accordance with statute, including the right to serve on a jury² and possess a firearm.³ The civil rights of a convicted felon are suspended until restored by a pardon⁴ or restoration of civil rights.⁵ The restoration of civil rights restores to an applicant all of the rights of citizenship in the State of Florida enjoyed before the felony conviction, except the specific authority to own, possess, or use firearms.

The Florida Constitution, in part, grants the power of restoring civil rights to the Governor with the consent of at least two Cabinet members.⁶ The Governor and Cabinet sit as the Executive Board of Clemency (Clemency Board).⁷ The Rules of Executive Clemency (Rules) which outline the eligibility criteria for the process of restoration of civil rights, are adopted by the Governor with the approval of two members of the Clemency Board.⁸ The Rules provide, in part, that the unfettered discretion to:

- Deny the restoration of civil rights at any time, for any reason, rests with the Governor; and
- Grant the restoration of civil rights at any time, for any reason, rests with the Governor, provided at least two members of the Clemency Board also approve.⁹

¹ FLA. CONST. Article VI, s. 4. The Florida Constitution defines the term “felony” to mean any criminal offense that is punishable under the laws of this state, or that would be punishable if committed in this state, by death or by imprisonment in the state penitentiary. FLA. CONST. Article X, s. 10.

² Section 40.013, F.S.

³ Section 790.23, F.S. *See also* s. 790.06(2)(d) and (k), F.S.

⁴ Florida provides for several types of pardons applicable to felony convictions. A full pardon unconditionally releases a person from punishment and forgives guilt for any Florida convictions. It restores to an applicant all of the rights of citizenship possessed by the person before his or her conviction, including the right to own, possess, or use firearms. A pardon without firearm authority releases a person from punishment and forgives guilt. It entitles an applicant to all of the rights of citizenship enjoyed by the person before his or her conviction, except the specific authority to own, possess, or use firearms. FCOR, *Clemency Overview*, available at <https://www.fcor.state.fl.us/clemencyOverview.shtml> (last visited January 19, 2018).

⁵ Section 944.292, F.S.

⁶ FLA. CONST. Article IV, s. 8(a). This authority is also codified in s. 940.01, F.S.

⁷ Rules of Executive Clemency (2017), Rule 1., available at https://www.fcor.state.fl.us/docs/clemency/clemency_rules.pdf (last visited January 16, 2018) (hereinafter cited as “Rule”).

⁸ Section 940.03, F.S. *See also* Rule 2.A.

⁹ Rule 4.

Section 940.05, F.S., provides that any person convicted of a felony may be entitled to the restoration of all the rights of citizenship enjoyed by him or her before conviction if the person has:

- Received a full pardon from the Clemency Board;
- Served the maximum term of the sentence imposed upon him or her; or
- Been granted his or her final release by the FCOR.¹⁰

The current Rules define the restoration of civil rights as a process that restores all of the applicant's rights of citizenship enjoyed before the felony conviction, except the specific authority to own, possess, or use firearms.¹¹ The Rules further provide the specific authority to own, possess, or use a firearm must be restored through the separate process for such rights.¹²

Role of Specified Entities in the Restoration of Civil Rights Process

The FCOR's Office of Executive Clemency, in part, assists in the acceptance, review, and recommendation of applications for restoration of civil rights, as well as the agenda for Clemency Board meetings.¹³ A Coordinator must be appointed by the Clemency Board and serves as the official custodian of the records.¹⁴ The FCOR's Office of Clemency Investigations, in part, conducts comprehensive, confidential investigations of persons that have applied for restoration of civil rights.¹⁵ An individual seeking restoration of civil rights submits an application to the Office of Executive Clemency and the application is forwarded to the FCOR for investigation, report, and recommendation.¹⁶

The Department of Corrections (DOC) is required to inform inmates and offenders on community supervision about the restoration of civil rights. Additionally, DOC is required to electronically send to the FCOR a list of the names of inmates who have been released from incarceration and offenders who have been terminated from supervision that may be eligible for restoration of civil rights.¹⁷

Restoration of Civil Rights Under Governor Scott's Administration

The current Rules became effective March 9, 2011, after being amended and adopted by the Clemency Board subsequent to Governor Scott taking office.¹⁸ Eligibility for restoration of civil

¹⁰ Article IV, s. 8, of the Florida Constitution, authorizes the creation of a parole and probation commission with power to supervise persons on probation and to grant paroles or conditional releases to persons under sentences for crime. The qualifications, method of selection and terms, not to exceed six years, of members of the commission shall be proscribed by law. The FCOR, previously known as the Parole Commission, was created in 1941 and renamed in 2014, to perform these functions. *See* s. 1, ch. 20519, 1941, L.O.F., and ch. 2014-191, L.O.F.

¹¹ Rule 4.I.G. Restoration of civil rights in accordance with the Rules does not relieve an applicant from the registration and notification requirements or any other obligations and restrictions imposed by law upon sexual predators or sexual offenders.

¹² *See* Rule 4.I.F.

¹³ Rule 2.B. *See also* FCOR, *Executive Clemency Timeline: 1991-2015*, p. 2 (on file with the Senate Committee on Criminal Justice) (hereinafter cited as "Clemency Timeline").

¹⁴ Clemency Timeline, p. 2.

¹⁵ Section 947.13(1)(d), F.S., requires the FCOR to conduct investigations as may be necessary. *See also* Clemency Timeline, p. 2.

¹⁶ Section 940.03, F.S. *See also* Rules 6. and 7.

¹⁷ Section 940.061, F.S.

¹⁸ Clemency Timeline, p. 5.

rights is separated out between applications that require a hearing in front of the Clemency Board for approval and those that do not. The investigations for the applications requiring a hearing are more intensive than applications that do not require a hearing.¹⁹

Any applicant, regardless of whether he or she requires a hearing with the Clemency Board, which is submitting an application for the restoration of his or her civil rights to be considered must:

- Have had five years pass since the date of completion of all sentences and conditions of supervision imposed without any new criminal charges;
- Not have any outstanding detainers or pending criminal charges;
- Have paid all restitution in full; and
- Be a citizen of the United States, and, if convicted in a court other than a Florida court, be a legal resident of Florida.²⁰

However, to be eligible for a restoration of civil rights to be granted without a hearing before the Clemency Board, the applicant must also:

- Have never been convicted of an enumerated offense;²¹ and
- Have never been declared to be a specified designation.²²

A person that intends to apply for the restoration of his or her civil rights must either request an application form from the FCOR or download it from the FCOR's website.²³ The current Rules require the application to include a certified copy of the applicant's indictment or information, the judgment adjudicating the applicant to be guilty, and the sentence.²⁴

Upon receipt of a person's application for the restoration of civil rights, the FCOR date stamps the application and this date controls the placement of the application in the backlog of pending applications. Staff then performs a cursory review of the application to ensure that all required documents have been submitted and filled out completely. The FCOR reports that an applicant is notified by letter regarding whether the application submission was complete and if not, the applicant is provided an opportunity to make the application whole. Staff then conducts an initial prescreening of the applicant to ensure he or she meets the eligibility criteria proscribed in the

¹⁹ See FCOR, *Annual Report 2016-17*, p. 15, available at <https://www.fcor.state.fl.us/docs/reports/FCORannualreport201617.pdf> (last visited January 19, 2018) (hereinafter cited as "Annual Report").

²⁰ Rules 9.A and 10.A.

²¹ Rule 9.A.4., provides an extensive list of offenses that include, but are not limited to, DUI manslaughter, any violation of ch. 800, F.S., aggravated child abuse, robbery, carjacking, home invasion robbery, and exploitation of the elderly.

²² Rule 9.A.5., prohibits an applicant who has ever been designated as a habitual violent felony offender, three-time violent felony offender, violent career criminal, prison release reoffender, or sexual predator from being eligible for restoration of civil rights without a hearing.

²³ Rule 6.A. Section 940.03, F.S., also provides that an application for executive clemency for a person who is sentenced to death must be filed within one year after the date the Supreme Court issues a mandate on a direct appeal or the United States Supreme Court denies a petition for certiorari, whichever is later.

²⁴ An applicant seeking the restoration of civil rights is currently required to include with the application a list of all convictions and provide court documents. See *Application for Clemency*, available at <https://www.fcor.state.fl.us/docs/clemency/ClemencyApplication.pdf> (last visited January 19, 2018). Section 940.04, F.S., provides that such required court documents must be furnished by the clerk of court to the applicant free of charge and without delay.

Rules. If the applicant is determined to be eligible under the Rules, his or her application is forwarded for the full investigation to be conducted. The FCOR reports that a quick eligibility review is periodically conducted on the applicant during the waiting period to ensure that he or she remains eligible under the Rules.²⁵

Investigative Duties of the Florida Commission on Offender Review

As mentioned above, the investigations for applications requiring a hearing are more intensive than applications not requiring a hearing. For the investigation of a case that requires a hearing, the FCOR must provide a broad picture of the applicant's history and activities. The FCOR conducts an interview of the applicant and investigates factors including, but not limited to:

- Information related to the felony conviction that led to the revocation of civil rights, including the offense, any co-defendants associated with the case, applicant's acceptance of a plea (if applicable), sentence imposed, and status on the payment of fines, court costs, fees, and victim restitution;
- An applicant-reported narrative of the offense that led to the revocation of civil rights;
- The applicant's entire criminal history record;
- History of:
 - Adjustment to incarceration or supervision;
 - Domestic violence, if applicable;
 - Alcohol and substance abuse, if applicable;
 - Employment; and
 - Military service;
- Traffic record, if applicable;
- Voter registration information;
- Citizenship verification; and
- Input from the court, state attorney, and victim.²⁶

An investigation for an application that does not require a hearing reviews more limited factors, similar to such information that is obtained through a criminal or employment background search performed by the FDLE, such as:

- Felony convictions;
- Circumstances of the offense;
- Criminal record;
- Domestic violence information; and
- Confidential victim memorandum, if deemed necessary by the investigator.²⁷

The FCOR reports that it cannot accurately estimate how long it takes to complete an investigation for either type of restoration of civil rights case because it does not capture this data.²⁸

²⁵ *Id.*

²⁶ *Id.* and Annual Report, p. 15.

²⁷ Electronic mail from Alec Yarger, Director of Legislative Affairs, FCOR, (January 18, 2018) (on file with the Senate Criminal Justice Committee).

²⁸ *Id.*

When an investigation is complete, an additional quality assurance review is conducted to ensure the investigation is accurate and the FCOR's advisory recommendation is obtained for submission to the Clemency Board.²⁹ A confidential case analysis, which summarizes the findings of the investigation and the advisory recommendation, is prepared for any investigation conducted on a case that requires a hearing. Clemency applicants are mailed a copy of their investigative reports prior to each scheduled Clemency Board meeting.³⁰ The FCOR states that it sends the case analysis to both the Clemency Board and the applicant at the same time.³¹ It does not appear that there is an opportunity for the applicant to dispute any information included in the report.

The FCOR reports it has a total of 53 investigators on its staff including:

- 32 investigators that conduct investigations for each of the various types of cases that fall under the purview of the FCOR, including investigations required for conditional medical release, parole, pardons, commutations, and clemency cases; and
- 21 investigators that solely perform clemency investigations, which includes restoration of civil rights.³²

Further, the FCOR reports that investigators who handle all the various types of cases must give priority to cases that have statutorily mandated time frames, such as parole or conditional medical release, and therefore an investigation for a restoration of civil rights case may get delayed if a time sensitive case is assigned to the investigator.³³ Currently, there are no statutorily imposed time frames imposed on any portion of the restoration of civil rights investigation process.

Resolution of an Application that Does Not Require a Hearing

The FCOR must review the application of an individual who has applied for restoration of civil rights. For a restoration of civil rights application that does not require a hearing, the FCOR Office of Executive Clemency Coordinator must issue a preliminary review list of all individuals who meet the eligibility requirements and submit it to the Clemency Board.³⁴ If the Governor, plus two members, approve an individual's restoration of civil rights without a hearing within 60 days of issuance of the preliminary review list, the FCOR Coordinator must issue a certificate that grants the individual restoration of civil rights upon signature of the Governor and two Clemency Board members.³⁵ If approval is not granted, that candidate will be notified, and may pursue restoration of civil rights with a hearing.³⁶

²⁹ *Id.*

³⁰ Annual Report, p. 15.

³¹ Electronic mail from Alec Yarger, Director of Legislative Affairs, FCOR, (January 18, 2018) (on file with the Senate Criminal Justice Committee).

³² Electronic mail from Alec Yarger, Director of Legislative Affairs, FCOR, (January 18, 2018) (on file with the Senate Criminal Justice Committee).

³³ *Id.*

³⁴ Rule 9.B.

³⁵ *Id.* The Coordinator issues these certificates pursuant to executive order and the certificate must specifically exclude the authority to own, possess, or use firearms, unless otherwise separately approved by the Clemency Board. FLA. CONST. Article IV, s. 8, requires such signatures.

³⁶ Rule 9.B.

Resolution of an Application that Requires a Hearing

Once the investigation, report, and recommendation has been complete, the FCOR Office of Executive Clemency Coordinator may place an application on the agenda for the next scheduled meeting of the Clemency Board.³⁷ The Clemency Board met four times in 2017, and heard approximately 85-95 hearings each agenda, with approximately 56 percent of the hearings being for restoration of civil rights cases.³⁸

Current Backlog for Restoration of Civil Rights Investigations

As of January 1, 2018, the FCOR reports that there are 10,264 restoration of civil rights cases awaiting an investigation and hearing, of which 391 are applications that do not require a hearing with the Clemency Board and 9,873 applications pending that do require a hearing. This number does not include cases that are specific to the restoration of the specific authority to own, possess or use firearms.³⁹

On November 1, 2017, the Ethics and Elections Committee of the Constitutional Revision Commission heard presentations on the process and existing backlog for restoration of civil rights applications in Florida. Julia McCall, Coordinator of the Office of Executive Clemency, stated at the meeting that about 300 cases are scheduled for a hearing with the Clemency Board each year from the 6,000 applications received annually and the average wait for a hearing is 9.2 years.⁴⁰

III. Effect of Proposed Changes:

The bill creates s. 947.131, F.S., providing for priority processing of restoration of civil rights cases for applicants that have never been convicted of a “violent felony.” The bill also specifies deadlines for processing the backlog of cases designated under the bill as priority cases.

The bill defines a priority case to mean an application for the restoration of civil rights submitted by an applicant who has never been convicted of a violent offense.

A violent offense is defined to mean the commission of, an attempt to commit, or a conspiracy to commit any of the following:

- Leaving the scene of a crash involving death or serious bodily injury in violation of s. 316.027, F.S.;
- Driving under the influence resulting in death or serious bodily injury in violation of s. 316.193, F.S.;

³⁷ Rule 11.A.1.

³⁸ FCOR reports that in last year’s Clemency Board meetings there were a total of 363 cases set for hearing, with 205 of those cases being for restoration of civil rights applicants. *See* Electronic mail from Alec Yarger, Director of Legislative Affairs, FCOR, (January 18, 2018) (on file with the Senate Criminal Justice Committee).

³⁹ Electronic mail from Alec Yarger, Director of Legislative Affairs, FCOR, (January 17, 2018) (on file with the Senate Criminal Justice Committee).

⁴⁰ The Florida Times-Union, *Restoration of rights backlog highlights need for change, CRC committee says*, Tia Mitchell, (November 1, 2017), available at <http://jacksonville.com/news/florida/2017-11-01/restoration-rights-backlog-highlights-need-change-crc-committee-says> (last visited January 17, 2018).

- An offense enumerated in s. 775.084(1)(d), F.S.,⁴¹ excluding burglary as defined in s. 810.02(4), F.S.;⁴²
- Failure to register as a sexual predator in violation of s. 775.21, F.S., or as a sexual offender in violation of s. 943.0435, F.S.;
- Facilitating or furthering terrorism in violation of s. 775.31, F.S.;
- False imprisonment in violation of s. 787.02, F.S.;
- Abuse, aggravated abuse, and neglect of an elderly person or disabled adult in violation of s. 825.102, F.S.;
- An offense in violation of ch. 847, F.S.;
- Poisoning of food or water in violation of s. 859.01, F.S.;
- Abuse of a dead human body in violation of s. 872.06, F.S.;
- A first or second degree felony in violation of ch. 893, F.S.; or
- An offense which requires a person to register as a sexual offender in accordance with s. 943.0435, F.S.⁴³

Priority applications that are submitted prior to July 1, 2018, must be completely processed and investigated before a priority application submitted after such date, or a nonpriority application, regardless of the submission date. Specified deadlines for processing and completing the investigation of a priority application are provided for, including by:

- July 1, 2022, for a priority application that is submitted before July 1, 2018;

⁴¹ Section 775.084(1)(d), F.S., includes the following offenses: treason (s. 876.32, F.S.); murder (s. 782.04, F.S., or s. 782.065, F.S.); manslaughter (s. 782.07, F.S.); sexual battery (s. 794.011, F.S.); carjacking (s. 812.133, F.S.); home-invasion robbery (s. 812.135, F.S.); robbery (s. 812.13, F.S.); burglary (s. 810.02, F.S.); arson (s. 806.01, F.S., or s. 806.031, F.S.); kidnapping (s. 910.14, F.S.); aggravated assault (s. 784.021, F.S.); aggravated battery (s. 784.045, F.S.); aggravated stalking (s. 784.048, F.S.); aircraft piracy (s. 860.16, F.S.); unlawful throwing, placing, or discharging of a destructive device or bomb (s. 790.1615, F.S.); aggravated child abuse (s. 827.03(2)(a), F.S.); aggravated abuse of an elderly person or disabled adult (s. 825.102(2), F.S.); lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition (s. 800.04, F.S., or s. 847.0135(5), F.S.); escape (s. 944.40, F.S.); a felony violation of ch. 790, F.S., involving the use or possession of a firearm, or any other felony which involves the use or threat of physical force or violence against any individual.

⁴² Therefore, the unoccupied burglary of a structure or conveyance will be eligible to be designated as a priority application under the bill.

⁴³ Section 943.0435, F.S., includes the following offenses: sexual misconduct by a covered person (s. 393.135(2), F.S.); sexual misconduct by an employee (s. 394.4593(2), F.S.); kidnapping (s. 787.01, F.S.); false imprisonment (s. 787.02, F.S.), or luring or enticing a child (s. 787.025(2)(c), F.S.), where the victim is a minor; human trafficking (s. 787.06(3)(b), (d), (f), or (g), F.S., or former s. 787.06(3)(h), F.S.); sexual battery (s. 794.011, F.S., excluding s. 794.011(10), F.S.); unlawful sexual activity with certain minors (s. 794.05, F.S.); former procuring person under age of 18 for prostitution [s. 796.03, F.S. (2014)]; former selling or buying of minors into prostitution [s. 796.035, F.S. (2014)]; lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age (s. 800.04, F.S.); video voyeurism (s. 810.145(8), F.S.); lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled person (s. 825.1025, F.S.); sexual performance by a child (s. 827.071, F.S.); prohibition of certain acts in connection with obscenity (s. 847.0133, F.S.); computer pornography (s. 847.0135, F.S., excluding s. 847.0135(6), F.S.); transmission of pornography by electronic device or equipment prohibited (s. 847.0137, F.S.); transmission of material harmful to minors to a minor by electronic device or equipment prohibited (s. 847.0138, F.S.); selling or buying of minors (s. 847.0145, F.S.); prohibited activities/RICO (s. 895.03, F.S., if the court makes a written finding that the racketeering activity involved at least one sexual offense listed in s. 943.0435(1)(h)1.a.(I), F.S., or at least one offense listed in s. 943.0435(1)(h)1.a.(I), F.S., with sexual intent or motive); sexual misconduct prohibited (s. 916.1075(2), F.S.); or sexual misconduct prohibited (s. 985.701(1), F.S.); or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in s. 943.0435(1)(h)1.a.(I), F.S.

- July 1, 2023, for a priority application submitted on or after July 1, 2018, but before July 1, 2021;
- July 1, 2024, for a priority application submitted on or after July 1, 2021, but before July 1, 2023.

Beginning July 1, 2023, the bill requires the FCOR to complete the investigation for a priority application within one year after the submission of the application. The bill does not impose deadlines on the completion of investigations for applications that are not designated priority applications.

The bill also provides various guidelines for the processing of any application for the restoration of civil rights, regardless of whether such application is designated a priority application or not. The bill requires:

- An applicant to keep the FCOR updated with correct contact information, including mailing address and email address throughout the clemency process.
- The FCOR to provide written notification to the applicant annually regarding the status of the pending application, which must include the number of applications pending in front of the applicant's application.⁴⁴
- The FCOR to notify an applicant within 30 days of completing the prescreening review of any incomplete portions of the application or any facts that are determined in the prescreening review⁴⁵ to deem the applicant ineligible for restoration of civil rights. The applicant is provided 45 days to remedy any incomplete portions or discrepancies.
- The FCOR to provide a copy of the confidential case analysis⁴⁶ that is prepared for any restoration of civil rights case to the applicant immediately upon completion, which must be no less than 45 days prior to the FCOR submitting the analysis to the Clemency Board. An applicant is given 45 days to dispute and remedy any discrepancies in the confidential case analysis report before the FCOR submits the report to the Clemency Board.

The bill requires the FCOR to provide specified information on the status of the application if a member of the Senate or House of Representatives submits a written request on behalf of his or her constituent.⁴⁷ The information that must be submitted by the FCOR includes, but is not limited to:

- Whether the submission of the application at issue is deemed complete or incomplete;
- How many applications are pending before the application at issue;
- Whether the application at issue has been assigned to an investigator; and
- Whether the investigative process has been initiated.

The bill provides the FCOR rulemaking authority to implement the provisions of the act.

⁴⁴ The bill authorizes the annual status notification to be sent via email.

⁴⁵ The bill defines the term "prescreening review" to mean the initial review to determine eligibility which is conducted by the FCOR upon receipt of an application for restoration of civil rights.

⁴⁶ The bill defines "confidential case analysis report" to mean the final report prepared by the commission which details the findings of the restoration of civil rights investigation and the FCOR's recommendation.

⁴⁷ Section 14.28, F.S., provides that all records developed or received by any state entity pursuant to a Clemency Board investigation are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. However, such records may be released upon the approval of the Governor.

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.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill provides a method for an applicant who has a pending application with the FCOR for the restoration of his or her civil rights to have his or her investigation completed prior to a specified deadline. The bill allows specified offenses to be designated as a priority application that is subject to the specified timeline deadlines, even though such applications may require a more intensive investigation under the current Rules. However, the FCOR cannot provide data on how many of the approximately 10,000 backlog cases pending are a result of convictions from these specified offenses. To the extent that the bill results in an increased workload on the FCOR to complete such investigations, the bill will likely have an indeterminate negative fiscal impact on the FCOR.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 947.131 of the Florida Statutes.

IX. Additional Information:

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

CS by Criminal Justice on January 22, 2018:

The committee substitute:

- Modifies the list of offenses that prohibit an application from being designated as a priority application;
- Deletes the provision requiring the Florida Department of Law Enforcement to run the criminal history for the FCOR;
- Maintains the confidential and exempt status of records collected in a restoration of civil rights investigation; and
- Clarifies the information that must be released by the FCOR when requested by a member of the Legislature.

- B. **Amendments:**

None.



611208

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/22/2018	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 59 - 132
and insert:

(c) "Prescreening review" means the initial review to determine eligibility which is conducted by the commission upon receipt of an application for restoration of civil rights.

(d) "Priority application" means an application for the restoration of civil rights submitted by an applicant who has never been convicted of a violent felony offense.



611208

(e) "Violent felony offense" means the commission of, an attempt to commit, or a conspiracy to commit any of the following:

1. Leaving the scene of a crash involving death or serious bodily injury in violation of s. 316.027;

2. Driving under the influence resulting in death or serious bodily injury in violation of s. 316.193;

3. An offense enumerated in s. 775.084(1)(d), excluding burglary as defined in s. 810.02(4);

4. Failure to register as a sexual predator in violation of s. 775.21 or as a sexual offender in violation of s. 943.0435;

5. Facilitating or furthering terrorism in violation of s. 775.31.

6. False imprisonment in violation of s. 787.02;

7. Abuse, aggravated abuse, and neglect of an elderly person or disabled adult in violation of s. 825.102;

8. An offense in violation of chapter 847;

9. Poisoning of food or water in violation of s. 859.01;

10. Abuse of a dead human body in violation of s. 872.06;

11. A first or second degree felony in violation of chapter 893; or

12. An offense which requires a person to register as a sexual offender in accordance with s. 943.0435.

(2)(a) An application that has been submitted before July 1, 2018, which qualifies as a priority application pursuant to this section must be processed and the investigation completed before an application that:

1. Is submitted on or after July 1, 2018, which qualifies as a priority application; or



611208

40 2. Does not qualify as a priority application, regardless
41 of the submission date.

42 (b) An investigation for a priority application that is
43 submitted before July 1, 2018, must be completed by July 1,
44 2022.

45 (c) An investigation for a priority application that is
46 submitted on or after July 1, 2018, but before July 1, 2021,
47 must be completed by July 1, 2023.

48 (d) An investigation for a priority application that is
49 submitted on or after July 1, 2021, but before July 1, 2023,
50 must be completed by July 1, 2024.

51 (e) Beginning July 1, 2023, the commission shall complete
52 the investigation for a priority application within 1 year after
53 the submission of the application.

54 (3) (a) The applicant shall keep the commission informed of
55 his or her correct address, including his or her e-mail address,
56 throughout the clemency process.

57 (b) 1. The commission shall provide annual written
58 notification to the applicant on the status of the application
59 review process. Notification may be made by e-mail if such
60 address is provided by the applicant.

61 2. The written notification must include the number of
62 applications which are pending and which will be handled before
63 the applicant's application will begin being reviewed.

64 (c) The commission shall notify an applicant within 30 days
65 after completion of the prescreening review of any incomplete
66 portions of the application or any facts that are determined in
67 the prescreening review to deem the applicant ineligible for
68 restoration of civil rights. An applicant shall be given 45 days



611208

to remedy any incomplete portions or discrepancies of the application.

(4) The confidential case analysis report prepared by the commission shall be submitted to the applicant immediately upon completion, which must be no less than 45 days before the commission is scheduled to submit the report to the Board of Executive Clemency. An applicant shall be given 45 days to dispute and remedy any discrepancies in the confidential case analysis report before the commission submits the report to the Board of Executive Clemency.

(5) If a member of the Senate or the House of Representatives submits any written request to the commission regarding the status of an application on behalf of his or her constituent, the commission must provide such information, including, but not limited to, whether submission of the application at issue is deemed complete or incomplete, how many applications are pending before the application at issue, whether the application at issue has been assigned to an investigator, and whether the investigative process has been initiated.

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

And the title is amended as follows:

Delete lines 10 - 38

and insert:

requiring the applicant to keep the Florida Commission on Offender Review informed of his or her correct address, including his or her e-mail address, throughout the clemency process; requiring the



611208

commission to provide annual written notification to the applicant on the status of the application review process; providing requirements for such notification; requiring the commission to notify an applicant within a specified period of time of any incomplete portions of the application or any facts that are determined in the prescreening review to deem the applicant ineligible for restoration of civil rights; requiring an applicant to be given a specified period of time to remedy any incomplete portions or discrepancies of the application; requiring a confidential case analysis report prepared by the commission to be submitted to the applicant immediately upon completion, subject to certain requirements; requiring an applicant to be given a specified period of time to dispute and remedy any discrepancies in the confidential case analysis report; requiring the

By Senator Perry

8-01581-18

20181332__

1 A bill to be entitled
 2 An act relating to the restoration of civil rights;
 3 creating s. 947.131, F.S.; defining terms; requiring
 4 an application for the restoration of civil rights
 5 that has been submitted before a specified date which
 6 qualifies as a priority application to be processed
 7 and the investigation completed before certain other
 8 applications; specifying deadlines to complete
 9 investigations for certain priority applications;
 10 requiring the Department of Law Enforcement to conduct
 11 the portion of the investigation related to an
 12 applicant's criminal history background screening
 13 under certain circumstances; requiring the criminal
 14 history background screening to provide specified
 15 information; requiring the applicant to keep the
 16 Florida Commission on Offender Review informed of his
 17 or her correct address, including his or her e-mail
 18 address, throughout the clemency process; requiring
 19 the commission to provide annual written notification
 20 to the applicant on the status of the application
 21 review process; providing requirements for such
 22 notification; requiring the commission to notify an
 23 applicant within a specified period of time of any
 24 incomplete portions of the application or any facts
 25 that are determined in the prescreening review to deem
 26 the applicant ineligible for restoration of civil
 27 rights; requiring an applicant to be given a specified
 28 period of time to remedy any incomplete portions or
 29 discrepancies of the application; requiring a

Page 1 of 5

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

8-01581-18

20181332__

30 confidential case analysis report prepared by the
 31 commission to be submitted to the applicant
 32 immediately upon completion, subject to certain
 33 requirements; requiring an applicant to be given a
 34 specified period of time to dispute and remedy any
 35 discrepancies in the confidential case analysis
 36 report; providing that records maintained by the
 37 commission related to a submitted application and such
 38 application's status are public records; requiring the
 39 commission to provide information on the status of an
 40 application if a member of the Senate or the House of
 41 Representatives submits any written request to the
 42 commission for such information on behalf of the
 43 member's constituent; providing rulemaking authority;
 44 providing an effective date.

45
 46 Be It Enacted by the Legislature of the State of Florida:

47
 48 Section 1. Section 947.131, Florida Statutes, is created to
 49 read:

50 947.131 Restoration of civil rights; investigations
 51 conducted by the commission.—

52 (1) For purposes of this section, the term:

53 (a) "Applicant" means a person applying to the commission
 54 for the restoration of his or her civil rights.

55 (b) "Confidential case analysis report" means the final
 56 report prepared by the commission which details the findings of
 57 the restoration of civil rights investigation and the
 58 commission's recommendation.

Page 2 of 5

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

8-01581-18

20181332

(c) "Department" means the Department of Law Enforcement.

(d) "Prescreening review" means the initial review to determine eligibility which is conducted by the commission upon receipt of an application for restoration of civil rights.

(e) "Priority application" means an application for the restoration of civil rights submitted by an applicant who has never been convicted of a violent felony offense.

(f) "Violent felony offense" means any offense under s. 775.084(1)(d), excluding burglary as defined in s. 810.02(3)(b) or (4).

(2)(a) An application that has been submitted before July 1, 2018, which qualifies as a priority application pursuant to this section must be processed and the investigation completed before an application that:

1. Is submitted on or after July 1, 2018, which qualifies as a priority application; or

2. Does not qualify as a priority application, regardless of the submission date.

(b) An investigation for a priority application that is submitted before July 1, 2018, must be completed by July 1, 2022.

(c) An investigation for a priority application that is submitted on or after July 1, 2018, but before July 1, 2021, must be completed by July 1, 2023.

(d) An investigation for a priority application that is submitted on or after July 1, 2021, but before July 1, 2023, must be completed by July 1, 2024.

(e) Beginning July 1, 2023, the commission shall complete the investigation for a priority application within 1 year after

8-01581-18

20181332

the submission of the application.

(3) Contingent upon appropriations and agreement between the department and the commission, the department must conduct the portion of the investigation related to an applicant's criminal history background screening. A criminal history background screening conducted by the department must provide information on any felony conviction, the criminal history record before and after the felony conviction that led to the applicant's civil rights being removed, the traffic record, and any domestic violence injunction or other injunction filed against the applicant.

(4)(a) The applicant shall keep the commission informed of his or her correct address, including his or her e-mail address, throughout the clemency process.

(b)1. The commission shall provide annual written notification to the applicant on the status of the application review process. Notification may be made by e-mail if such address is provided by the applicant.

2. The written notification must include the number of applications which are pending and which will be handled before the applicant's application will begin being reviewed.

(c) The commission shall notify an applicant within 30 days after completion of the prescreening review of any incomplete portions of the application or any facts that are determined in the prescreening review to deem the applicant ineligible for restoration of civil rights. An applicant shall be given 45 days to remedy any incomplete portions or discrepancies of the application.

(5) The confidential case analysis report prepared by the

8-01581-18 20181332__

117 commission shall be submitted to the applicant immediately upon
118 completion, which must be no less than 45 days before the
119 commission is scheduled to submit the report to the Board of
120 Executive Clemency. An applicant shall be given 45 days to
121 dispute and remedy any discrepancies in the confidential case
122 analysis report before the commission submits the report to the
123 Board of Executive Clemency.

124 (6) Records maintained by the commission related to a
125 submitted application and such application's status are public
126 records in accordance with chapter 119 and are not confidential
127 and exempt unless otherwise deemed confidential and exempt by
128 law.

129 (7) If a member of the Senate or the House of
130 Representatives submits any written request to the commission
131 for the status of an application on behalf of his or her
132 constituent, the commission must provide such information.

133 (8) The commission may adopt rules pursuant to chapter 120
134 to implement this section.

135 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)

Jan 22 2015
Meeting Date

SB 1332
Bill Number (if applicable)

Topic Restoration of Civil Rights

Amendment Barcode (if applicable)

Name Annie Alexander Harvey

Job Title Retired College Administrator

Address 8791 NW 110th St
Street

Phone 352 207 4232

Reddick, FL
City State Zip

Email aalexanharv@hotmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing _____

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/22/18
Meeting Date

SB 1332
Bill Number (if applicable)

Topic Restraints

Amendment Barcode (if applicable)

Name Jancie Vinson

Job Title Supervisor

Address 530 SW 62nd Ave
Street

Phone 352 214-7502

Gainesville, FL
City State Zip

Email JVCampaign@yahoo.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing _____

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)

Meeting Date _____

SB1332
Bill Number (if applicable)

Topic Restoration of Voters Right

Amendment Barcode (if applicable) _____

Name Samira Collins

Job Title Counselor / Minister

Address 3421 Blue Jay Dr.
Street

Phone (850) 661-9621

Tallahassee Fl. 32305
City State Zip

Email _____

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Senator Perry / People.

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)

1/22/18
Meeting Date

SB 1332
Bill Number (if applicable)

Topic Restoration of ^{civil} Rights

Amendment Barcode (if applicable)

Name Amy Liem

Job Title Director of Policy & Advocacy

Address 603 N. MLK Jr. Blvd
Street
Tallahassee FL 32301
City State Zip

Phone 407-801-4339

Email amy@floridalegal.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Legal Services

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)

1/22/18
Meeting Date

1332
Bill Number (if applicable)

Topic RESTORATION OF CIVIL RIGHTS

Amendment Barcode (if applicable)

Name DAPHNEE SAINVIL

Job Title POLICY ADVISOR

Address 115 S. ANDREWS AVE

Phone 954-253-7320

Street

FT. LAUDERDALE

FL

33301

City

State

Zip

Email dsainvil@broward.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing BROWARD COUNTY GOV'T

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

1/22/18

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting) SB 1332

Meeting Date

Bill Number (if applicable)

Topic Restoration of Civil Rights

Amendment Barcode (if applicable)

Name Kara Gross

Job Title Legislative Counsel

Address PO Box 10788

Phone 850-347-6994

Street

Tallahassee

FL

32302

City

State

Zip

Email kgross@aclufl.org

Speaking: ☐ For ☐ Against ☒ Information

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

Representing American Civil Liberties Union of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)



The Florida Senate

Committee Agenda Request

✓

To: Senator Randolph Bracy, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: January 11, 2018

I respectfully request that **Senate Bill #1332**, relating to Civil Rights Restoration, be placed on the:

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

A handwritten signature in black ink that reads "W. Keith Perry". The signature is written in a cursive style with a long, sweeping underline.

Senator Keith Perry
Florida Senate, District 8

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 1392

INTRODUCER: Criminal Justice Committee and Senator Brandes

SUBJECT: Prearrest Diversion Programs

DATE: January 23, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Storch	Jones	CJ	Fav/CS
2.			ACJ	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1392 requires the establishment of a prearrest diversion program for adults and a civil citation or similar diversion program for juveniles in each judicial circuit.

The bill provides that each judicial circuit's prearrest and civil citation or similar diversion program must specify:

- The misdemeanor offenses that qualify an offender for participation in the program;
- The eligibility criteria for the program;
- The program's implementation and operation;
- The program's requirements, including, but not limited to:
 - The completion of community service hours;
 - Payment of restitution, if applicable; and
 - Intervention services indicated by a needs assessment of the offender; and
- A program fee, if any, to be paid by a participant of the program.

The bill requires the Florida Department of Law Enforcement (FDLE) to adopt rules to provide for the expunction of a nonjudicial record of the arrest of a juvenile who has successfully completed a diversion program for a misdemeanor offense.

The bill requires the civil citation or similar diversion programs to submit certain information to the FDLE and the Department of Juvenile Justice (DJJ) regarding a juvenile's participation in the program. The bill also requires each law enforcement agency to submit to the DJJ certain

information relating to each juvenile who is eligible for the diversion program but is instead referred to the DJJ, provided a notice to appear, or is arrested.

The bill requires the DJJ to compile such data relating to juvenile civil citation or similar diversion programs and publish it on the DJJ's website.

The bill has no impact on state revenues or expenditures. The creation of a prearrest diversion program could result in cost savings for local governments. See Section V. Fiscal Impact Statement.

The bill is effective October 1, 2018.

II. Present Situation:

The civil citation process is designed to provide an alternative to formal judicial handling for first time misdemeanor offenses.¹ The term "diversion" has been used broadly through the years to refer to programs that permit an individual to avoid incarceration, but still result in a criminal conviction. In recent years, the term diversion has also begun to refer to programs that address an individual's behavior but do not result in a conviction. An example of diversion is prearrest diversion.² One form of prearrest diversion is a civil citation program where a law enforcement officer has discretion to issue a civil citation to an individual who commits an eligible misdemeanor offense, meets other eligibility requirements, and agrees to participate in a diversion program. If the individual successfully completes the program, he or she does not have an arrest record.³

Adult prearrest diversion programs and juvenile civil citation programs are handled differently in Florida. Juvenile civil citation programs are encouraged by Florida law⁴ and are in operation throughout the state. Florida law does not specifically address adult civil citation programs or other prearrest diversion programs for adults. However, sheriffs and counties across the state have implemented their own prearrest diversion programs for adults.

Adult Prearrest Diversion Programs

Leon County has established an adult civil citation program for first-time misdemeanants. Citations are issued by law enforcement based on the officer's discretion, the qualifying offense, and the individual's eligibility. The chief judge, state attorney, and public defender for the

¹ Civil Citation Network, *About Civil Citation*, available at <http://civilcitationnetwork.com/home.html#about> (last visited January 17, 2018).

² Center for Health and Justice at TASC, No Entry: A National Survey of Criminal Justice Diversion Programs and Initiatives, (December 2013), pg. 6 and 8, available at http://www2.centerforhealthandjustice.org/sites/www2.centerforhealthandjustice.org/files/publications/CHJ%20Diverison%20Report_web.pdf (last visited January 18, 2018).

³ Civil Citation Network, *Adult Civil Citation Program*, pg. 2, available at <http://www.discvillage.com/DOCS/AdultCivilCitationBrochure.pdf> (last visited January 17, 2018).

⁴ Section 985.12, F.S.

Second Judicial Circuit cooperate in the program, along with the Leon County Commission and Sheriff's Office, and the City of Tallahassee Commission and Police Department.⁵

Pinellas County Sheriff's Office has also established a prearrest diversion program for adults. The Adult Pre-Arrest Diversion Program (APAD) is designed to help adults who commit low-level crimes avoid a criminal record. Rather than going to jail, the adults are required to complete community service, along with counseling or drug treatment.⁶ The program was created as a way to prevent adults from getting a criminal record, while simultaneously lessening the burden on the Pinellas County court system. Since the APAD's launch in October 2016, there have been 1,851 adults who have participated in the program, resulting in the completion of nearly 25,000 community service hours and more than \$17,000 paid in restitution.⁷

Juvenile Civil Citation

Section 985.12, F.S., encourages local entities to establish juvenile civil citation programs that provide law enforcement an alternative to arresting juveniles for nonserious delinquent acts. The DJJ is required to assist in the implementation of civil citation or other similar diversion programs. The DJJ must also develop guidelines for these programs that include intervention services based upon proven civil citation or similar diversion programs within the state.⁸

The civil citation process is designed to divert juveniles prior to arrest and prevent the juvenile's further involvement in the juvenile justice system.⁹ A civil citation or similar diversion program has been implemented in 61 counties in Florida, with Taylor County in the process of implementation.¹⁰ The following counties have not established a civil citation program: Bradford, Calhoun, Gulf, Hardee, and Washington.¹¹

If established at the local level, the program must be created with the concurrence of the chief judge of the circuit, state attorney, public defender, and the head of each local law enforcement agency. The program may be operated by a law enforcement agency, the DJJ, a juvenile assessment center, the county or municipality, or another entity selected by the county or municipality.¹²

⁵ Civil Citation Network, *Adult Civil Citation Program*, pg. 2, available at <http://www.discvillage.com/DOCS/AdultCivilCitationBrochure.pdf> (last visited January 17, 2018).

⁶ Laura C. Morel, *Pinellas sheriff leads effort for second chance program for low-level offenders*, TAMPA BAY TIMES, August 5, 2016, available at <http://www.tampabay.com/news/publicsafety/pinellas-sheriff-leads-effort-for-second-chance-program-for-low-level/2288358> (last visited January 18, 2018).

⁷ Laura C. Morel, *Pinellas sheriff calls pre-arrest diversion program a success amid challenges by St. Petersburg lawyer*, TBO, January 12, 2018, available at http://tbo.com/news/courts/criminal/Pinellas-Sheriff-calls-pre-arrest-diversion-program-a-success-amid-challenges-by-St-Petersburg-lawyer_164377717 (last visited January 18, 2018).

⁸ Section 985.12(1) and (2), F.S.

⁹ Florida Department of Juvenile Justice 2014-15, *Civil Citation*, [http://www.djj.state.fl.us/docs/car-reports/\(2014-15-car\)-civil-citation-\(12-21-2015\)-mg-final.pdf?sfvrsn=2](http://www.djj.state.fl.us/docs/car-reports/(2014-15-car)-civil-citation-(12-21-2015)-mg-final.pdf?sfvrsn=2) (last visited January 18, 2018).

¹⁰ Florida Department of Juvenile Justice, *Civil Citation Implementation by County as of July 21, 2017*, <http://www.djj.state.fl.us/docs/probation-policy-memos/counties-with-cc-as-of-may-09-2016.pdf?Status=Master&sfvrsn=25> (last visited January 18, 2018).

¹¹ *Id.*

¹² Section 985.12(1), F.S.

Currently, a law enforcement officer who makes contact with a juvenile who admits to having committed a misdemeanor¹³ has the discretion to:

- Issue a warning or inform the juvenile's parent or guardian of the child's infraction;
- Issue a civil citation or require participation in a similar diversion program; or
- Arrest the juvenile.¹⁴

A copy of each civil citation issued is provided to the DJJ, the county sheriff, state attorney, the appropriate intake office of the DJJ, or the community service performance monitor designated by the DJJ, the parent or guardian of the child, and the victim.¹⁵

From December 2016 to November 2017, there were 18,101 juveniles eligible to receive a civil citation. Of those eligible, 10,335 juveniles were issued a civil citation and the remaining 7,766 were arrested.¹⁶

A law enforcement officer can issue a civil citation to any juvenile who admits to committing a first-time, second-time, or third-time misdemeanor.¹⁷ The officer must advise the juvenile of the option to refuse the civil citation and instead be referred to the DJJ. The juvenile may exercise that option at any time prior to completion of the program.¹⁸ An officer who issues a civil citation or requires participation in a similar diversion program may also assess up to 50 hours of community service and require participation in intervention services.¹⁹

The juvenile must report to the community service performance monitor within seven business days after being issued the civil citation and complete at least five hours of work per week. The monitor must inform the DJJ intake office when the juvenile has reported to them and the expected date that the work assignment will be completed.²⁰

The issuance of a civil citation is not considered a referral to the DJJ. However, the law enforcement officer must issue a report alleging the juvenile has committed a delinquent act, resulting in the juvenile probation officer processing the act as a referral to the DJJ, if:

- The child fails to report on time for a work assignment or fails to complete a work assignment;
- The child fails to comply with assigned intervention services within the prescribed time; or
- The child commits a subsequent misdemeanor.²¹

¹³ Misdemeanors involving sex or firearm offenses are currently ineligible for civil citations. Florida Department of Juvenile Justice, *Civil Citation Model Plan: A Guide to Implementation*, <http://www.djj.state.fl.us/docs/probation-policy-memos/civil-citation-model-plan.pdf?Status=Master&sfvrsn=4> (last visited January, 2018).

¹⁴ An officer who elects to arrest the juvenile must provide written documentation explaining why the arrest was warranted. Section 985.12(1), F.S.

¹⁵ Section 985.12(1), F.S.

¹⁶ Florida Department of Juvenile Justice, *Civil Citation & Other Similar Diversion Program Dashboard*, <http://www.djj.state.fl.us/research/reports/reports-and-data/interactive-data-reports/civil-citation-dashboard/cc-dashboard> (last visited January 18, 2018).

¹⁷ Section 985.12(1), F.S.

¹⁸ Section 985.12(6), F.S.

¹⁹ Section 985.12(1), F.S.

²⁰ Section 985.12(4), F.S.

²¹ Section 985.12(5), F.S.

Expunction of Juvenile Criminal History Record

Expunction is the 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.²² Section 943.0582(1), F.S., authorizes the FDLE to adopt rules to provide for the expunction of a nonjudicial arrest record of a juvenile who has successfully completed a prearrest or postarrest diversion program.²³

The FDLE must expunge the nonjudicial arrest record of a juvenile who has successfully completed a prearrest or postarrest diversion program if that juvenile:

- Submits an application for prearrest or postarrest diversion expunction, on a form prescribed by the FDLE, signed by the juvenile's parent or legal guardian, or by the juvenile if he or she has reached the age of majority at the time of applying;
- Submits to the FDLE, with the application, an official written statement from the state attorney for the county in which the arrest occurred certifying that:
 - He or she has successfully completed that county's prearrest or postarrest diversion program;
 - His or her participation in the program was based on an arrest for a nonviolent misdemeanor; and
 - He or she has not otherwise been charged by the state attorney with, or found to have committed, any criminal offense or comparable ordinance violation.
- Participated in a prearrest or postarrest diversion program that expressly authorizes or permits such expunction;
- Participated in a prearrest or postarrest diversion program based on an arrest for a nonviolent misdemeanor that would not qualify as an act of domestic violence;²⁴ and
- Has never been, before filing the application for expunction, charged by the state attorney with, or found to have committed, any criminal offense or comparable ordinance violation.²⁵

The FDLE is authorized to charge a \$75 processing fee for each request received for prearrest or postarrest diversion program expunction, unless the fee is waived by the executive director.²⁶

A person who has his or her nonjudicial arrest record expunged by the FDLE may lawfully deny or fail to acknowledge the arrest and the charge covered by the expunged record.²⁷ However, the expunged nonjudicial arrest record will be made available to criminal justice agencies for the following purposes:

- Determining eligibility for prearrest, postarrest, or teen court diversion programs;
- When the record is sought as part of a criminal investigation; or

²² Section 943.045(16), F.S.

²³ Section 943.0582(1), F.S.

²⁴ Section 741.287, F.S., defines domestic violence to mean any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member.

²⁵ Section 943.0582(3)(a)-(e), F.S.

²⁶ Section 943.0582(4), F.S.

²⁷ *Id.*

- When the subject of the record is a candidate for employment with a criminal justice agency.²⁸

The nonjudicial arrest record eligible for expunction by the FDLE is not expunged by the local criminal justice agencies in the county in which the arrest occurred.²⁹ Section 943.0582(2)(a)2., F.S., requires that the records maintained by these local criminal justice agencies be sealed.³⁰

Expunction or sealing granted pursuant to s. 943.0582, F.S., does not prevent a juvenile from petitioning for the expunction or sealing of a later criminal history record as provided for in other provisions of Florida law, if the juvenile is otherwise eligible.³¹

III. Effect of Proposed Changes:

Prearrest Diversion Programs (Adults and Juveniles)

The Legislature finds that the creation and implementation of a prearrest diversion program for adults and a civil citation or similar diversion program for juveniles (collectively referred to as prearrest diversion programs) at the judicial circuit level promotes public safety, aids interagency cooperation, and provides the greatest chance of success for prearrest diversion programs. Further, the Legislature finds that the widespread use of prearrest diversion programs has a positive effect on the criminal justice system and contributes to an overall reduction in the crime rate and recidivism in the state. The Legislature encourages counties, municipalities, and public or private educational institutions to participate in the prearrest diversion programs created by their judicial circuits.

The bill requires the establishment of two prearrest diversion programs in each judicial circuit in the state, one for adults and one for juveniles. The bill requires the programs to be created with the collaboration of the public defender, the state attorney, the clerk of the court for each county in the circuit, and representatives of participating law enforcement agencies in the circuit. The bill requires the DJJ to develop and provide guidelines for best practice models for civil citation or similar diversion programs to the judicial circuits to use as a resource in developing and refining the circuit-wide programs.

The bill provides that each judicial circuit's prearrest diversion program must specify:

- The misdemeanor offenses that qualify an adult or juvenile for participation in the program;
- The eligibility criteria for the program;
- The program's implementation and operation;
- The program's requirements, including, but not limited to:
 - The completion of community service hours;
 - Payment of restitution, if applicable; and
 - Intervention services indicated by a needs assessment of the adult or juvenile; and

²⁸ Section 943.0582(2)(a)1., F.S.

²⁹ Section 943.0582(2)(a)2., F.S.

³⁰ Sealing of a record means 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 of the information contained and preserved therein. *See* s. 943.054(19), F.S.

³¹ Section 943.0582(5), F.S. *See* ss. 943.0583, 943.0585, and 943.059, F.S.

- A program fee, if any, to be paid by an adult or juvenile participating in the program.³²

The bill requires the state attorney of each circuit to operate both prearrest diversion programs. A sheriff, police department, county, municipality, or public or private educational institution may continue to operate an independent prearrest diversion program if it is in operation as of October 1, 2018, and is determined by the state attorney of that circuit to be substantially similar to the prearrest diversion program developed by the circuit. If the independent program is not substantially similar to the program developed by the circuit, the operator of the independent program may revise the program and the state attorney may conduct an additional review of the independent program.

The bill provides that a judicial circuit may look to model the circuit's programs after an existing sheriff, police department, county, municipality or public or private educational institution's prearrest diversion program.

The bill provides that if an adult or juvenile does not successfully complete the prearrest diversion program, the arresting law enforcement officer must determine if there is good cause to arrest the adult or juvenile for the original misdemeanor offense and refer the case to the state attorney to determine if prosecution is appropriate or rather, allow the adult or juvenile to continue in the prearrest diversion program.

The bill handles an adult participant's personal identifying information differently than that of a juvenile participant. Upon intake of an adult participating in the program, the state attorney or the person operating the independent program must electronically provide the adult's personal identifying information to the clerk of the court for the county in which the adult is participating in the program. This personal identifying information is not considered a court record and the confidentiality of the information must be maintained. The bill requires the clerk of the court to maintain this information in the Comprehensive Case Information System, which provides a single point of access for all such statewide information.

Whereas, when a juvenile participates in a prearrest diversion program, the DJJ receives a copy of the civil citation or similar diversion program notice and enters the appropriate information into the juvenile offender information system. The notice of a juvenile's civil citation or similar diversion program is also sent to the juvenile's parent or guardian and the victim. At the conclusion of a juvenile's participation in a civil citation or similar diversion program, the state attorney operating the program must report the outcome to the DJJ.

Expunction of Juvenile Criminal History Record

The bill amends s. 943.0582, F.S., to require the FDLE to adopt rules to provide for the expunction of a nonjudicial record of the arrest of a juvenile who has successfully completed a diversion program for a misdemeanor offense. The bill specifies that an expunction under this section is limited to misdemeanor offenses.

³² If the program imposes a fee, the clerk of the court of the applicable county must receive a reasonable portion of the fee.

The bill defines “diversion program” as a program under s. 985.12, F.S. (civil citation), s. 985.125, F.S. (prearrest or postarrest diversion programs), s. 985.155, F.S. (neighborhood restorative justice), or s. 985.16, F.S. (community arbitration), or a program to which a referral is made by a state attorney under s. 985.15(1)(g), F.S.

The bill requires the FDLE to expunge the nonjudicial arrest record of a juvenile if the juvenile has never previously received an expunction under s. 943.0582, F.S. The bill also requires the diversion program to submit a certification for expunction to the FDLE as a prerequisite to expunging the juvenile’s nonjudicial arrest record under this section.

The bill removes the requirements for the juvenile to submit an application and official written statement from the state attorney to the FDLE prior to obtaining an expunction of his or her nonjudicial arrest record. The bill also removes the authorization for the FDLE to charge a \$75 processing fee for seeking an expunction under this section.

The bill maintains that “expunction” has the same meaning and effect as in s. 943.0585, F.S., providing that a person who has his or her nonjudicial arrest record expunged may lawfully deny or fail to acknowledge the arrest and the charge covered by the expunged record. However, the bill limits the purposes in which an expunged nonjudicial arrest record will be made available to criminal justice agencies to the following:

- Determining eligibility for diversion programs;
- A criminal investigation; or
- Making a prosecutorial decision under s. 985.15, F.S.

Thus, the bill provides that the nonjudicial arrest record of a person whose record is expunged under this section will no longer be made available when the subject of the record is a candidate for employment with a criminal justice agency.

Diversion Program Data Collection

The bill provides that the term “diversion program” has the same meaning as provided in s. 943.0582, F.S.³³

The bill requires each diversion program to submit the following:

- A certification for expunction to the FDLE of the juvenile’s nonjudicial arrest record under s. 943.0582, F.S., if the juvenile:
 - Successfully completes the diversion program for a first-time misdemeanor offense; and
 - Has not otherwise been charged by the state attorney with, or been found to have committed, a criminal offense or comparable ordinance violation.
- Data to the DJJ in a form prescribed by the DJJ which identifies the following for each juvenile who participates in the diversion program:
 - The race, ethnicity, gender, and age of the juvenile;
 - The offense committed, with citation to the specific law establishing the offense; and

³³ The bill defines “diversion program” as a program under s. 985.12, F.S. (civil citation), s. 985.125, F.S. (prearrest or postarrest diversion programs), s. 985.155, F.S. (neighborhood restorative justice), or s. 985.16, F.S. (community arbitration), or a program to which a referral is made by a state attorney under s. 985.15(1)(g), F.S.

- The judicial circuit and county in which the offense was committed and the law enforcement agency that had contact with the juvenile for the offense.³⁴

Additionally, each law enforcement agency must submit the following data to the DJJ for each juvenile who is eligible for the diversion program, but who is instead referred to the DJJ, provided a notice to appear, or arrested:

- Whether the juvenile was offered the opportunity to participate in the diversion program. If the juvenile was:
 - Not offered such opportunity, the reason such offer was not made.
 - Offered such opportunity, whether juvenile or his or her parent or legal guardian declined to participate in the diversion program.

The DJJ must compile the data listed above and publish it on the DJJ's website in a format that is, at a minimum, sortable by:

- Judicial circuit;
- County;
- Law enforcement agency;
- Race or ethnicity;
- Gender;
- Age; and
- Offense committed.

The bill is effective October 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

³⁴ Each law enforcement agency is also required to collect and submit this data to the DJJ for each juvenile who was eligible for a diversion program, but was instead referred to the DJJ, provided a notice to appear, or arrested.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Adults and juveniles who wish to participate in a prearrest diversion program may have to pay a fee, depending on the guidelines established by each individual judicial circuit. The bill provides that if there is a fee imposed, a reasonable portion of the fee must be given to the clerk of the court of the applicable county.

The participant may also have to pay restitution as part of the prearrest diversion program, depending on what is indicated by the assessment of the adult or juvenile.

Creation of a prearrest diversion program for adults could result in cost savings (reduced booking/arrest-processing costs), depending on the number of eligible offenses, other eligibility criteria chosen, the pool of eligible adults, the number of participating law enforcement agencies, the use of the prearrest diversion program, and any impact the program may have in reducing arrests.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 943.0582, 985.12, and 985.125.

This bill creates the following sections of the Florida Statutes: 901.40 and 985.126.

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 January 22, 2018:

The Committee Substitute:

- Requires the DJJ to develop and provide guidelines for best practice models for civil citation or similar diversion programs to the judicial circuits as a resource;
- Clarifies that the state attorney will be required to operate the prearrest diversion programs for the circuit;
- Clarifies that an independent prearrest diversion program may continue to operate in addition to the circuit-wide program;

- Specifies that the clerk of the court will store an adult's personal identifying information in the Comprehensive Case Information System; and
- Requires each law enforcement agency to submit certain information to the DJJ relating to a juvenile who is eligible to participate in a civil citation or similar diversion program, but was instead referred to the DJJ, provided a notice to appear, or arrested.

B. Amendments:

None.



445982

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/22/2018	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 127 - 163
and insert:

(c) The state attorney of each circuit shall operate a prearrest diversion program in each circuit. A sheriff, police department, county, municipality, or public or private educational institution may continue to operate an independent prearrest diversion program that is in operation as of October 1, 2018, if the independent program is reviewed by the state



445982

11 attorney of the applicable circuit and he or she determines that
12 the independent program is substantially similar to the
13 prearrest diversion program developed by the circuit. If the
14 state attorney determines that the independent program is not
15 substantially similar to the prearrest diversion program
16 developed by the circuit, the operator of the independent
17 diversion program may revise the program and the state attorney
18 may conduct an additional review of the independent program.

19 (d) A judicial circuit may model an existing sheriff,
20 police department, county, municipality, or public or private
21 educational institution's independent prearrest diversion
22 program in developing the prearrest diversion program for the
23 circuit.

24 (e) If an adult does not successfully complete the
25 prearrest diversion program, the arresting law enforcement
26 officer shall determine if there is good cause to arrest the
27 adult for the original misdemeanor offense and refer the case to
28 the state attorney to determine if prosecution is appropriate or
29 allow the adult to continue in the program.

30 (f) Upon intake of an adult participating in the prearrest
31 diversion program, the state attorney or the person operating
32 the independent prearrest diversion program shall electronically
33 provide the adult's personal identifying information to the
34 clerk of the court for the county in which the adult is
35 participating in the prearrest diversion program. Such
36 information is not a court record, and the clerk of the court
37 shall maintain the confidentiality of the adult's personal
38 identifying information as provided in subsection (3). The clerk
39 of the court shall maintain such information as a separate



445982

40 component of the Comprehensive Case Information System created
41 and operated pursuant to s. 28.24, which must provide a single
42 point of access for all



699198

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/22/2018	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 276 - 351
and insert:
program and develop its policies and procedures. In developing
the program's policies and procedures, input from other
interested stakeholders may be solicited. The department shall
annually develop and provide guidelines on best practice models
for civil citation or similar diversion programs to the judicial
circuits as a resource.



699198

11 (b) Each judicial circuit's civil citation or similar
12 diversion program must specify:

13 1. The misdemeanor offenses that qualify a juvenile for
14 participation in the program;

15 2. The eligibility criteria for the program;

16 3. The program's implementation and operation;

17 4. The program's requirements, including, but not limited
18 to, the completion of community service hours, payment of
19 restitution, if applicable, and intervention services indicated
20 by a needs assessment of the juvenile, approved by the
21 department, such as family counseling, urinalysis monitoring,
22 and substance abuse and mental health treatment services; and
23 5. A program fee, if any, to be paid by a juvenile
24 participating in the program. If the program imposes a fee, the
25 clerk of the court of the applicable county must receive a
26 reasonable portion of the fee.

27 (c) The state attorney of each circuit shall operate a
28 civil citation or similar diversion program in each circuit. A
29 sheriff, police department, county, municipality, or public or
30 private educational institution may continue to operate an
31 independent civil citation or similar diversion program that is
32 in operation as of October 1, 2018, if the independent program
33 is reviewed by the state attorney of the applicable circuit and
34 he or she determines that the independent program is
35 substantially similar to the civil citation or similar diversion
36 program developed by the circuit. If the state attorney
37 determines that the independent program is not substantially
38 similar to the civil citation or similar diversion program
39 developed by the circuit, the operator of the independent



699198

diversion program may revise the program and the state attorney may conduct an additional review of the independent program.

(d) A judicial circuit may model an existing sheriff, police department, county, municipality, or public or private educational institution's independent civil citation or similar diversion program in developing the civil citation or similar diversion program for the circuit.

(e) If a juvenile does not successfully complete the civil citation or similar diversion program, the arresting law enforcement officer shall determine if there is good cause to arrest the juvenile for the original misdemeanor offense and refer the case to the state attorney to determine if prosecution is appropriate or allow the juvenile to continue in the program and the head of each local law enforcement agency involved. The program may be operated by an entity such as a law enforcement agency, the department, a juvenile assessment center, the county or municipality, or another entity selected by the county or municipality. An entity operating the civil citation or similar diversion program must do so in consultation and agreement with the state attorney and local law enforcement agencies. Under such a juvenile civil citation or similar diversion program, a law enforcement officer, upon making contact with a juvenile who admits having committed a misdemeanor, may choose to issue a simple warning or inform the child's guardian or parent of the child's infraction, or may issue a civil citation or require participation in a similar diversion program, and assess up to 50 community service hours, and require participation in intervention services as indicated by an assessment of the needs of the juvenile, including family counseling, urinalysis



699198

~~monitoring, and substance abuse and mental health treatment services.~~

(f) A copy of each civil citation or similar diversion program notice issued under this section shall be provided to the department, and the department shall enter appropriate information into the juvenile offender information system. ~~Use of the civil citation or similar diversion program is not limited to first-time misdemeanors and may be used in up to two subsequent misdemeanors. If an arrest is made, a law enforcement officer must provide written documentation as to why an arrest was warranted.~~

(g) At the conclusion of a juvenile's civil citation ~~program~~ or similar diversion program, the state attorney or operator of the independent program ~~agency operating the program~~ shall report the outcome to the

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

And the title is amended as follows:

Delete line 52

and insert:

procedures; requiring the Department of Juvenile Justice to annually develop and provide guidelines on civil citation or similar diversion programs to the judicial circuits; providing requirements for the civil



148362

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/22/2018	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 421 - 433
and insert:

(3) Each law enforcement agency shall submit to the department data that identifies for each juvenile who was eligible for a diversion program, but was instead referred to the department, provided a notice to appear, or arrested:

(a) The data required under paragraph (2) (b).

(b) Whether the juvenile was offered the opportunity to



148362

participate in the diversion program. If the juvenile was:

1. Not offered such opportunity, the reason such offer was not made.

2. Offered such opportunity, whether the juvenile or his or her parent or legal guardian declined to participate in the diversion program.

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

And the title is amended as follows:

Delete line 76

and insert:

relating to diversion programs; requiring a law enforcement agency to submit to the Department of Juvenile Justice specified data about juveniles eligible to participate in diversion programs; requiring the



413792

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
01/22/2018	.	
	.	
	.	
	.	

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

Senate Amendment

Delete line 115

and insert:

2. The eligibility criteria for the program, including, but not limited to, a requirement that the prearrest diversion program only be offered to an adult for his or her first misdemeanor offense;

By Senator Brandes

24-00499C-18

20181392__

1 A bill to be entitled
 2 An act relating to prearrest diversion programs;
 3 creating s. 901.40, F.S.; providing legislative
 4 findings and intent; encouraging counties,
 5 municipalities, and public or private educational
 6 institutions to implement prearrest diversion
 7 programs; requiring that in each judicial circuit the
 8 public defender, the state attorney, the clerks of the
 9 court, and representatives of participating law
 10 enforcement agencies create a prearrest diversion
 11 program and develop its policies and procedures;
 12 authorizing such entities to solicit stakeholders for
 13 input in developing the program's policies and
 14 procedures; providing requirements for the prearrest
 15 diversion program; requiring the state attorney of
 16 each circuit to operate the prearrest diversion
 17 program; providing an exception; providing
 18 construction; requiring the arresting law enforcement
 19 officer to make a determination if an adult does not
 20 successfully complete the prearrest diversion program;
 21 requiring the state attorney or the person operating
 22 an independent prearrest diversion program to
 23 electronically provide certain information to the
 24 clerk of the court; requiring the clerk of the court
 25 to maintain the confidentiality of such information;
 26 requiring the clerk of the court to maintain that
 27 information in a statewide database; amending s.
 28 943.0582, F.S.; requiring, rather than authorizing,
 29 the Department of Law Enforcement to adopt rules for

Page 1 of 16

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

24-00499C-18

20181392__

30 the expunction of certain nonjudicial records of the
 31 arrest of a minor upon his or her successful
 32 completion of a certain diversion program; authorizing
 33 such expunctions for certain first-time misdemeanor
 34 offenses; defining and revising terms; revising the
 35 circumstances under which the department must expunge
 36 certain nonjudicial arrest records; deleting the
 37 department's authority to charge a processing fee for
 38 the expunction; amending s. 985.12, F.S.; providing
 39 legislative findings and intent; deleting provisions
 40 establishing a juvenile civil citation process with a
 41 certain purpose; establishing a civil citation or
 42 similar diversion program in each judicial circuit,
 43 rather than at the local level with the concurrence of
 44 specified persons; requiring that the state attorney
 45 and public defender of each circuit, the clerk of the
 46 court for each county in the circuit, and
 47 representatives of participating law enforcement
 48 agencies create a civil citation or similar diversion
 49 program and develop its policies and procedures;
 50 authorizing such entities to solicit stakeholders for
 51 input in developing the program's policies and
 52 procedures; providing requirements for the civil
 53 citation or similar diversion program; requiring the
 54 state attorney of each judicial circuit to operate the
 55 civil citation or similar diversion program; providing
 56 an exception; providing construction; requiring the
 57 arresting law enforcement officer to make a
 58 determination if a juvenile does not successfully

Page 2 of 16

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

24-00499C-18

20181392__

complete the civil citation or similar diversion program; deleting provisions relating to the operation of and requirements for a civil citation or similar diversion program; requiring that a copy of each civil citation or similar diversion program notice be provided to the Department of Juvenile Justice; conforming provisions to changes made by the act; deleting provisions relating to requirements for a civil citation or similar diversion program; amending s. 985.125, F.S.; conforming a provision to changes made by the act; creating s. 985.126, F.S.; defining the term "diversion program"; requiring a diversion program to submit to the Department of Law Enforcement a certification for expunction of the nonjudicial arrest record of a juvenile under specified circumstances; requiring a diversion program to submit to the Department of Juvenile Justice specified data relating to diversion programs; requiring the Department of Juvenile Justice to compile and publish the data in a specified manner; authorizing a juvenile under certain circumstances to deny or fail to acknowledge his or her participation in a diversion program or the expunction of a certain nonjudicial arrest record unless an exception applies; providing an effective date.

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

Section 1. Section 901.40, Florida Statutes, is created to

Page 3 of 16

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

24-00499C-18

20181392__

read:

901.40 Prearrest diversion programs.—

(1) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds that the creation and implementation of prearrest diversion programs at the judicial circuit level promotes public safety, aids interagency cooperation, and provides the greatest chance of success for prearrest diversion programs. The Legislature further finds that the widespread use of prearrest diversion programs has a positive effect on the criminal justice system and contributes to an overall reduction in the crime rate and recidivism in the state. The Legislature encourages but does not mandate that counties, municipalities, and public or private educational institutions participate in a prearrest diversion program created by their judicial circuit under this section.

(2) JUDICIAL CIRCUIT PREARREST DIVERSION PROGRAM DEVELOPMENT, IMPLEMENTATION, OPERATION.—

(a) In each judicial circuit in the state, the public defender, the state attorney, the clerk of the court for each county in the circuit, and representatives of participating law enforcement agencies in the circuit shall create a prearrest diversion program and develop its policies and procedures. In developing the program's policies and procedures, input from other interested stakeholders may be solicited.

(b) Each judicial circuit's prearrest diversion program must specify:

1. The misdemeanor offenses that qualify an adult for participation in the program;

2. The eligibility criteria for the program;

3. The program's implementation and operation;

Page 4 of 16

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

24-00499C-18

20181392__

4. The program's requirements, including, but not limited to, the completion of community service hours, payment of restitution, if applicable, and intervention services indicated by a needs assessment of the adult, such as urinalysis monitoring and substance abuse and mental health treatment services; and

5. A program fee, if any, to be paid by an adult participating in the program. If the program imposes a fee, the clerk of the court of the applicable county must receive a reasonable portion of the fee.

(c) The state attorney of each circuit shall operate a prearrest diversion program in each circuit, except that a sheriff, police department, county, municipality, or public or private educational institution that has an independent prearrest diversion program in operation as of October 1, 2018, may continue to operate it if the independent program is reviewed by the state attorney of the applicable circuit and he or she determines that the independent program is substantially similar to the prearrest diversion program developed by the circuit. If the state attorney determines that the independent program is not substantially similar to the prearrest diversion program developed by the circuit, the operator of the independent diversion program may revise the program and the state attorney may conduct an additional review of the independent program.

(d) This section does not prevent a judicial circuit from adopting an existing sheriff, police department, county, municipality, or public or private educational institution's independent prearrest diversion program as the prearrest

24-00499C-18

20181392__

diversion program for the circuit.

(e) If an adult does not successfully complete the prearrest diversion program, the arresting law enforcement officer shall determine if there is good cause to arrest the adult for the original misdemeanor offense and refer the case to the state attorney to determine if prosecution is appropriate or allow the adult to continue in the program.

(f) Upon intake of an adult participating in the prearrest diversion program, the state attorney or the person operating the independent prearrest diversion program shall electronically provide the adult's personal identifying information to the clerk of the court for the county in which the adult is participating in the prearrest diversion program. Such information is not a court record, and the clerk of the court shall maintain the confidentiality of the adult's personal identifying information as provided in subsection (3). The clerk of the court shall maintain such information in a statewide database, which must provide a single point of access for all such statewide information.

Section 2. Section 943.0582, Florida Statutes, is amended to read:

943.0582 Prearrest, postarrest, or teen court diversion program expunction.—

(1) Notwithstanding any law dealing generally with the preservation and destruction of public records, the department shall adopt rules to ~~may~~ provide, ~~by rule adopted pursuant to chapter 120,~~ for the expunction of a ~~any~~ nonjudicial record of the arrest of a minor who has successfully completed a ~~prearrest or postarrest~~ diversion program for a misdemeanor offense ~~minors~~

24-00499C-18

20181392__

175 ~~as authorized by s. 985.125.~~

176 (2) ~~(a)~~ As used in this section, the term:

177 (a) "Diversion program" means a program under s. 985.12, s.
 178 985.125, s. 985.155, or s. 985.16 or a program to which a
 179 referral is made by a state attorney under s. 985.15(1)(g).

180 (b) "Expunction" has the same meaning ascribed in and has
 181 the same effect as in s. 943.0585, except that:

182 1. ~~Section The provisions of s. 943.0585(4)(a) does de~~ not
 183 apply, except that the criminal history record of a person whose
 184 record is expunged pursuant to this section shall be made

185 available only to criminal justice agencies for the purpose of:

186 a. Determining eligibility for prearrest, postarrest, or
 187 ~~teen court~~ diversion programs;

188 b. when the record is sought as part of A criminal
 189 investigation; or

190 c. Making a prosecutorial decision under s. 985.15, or when
 191 the subject of the record is a candidate for employment with a
 192 criminal justice agency. For all other purposes, a person whose
 193 record is expunged under this section may lawfully deny or fail
 194 to acknowledge the arrest and the charge covered by the expunged
 195 record.

196 2. Records maintained by local criminal justice agencies in
 197 the county in which the arrest occurred that are eligible for
 198 expunction pursuant to this section shall be sealed as the term
 199 is used in s. 943.059.

200 ~~(b) As used in this section, the term "nonviolent~~
 201 ~~misdemeanor" includes simple assault or battery when prearrest~~
 202 ~~or postarrest diversion expunction is approved in writing by the~~
 203 ~~state attorney for the county in which the arrest occurred.~~

24-00499C-18

20181392__

204 (3) The department shall expunge the nonjudicial arrest
 205 record of a minor ~~who has successfully completed a prearrest or~~
 206 ~~postarrest diversion program~~ if the minor has never previously
 207 received an expunction under this section and the diversion
 208 program submits a certification for expunction ~~that minor.~~

209 ~~(a) Submits an application for prearrest or postarrest~~
 210 ~~diversion expunction,~~ on a form prescribed by the department,
 211 ~~signed by the minor's parent or legal guardian, or by the minor~~
 212 ~~if he or she has reached the age of majority at the time of~~
 213 ~~applying.~~

214 ~~(b) Submits to the department, with the application, an~~
 215 ~~official written statement from the state attorney for the~~
 216 ~~county in which the arrest occurred certifying that he or she~~
 217 ~~has successfully completed that county's prearrest or postarrest~~
 218 ~~diversion program, that his or her participation in the program~~
 219 ~~was based on an arrest for a nonviolent misdemeanor, and~~
 220 ~~that he or she has not otherwise been charged by the state~~
 221 ~~attorney with, or found to have committed, any criminal offense~~
 222 ~~or comparable ordinance violation.~~

223 ~~(c) Participated in a prearrest or postarrest diversion~~
 224 ~~program that expressly authorizes or permits such expunction.~~

225 ~~(d) Participated in a prearrest or postarrest diversion~~
 226 ~~program based on an arrest for a nonviolent misdemeanor that~~
 227 ~~would not qualify as an act of domestic violence as that term is~~
 228 ~~defined in s. 741.28.~~

229 ~~(e) Has never been, before filing the application for~~
 230 ~~expunction, charged by the state attorney with, or found to have~~
 231 ~~committed, any criminal offense or comparable ordinance~~
 232 ~~violation.~~

24-00499C-18

20181392__

(4) ~~The department is authorized to charge a \$75 processing fee for each request received for prearrest or postarrest diversion program expunction, for placement in the Department of Law Enforcement Operating Trust Fund, unless such fee is waived by the executive director.~~

~~(5)~~ Expunction or sealing granted under this section does not prevent the minor who receives such relief from petitioning for the expunction or sealing of a later criminal history record as provided for in ss. 943.0583, 943.0585, and 943.059, if the minor is otherwise eligible under those sections.

Section 3. Section 985.12, Florida Statutes, is amended to read:

985.12 Civil citation or similar diversion programs.—

(1) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds that the creation and implementation of civil citation or similar diversion programs at the judicial circuit level promotes public safety, aids interagency cooperation, and provides the greatest chance of success for civil citation and similar diversion programs. The Legislature further finds that the widespread use of civil citation and similar diversion programs has a positive effect on the criminal justice system and contributes to an overall reduction in the crime rate and recidivism in the state. The Legislature encourages but does not mandate that counties, municipalities, and public or private educational institutions participate in a civil citation or similar diversion program created by their judicial circuit under this section. There is established a juvenile civil citation process for the purpose of providing an efficient and innovative alternative to custody by the Department of Juvenile

24-00499C-18

20181392__

~~Justice for children who commit nonserious delinquent acts and to ensure swift and appropriate consequences. The department shall encourage and assist in the implementation and improvement of civil citation programs or other similar diversion programs around the state.~~

(2) JUDICIAL CIRCUIT CIVIL CITATION OR SIMILAR DIVERSION PROGRAM DEVELOPMENT, IMPLEMENTATION AND OPERATION.—

(a) A ~~The~~ civil citation or similar diversion program shall be established in each judicial circuit in the state. The ~~at the local level with the concurrence of the chief judge of the circuit,~~ state attorney and, public defender of each circuit, the clerk of the court for each county in the circuit, and representatives of participating law enforcement agencies in the circuit shall create a civil citation or similar diversion program and develop its policies and procedures. In developing the program's policies and procedures, input from other interested stakeholders may be solicited.

(b) Each judicial circuit's civil citation or similar diversion program must specify:

1. The misdemeanor offenses that qualify a juvenile for participation in the program;

2. The eligibility criteria for the program;

3. The program's implementation and operation;

4. The program's requirements, including, but not limited to, the completion of community service hours, payment of restitution, if applicable, and intervention services indicated by a needs assessment of the juvenile, such as family counseling, urinalysis monitoring, and substance abuse and mental health treatment services; and

24-00499C-18

20181392__

291 5. A program fee, if any, to be paid by a juvenile
 292 participating in the program. If the program imposes a fee, the
 293 clerk of the court of the applicable county must receive a
 294 reasonable portion of the fee.

295 (c) The state attorney of each circuit shall operate a
 296 civil citation or similar diversion program in each circuit,
 297 except that a sheriff, police department, county, municipality,
 298 or public or private educational institution that has an
 299 independent civil citation or similar diversion program in
 300 operation as of October 1, 2018, may continue to operate it if
 301 the independent program is reviewed by the state attorney of the
 302 applicable circuit and he or she determines that the independent
 303 program is substantially similar to the civil citation or
 304 similar diversion program developed by the circuit. If the state
 305 attorney determines that the independent program is not
 306 substantially similar to the civil citation or similar diversion
 307 program developed by the circuit, the operator of the
 308 independent diversion program may revise the program and the
 309 state attorney may conduct an additional review of the
 310 independent program.

311 (d) This section does not prevent a judicial circuit from
 312 adopting an existing sheriff, police department, county,
 313 municipality, or public or private educational institution's
 314 independent civil citation or similar diversion program as the
 315 civil citation or similar diversion program for the circuit.

316 (e) If a juvenile does not successfully complete the civil
 317 citation or similar diversion program, the arresting law
 318 enforcement officer shall determine if there is good cause to
 319 arrest the juvenile for the original misdemeanor offense and

Page 11 of 16

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

24-00499C-18

20181392__

320 refer the case to the state attorney to determine if prosecution
 321 is appropriate or allow the juvenile to continue in the program
 322 and the head of each local law enforcement agency involved. The
 323 program may be operated by an entity such as a law enforcement
 324 agency, the department, a juvenile assessment center, the county
 325 or municipality, or another entity selected by the county or
 326 municipality. An entity operating the civil citation or similar
 327 diversion program must do so in consultation and agreement with
 328 the state attorney and local law enforcement agencies. Under
 329 such a juvenile civil citation or similar diversion program, a
 330 law enforcement officer, upon making contact with a juvenile who
 331 admits having committed a misdemeanor, may choose to issue a
 332 simple warning or inform the child's guardian or parent of the
 333 child's infraction, or may issue a civil citation or require
 334 participation in a similar diversion program, and assess up to
 335 50 community service hours, and require participation in
 336 intervention services as indicated by an assessment of the needs
 337 of the juvenile, including family counseling, urinalysis
 338 monitoring, and substance abuse and mental health treatment
 339 services.

340 (f) A copy of each civil citation or similar diversion
 341 program notice issued under this section shall be provided to
 342 the department, and the department shall enter appropriate
 343 information into the juvenile offender information system. Use
 344 of the civil citation or similar diversion program is not
 345 limited to first-time misdemeanors and may be used in up to two
 346 subsequent misdemeanors. If an arrest is made, a law enforcement
 347 officer must provide written documentation as to why an arrest
 348 was warranted.

Page 12 of 16

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

24-00499C-18

20181392__

349 (g) At the conclusion of a juvenile's civil citation
 350 ~~program~~ or similar diversion program, the state attorney agency
 351 operating the program shall report the outcome to the
 352 department. The issuance of a civil citation or similar
 353 diversion program notice is not considered a referral to the
 354 department.

355 ~~(2) The department shall develop guidelines for the civil~~
 356 ~~citation program which include intervention services that are~~
 357 ~~based upon proven civil citation or similar diversion programs~~
 358 ~~within the state.~~

359 ~~(h)(3)~~ Upon issuing such a civil citation or similar
 360 diversion program notice, the law enforcement officer shall send
 361 a copy of to the civil citation or similar diversion program
 362 notice to county sheriff, state attorney, the appropriate intake
 363 office of the department, or the community service performance
 364 monitor designated by the department, the parent or guardian of
 365 the child, and to the victim.

366 ~~(4) The child shall report to the community service~~
 367 ~~performance monitor within 7 working days after the date of~~
 368 ~~issuance of the citation. The work assignment shall be~~
 369 ~~accomplished at a rate of not less than 5 hours per week. The~~
 370 ~~monitor shall advise the intake office immediately upon~~
 371 ~~reporting by the child to the monitor, that the child has in~~
 372 ~~fact reported and the expected date upon which completion of the~~
 373 ~~work assignment will be accomplished.~~

374 ~~(5) If the child fails to report timely for a work~~
 375 ~~assignment, complete a work assignment, or comply with assigned~~
 376 ~~intervention services within the prescribed time, or if the~~
 377 ~~juvenile commits a subsequent misdemeanor, the law enforcement~~

Page 13 of 16

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

24-00499C-18

20181392__

378 ~~officer shall issue a report alleging the child has committed a~~
 379 ~~delinquent act, at which point a juvenile probation officer~~
 380 ~~shall process the original delinquent act as a referral to the~~
 381 ~~department and refer the report to the state attorney for~~
 382 ~~review.~~

383 ~~(6) At the time of issuance of the citation by the law~~
 384 ~~enforcement officer, such officer shall advise the child that~~
 385 ~~the child has the option to refuse the citation and to be~~
 386 ~~referred to the intake office of the department. That option may~~
 387 ~~be exercised at any time before completion of the work~~
 388 ~~assignment.~~

389 Section 4. Subsection (3) of section 985.125, Florida
 390 Statutes, is amended to read:

391 985.125 Prearrest or postarrest diversion programs.—
 392 ~~(3) The prearrest or postarrest diversion program may, upon~~
 393 ~~agreement of the agencies that establish the program, provide~~
 394 ~~for the expunction of the nonjudicial arrest record of a minor~~
 395 ~~who successfully completes such a program pursuant to s.~~
 396 ~~943.0582.~~

397 Section 5. Section 985.126, Florida Statutes, is created to
 398 read:

399 985.126 Diversion programs; data collection; denial of
 400 participation or expunged record.—

401 (1) As used in this section, the term "diversion program"
 402 has the same meaning as in s. 943.0582.

403 (2) Each diversion program shall submit:

404 (a) A certification for expunction to the Department of Law
 405 Enforcement of the juvenile's nonjudicial arrest record under s.
 406 943.0582 if the juvenile:

Page 14 of 16

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

24-00499C-18

20181392__

407 1. Successfully completes the diversion program for a
 408 first-time misdemeanor offense; and
 409 2. Has not otherwise been charged by the state attorney
 410 with, or been found to have committed, a criminal offense or
 411 comparable ordinance violation.
 412 (b) Data to the department in a form prescribed by the
 413 department which identifies for each juvenile who participates
 414 in the diversion program:
 415 1. The race, ethnicity, gender, and age of the juvenile;
 416 2. The offense committed, with citation to the specific law
 417 establishing the offense; and
 418 3. The judicial circuit and county in which the offense was
 419 committed and the law enforcement agency that had contact with
 420 the juvenile for the offense.
 421 (3) The department shall provide the following data for
 422 each juvenile who is eligible for the diversion program, but
 423 who, instead, is referred to the department, is provided a
 424 notice to appear, or is arrested:
 425 (a) The data required under paragraph (2) (a); and
 426 (b) Whether the juvenile was offered the opportunity to
 427 participate in the diversion program. If the juvenile:
 428 1. Was not offered such opportunity, the department must
 429 attempt to find out the reason the law enforcement officer
 430 declined to make the offer.
 431 2. Was offered such opportunity, the department must
 432 indicate whether the juvenile or his or her parent or legal
 433 guardian declined to participate in the diversion program.
 434 (4) The department shall compile the data required under
 435 subsections (2) and (3) and publish it on the department's

Page 15 of 16

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

24-00499C-18

20181392__

436 website in a format that is, at a minimum, sortable by judicial
 437 circuit, county, law enforcement agency, race or ethnicity,
 438 gender, age, and offense committed.
 439 (5) A juvenile who successfully completes a diversion
 440 program for a first-time misdemeanor offense may lawfully deny
 441 or fail to acknowledge his or her participation in the program
 442 and an expunction of a nonjudicial arrest record under s.
 443 943.0582, unless the inquiry is made by a criminal justice
 444 agency, as defined in s. 943.045, for a purpose described in s.
 445 943.0582 (2) (a) 1.
 446 Section 6. This act shall take effect October 1, 2018.

Page 16 of 16

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)

1.22.18

Meeting Date

1392

Bill Number (if applicable)

65934

Amendment Barcode (if applicable)

413792

Topic Prearrest Diversion

Name Barney Bishop

Job Title CEO

Address 204 S. Monroe St.

Street

Tall

City

FL

State

Zip

Phone 510.9922

Email Barney@BarneyBishop.com

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.

THE FLORIDA SENATE

APPEARANCE RECORD

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

1392

1/22/18
Meeting Date

Bill Number (if applicable)

Topic Adult Child Custody

Amendment Barcode (if applicable)

Name Jennifer Gifford, MD

Job Title Physician

Address 501 W 8th Ave N

Phone

Street

St Pete R 33702

Email

City

State

Zip

Speaking: ☐ For ☐ Against ☒ Information

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

Representing

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)

1/22/18
Meeting Date

1392
Bill Number (if applicable)

Topic Precarrest Diversion Programs

Amendment Barcode (if applicable)

Name Ingrid Delgado

Job Title Associate for Social Concerns & Respect Life

Address 201 W Park Av Phone _____
Street

Tallahassee FL 32301 Email _____
City State Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Conference of Catholic Bishops

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)

1/22/2018

Meeting Date

1392

Bill Number (if applicable)

Topic

Pre Arrest Diversion

Amendment Barcode (if applicable)

Name

Jorge Chamizo

Job Title

Attorney

Address

108 South Monroe Street

Phone

(850) 681-0024

Street

Tallahassee FL 32301

Email

jorge@flapartners.com

City

State

Zip

Speaking:

☒

For

☐

Against

☐

Information

Waive Speaking:

☒

In Support

☐

Against

(The Chair will read this information into the record.)

Representing

Fla. Association of Criminal Defense Lawyers

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)

1.22.18

Meeting Date

1392

Bill Number (if applicable)

Topic Prearrest Diversion Forms

Amendment Barcode (if applicable)

Name Barney Bishop

Job Title CEO

Address 204 South Monroe Street

Phone 510-9922

Street

Tallahassee

FL

32031

Email Barney@BarneyBishop.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida 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
APPEARANCE RECORD

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

1-22-18

Meeting Date

1392

Bill Number (if applicable)

Topic Pre-arrest DIVERSION

Amendment Barcode (if applicable)

Name BILL CERVONE

Job Title STATE ATTORNEY - 8 CIR

Address 120 W UNIVERSITY AVE
Street

Phone 352-374-3686

Gainesville FL 32601
City State Zip

Email bcervone@sa08.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FLORIDA PROSECUTING ATTORNEY'S 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)

1/22/18

Meeting Date

SB 1392

Bill Number (if applicable)

Topic PRE-ARREST DIVERSION / CIVIL CITATION

Amendment Barcode (if applicable)

Name CARLOS J. MARTINEZ

Job Title PUBLIC DEFENDER, 11TH JUDICIAL CIRCUIT

Address 1320 NW 14TH ST.

Phone 305-545-1900

Street

MIAMI

City

FL

State

33125

Zip

Email cmartinez@pdlmiami.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing 11TH CIRCUIT PUBLIC DEFENDER

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

Committee Agenda Request

To: Senator Randolph Bracy
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: January 16, 2018

I respectfully request that **Senate Bill #1392**, relating to **Prearrest Diversion Programs**, be placed on the:

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

A handwritten signature in black ink, appearing to read "Jeff Brandes", is written over a horizontal line.

Senator Jeff Brandes
Florida Senate, District 24

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: SB 1394

INTRODUCER: Senator Brandes

SUBJECT: Public Records/Prearrest Diversion Program

DATE: January 19, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Storch	Jones	CJ	Pre-meeting
2.			GO	
3.			RC	

I. Summary:

SB 1394, which is linked to the passage of SB 1392, creates a public records exemption for personal identifying information of an adult who participates and successfully completes a prearrest diversion program.

The exemption is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2023, unless reviewed and saved from repeal by the Legislature. The bill provides a statement of public necessity as required by the State Constitution.

The Florida Constitution requires a two-thirds vote of the members present and voting in each house of the Legislature for final passage because it creates a new public records exemption.

The bill takes effect on the same date that SB 1392 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof, and becomes law.

II. Present Situation:

The Florida Constitution provides that every individual has a right of access to public records which are made or received in connection with official public business unless the records are exempt. This right applies to records of the legislative, executive, and judicial branches.¹

¹ Article I, s. 24(a), FLA. CONST.

The Public Records Act, codified in ch. 119, F.S., expressly guarantees every person's right to inspect and copy any state or local government public record² at any reasonable time, under reasonable conditions, and under the supervision of the public records custodian.³

Only the Legislature may create an exemption to public records requirements.⁴ Such an exemption must be created by general law and must specifically state the public necessity justifying the exemption. Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law.

The Open Government Sunset Review Act (OGSR) requires a newly created or expanded public records exemption be repealed on October 2 of the fifth year after enactment, unless reviewed and reenacted by the Legislature.⁵ It further provides that a public records exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary to meet the public purpose it serves.⁶

An exemption serves an identifiable purpose if it meets one of the following purposes and cannot be accomplished without the exemption:

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption.
- The release of sensitive personal information would be defamatory or would jeopardize an individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt.
- It protects trade or business secrets.⁷

In addition, the Legislature must find that the purpose of the exemption overrides Florida's public policy strongly favoring open government.

The OGSR also requires specified questions to be considered during the review process.⁸ In examining an exemption, the OGSR asks the Legislature to carefully question the purpose and necessity of the exemption. These specified questions are:

- What specific records or meetings are affected by the exemption?

² Section 119.011(12), F.S., defines "public record" as 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.

³ Section 119.07(1)(a), F.S.

⁴ Article I, s. 24(c), FLA CONST. There is a difference between records the Legislature designates as exempt from public records requirements and those the Legislature designates *confidential and exempt*. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. The School Bd. of Seminole*, 874 So.2d 48 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); and *Williams v. City of Minneola*, 575 So.2d 683 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, then such record may not be released by the custodian of public records to anyone other than the persons or entities specifically designated in the statutory exemption. See Op. Att'y Gen, Fla. 85-62, August 1, 1985.

⁵ Section 119.15(3), F.S.

⁶ Section 119.15(6)(b), F.S.

⁷ Section 119.15(6)(b)1.-3., F.S.

⁸ Section 119.15(6)(a), F.S.

- 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?⁹

To enact an exemption, the bill may not contain other substantive provisions¹⁰ and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.¹¹

Adult Criminal History Records

A criminal history record is any nonjudicial record maintained by a criminal justice agency containing criminal history information.¹² Criminal history information includes information on a person's arrests, detentions, indictments, informations (formal criminal charges), and the disposition of the charges.¹³

An adult's criminal history information is available free of charge to criminal justice agencies and to the public with payment of a fee.¹⁴ Adults seeking to prevent such disclosure may petition the court to seal¹⁵ or expunge the record.¹⁶

Sections 943.059 and 943.0585, F.S., provide the procedures for sealing and expunging criminal history records. When a record is sealed, it is not destroyed, but access is limited to:

- The subject of the record;
- His or her attorney;
- Criminal justice agencies for criminal justice purposes;
- Judges; and
- Certain agencies for licensing and employment purposes.¹⁷

When a criminal history record is expunged, criminal justice agencies other than the Florida Department of Law Enforcement (FDLE) must physically destroy the record. Criminal justice agencies are allowed to make a notation indicating compliance with an expunction order. FDLE is required to retain expunged records.¹⁸

Persons who have had their criminal history records sealed or expunged may lawfully deny or fail to acknowledge the arrests covered by their record, except when they are applying for certain

⁹ Section 119.15(6)(a)1.-6., F.S.

¹⁰ The bill may, however, contain multiple exemptions that relate to one subject.

¹¹ Article I, s. 24(c), FLA. CONST.

¹² Section 943.045(6), F.S.

¹³ Section 943.045(5), F.S.

¹⁴ Section 943.053(3)(a), F.S.

¹⁵ Section 943.059, F.S.

¹⁶ Section 943.0585, F.S.

¹⁷ Section 943.059(4), F.S.

¹⁸ Section 943.0585(4), F.S.

types of employment,¹⁹ petitioning the court for a record sealing or expunction, or are a defendant in a criminal prosecution.²⁰

Sealed or expunged records are confidential and exempt from the public records law.²¹ It is a first degree misdemeanor²² to divulge their existence.²³

Prearrest Diversion Program

SB 1392, which is linked to SB 1394, creates s. 901.40, F.S., requiring each judicial circuit to establish and implement a prearrest diversion program. SB 1392 encourages counties, municipalities, and public or private educational institutions to participate in the prearrest diversion program created by their judicial circuit. SB 1392 grants the state attorney, public defender, clerk of the court for each county in the circuit, and representatives of participating law enforcement agencies in the circuit full discretion to develop a circuit-wide prearrest diversion program. Each judicial circuit's prearrest diversion program must specify:

- The misdemeanor offenses that qualify an adult for participation in the program;
- The eligibility criteria for the program;
- The program's implementation and operation;
- The program's requirements, including, but not limited to:
 - The completion of community service hours;
 - Payment of restitution, if applicable; and
 - Intervention services indicated by a needs assessment of the adult, such as urinalysis monitoring and substance abuse and mental health treatment services; and
- A program fee, if any, to be paid by an adult participating in the program.²⁴

If the adult does not successfully complete the program, the officer must determine if there is good cause to arrest the adult for the original misdemeanor offense and refer the case to the state attorney to determine if prosecution is appropriate or allow the adult to continue in the program.

Upon intake of an adult participating in the prearrest diversion program, the state attorney or the person operating the independent prearrest diversion program must electronically provide the adult's personal identifying information to the clerk of the court for the county in which the adult is participating in the prearrest diversion program. Such information is not a court record and the clerk of the court must maintain the confidentiality of the adult's personal identifying information. The clerk of the court must maintain such information in a statewide database, which must provide a single point of access for all such statewide information.

¹⁹ These include candidates for appointment as guardian, admission to The Florida Bar, employment with a criminal justice agency, a license by the Division of Insurance Agent and Agent Services of the Department of Financial Services, or a position with an agency which is responsible for the protection of vulnerable persons, including children, disabled persons, and elderly persons.

²⁰ Sections 943.0585(4)(a) and 943.059(4)(a), F.S.

²¹ Sections 943.059(4)(c) and 943.0585(4)(c), F.S.

²² A first degree misdemeanor is punishable by up to one year in county jail and a \$1,000 fine. Sections 775.082 and 775.083, F.S.

²³ Sections 943.059 and 943.0585, F.S., require the FDLE to disclose sealed and expunged criminal history records to specified entities for specified purposes.

²⁴ If the program imposes a fee, the clerk of the court of the applicable county must receive a reasonable portion of the fee.

A prearrest diversion program notice is issued in lieu of an arrest so no criminal history record is created. However, records of a prearrest diversion program notice are subject to disclosure. Currently, Florida law does not provide a public records exemption for records associated with a civil citation.

III. Effect of Proposed Changes:

The bill creates a public records exemption for the personal identifying information of an adult who participates in a prearrest diversion program.

The bill provides a statement of public necessity as required by the Florida Constitution.²⁵ The statement includes the following findings:

- The goal of the prearrest diversion program is to give a second chance to adults who commit misdemeanor offenses and allow them the opportunity to avoid having an arrest record.
- If the personal identifying information of such adults were not exempt from disclosure, the subsequent disclosure of the information would create negative consequences for these adults.
- If such information were able to be obtained by the public, such disclosure might negatively impact the prearrest diversion program.

The bill provides that the exemption does not apply to the personal identifying information of an adult who fails to complete the prearrest diversion program.

The bill specifies that the exemption applies to personal identifying information held by:

- A law enforcement agency;
- A program services provider;
- A clerk of the circuit court; or
- The entity operating the prearrest diversion program.

The exemption applies to personal identifying information held by any of the listed individuals or entities before, on, or after the effective date of the exemption.

The bill repeals the exemption on October 2, 2023, unless reviewed and saved from repeal by the Legislature.

The bill takes effect on the same date that SB 1392 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof, and becomes law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

²⁵ Article I, s. 24(c), FLA. CONST.

B. Public Records/Open Meetings Issues:

This bill creates one new public records exemption. Therefore, the following constitutional requirements apply.

Substance of the Bill

Article I, s. 24(c) of the State Constitution requires that laws enacted to exempt records from public inspection must contain only exemptions and relate to one subject. This bill creates a new public records exemption related to records of a prearrest diversion program.

Vote Requirement

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 public record or public meeting exemption. The bill creates one new public records exemption; thus, it requires a two-thirds vote for final passage.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill creates one new public records exemption and includes a public necessity statement for such exemption.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires a newly created public record exemption to be no broader than necessary to accomplish the stated purpose of the law. Based on the legislative findings in each statement of public necessity, this public records exemption appears to be no broader than necessary to accomplish the stated purpose.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may have a minimal fiscal impact on agencies responsible for complying with public records requests and redacting confidential and exempt information prior to releasing a record. However, these costs should be able to be absorbed with existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill is linked to the passage of SB 1392.

VIII. Statutes Affected:

This bill creates section 901.40 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.



234838

LEGISLATIVE ACTION

Senate

.
.
.
.
.
.

House

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

Senate Amendment (with directory amendment)

Delete line 52

and insert:

SB 1392 or similar legislation takes effect, if such legislation

===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

And the directory clause is amended as follows:

Delete line 15

and insert:



234838

11 Florida Statutes, as created by SB 1392, 2018 Regular Session,

By Senator Brandes

24-00500B-18

20181394__

A bill to be entitled

An act relating to public records; amending s. 901.40, F.S.; creating an exemption from public records requirements for the personal identifying information of adults who participate in a prearrest diversion program; providing applicability; providing retroactive application; providing for future review and repeal of the exemption; providing a statement of public necessity; providing a contingent effective date.

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

Section 1. Subsection (3) is added to section 901.40, Florida Statutes, as created by SB ____, 2018 Regular Session, to read:

901.40 Prearrest diversion programs.—

(3) PUBLIC RECORDS EXEMPTION.—The personal identifying information of an adult participating in a prearrest diversion program is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. The exemption does not apply to the personal identifying information of an adult who fails to complete the prearrest diversion program. This exemption applies to personal identifying information held by a law enforcement agency, a program services provider, a clerk of the circuit court, or the entity operating the prearrest diversion program before, on, or after the effective date of this exemption. This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023,

Page 1 of 2

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

24-00500B-18

20181394__

unless reviewed and saved from such repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that the personal identifying information of an adult participating in a prearrest diversion program be exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. The exemption does not apply to the personal identifying information of an adult who fails to complete the prearrest diversion program. The goal of such programs is to give a second chance to adults who commit misdemeanor offenses and allow them the opportunity to avoid having an arrest record. Such goal would be defeated if the personal identifying information of such adults were not exempt from disclosure and, consequently, disclosure of the information would create negative consequences for these adults. If the public were able to obtain the personal identifying information of these adults, the disclosure might adversely impact the prearrest diversion program. For these reasons, the Legislature finds that it is a public necessity that the personal identifying information of an adult participating in a prearrest diversion program be exempt from public records requirements.

Section 3. This act shall take effect on the same date that SB ____ or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

Page 2 of 2

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

THE FLORIDA SENATE
APPEARANCE RECORD

1.22.18

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

Meeting Date

1394

Bill Number (if applicable)

Topic Public Records Exemption - Prearrest Diversion Program

Amendment Barcode (if applicable)

Name Barney Bishop

Job Title CEO

Address 204 South Monroe Street

Phone 510-9922

Street

Tallahassee

FL

32301

Email Barney@BarneyBishop.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida 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: CS/SB 1460

INTRODUCER: Criminal Justice Committee and Senator Montford

SUBJECT: State Agency Law Enforcement Radio System

DATE: January 23, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Jones</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	<u></u>	<u></u>	<u>RC</u>	<u></u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1460 adds a representative of the Florida Sheriffs Association to the Joint Task Force on State Agency Law Enforcement Communications. This representative must be appointed by the president of the Florida Sheriffs Association.

The per diem and travel expenses incurred by the member of the task force who represents the Florida Sheriffs Association in attending task force meetings and in attending to task force affairs shall be paid by the sheriff's office that employs the representative.

II. Present Situation:

Florida's Statewide Law Enforcement Radio System

Florida's Statewide Law Enforcement Radio System (SLERS) is a single, unified digital radio network that meets the radio voice communications needs of state law enforcement officers and other participating agencies throughout the state. The SLERS is a 800/700 (aircraft) MHz system consisting of 200 microwave sites, RF multi-sites, and RF simulcast sites. The SLERS all-digital radio network covers over 60,000 square miles (including 25 miles offshore) with 98 percent mobile coverage and portable coverage in selected areas. The Department of Management

Services (DMS) was tasked with implementing the SLERS and is responsible for ensuring the proper operation and maintenance of all common system equipment.¹

Joint Task Force on State Agency Law Enforcement Communications

The Joint Task Force on State Agency Law Enforcement Communications (task force) is created within the DMS to advise the DMS of member-agency needs relating to the planning, designing, and establishment of the SLERS.² The task force consists of the following members:

- A representative of the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation who is appointed by the secretary of the department.
- A representative of the Division of Florida Highway Patrol of the Department of Highway Safety and Motor Vehicles who is appointed by the executive director of the department.
- A representative of the Department of Law Enforcement who is appointed by the executive director of the department.
- A representative of the Fish and Wildlife Conservation Commission who is appointed by the executive director of the commission.
- A representative of the Department of Corrections who is appointed by the secretary of the department.
- A representative of the Department of Financial Services who is appointed by the Chief Financial Officer.
- A representative of the Department of Agriculture and Consumer Services who is appointed by the Commissioner of Agriculture.³

Each appointed member of the task force must serve at the pleasure of the appointing official. Any vacancy on the task force is to be filled in the same manner as the original appointment. A task force member may, upon notification to the chair before the beginning of any scheduled meeting, appoint an alternative to represent the member on the task force and vote on task force business in his or her absence.⁴

The task force must elect a chair from among its members to serve a one-year term. A vacancy in the chair of the joint task force must be filled for the remainder of the unexpired term by an election of the joint task force members.⁵

The task force is required to meet as necessary, but at least quarterly, at the call of the chair and at the time and place designated by him or her.⁶ The per diem and travel expenses incurred by a member of the task force in attending its meetings and in attending to its affairs must be paid from funds budgeted to the state agency that the member represents.⁷

¹ “Statewide Law Enforcement Radio System (SLERS),” Department of Management Services, available at https://www.dms.myflorida.com/business_operations/telecommunications/radio_communications_services/statewide_law_enforcement_radio_system_slers (last visited on Jan. 16, 2018).

² Section 282.709(2), F.S.

³ Section 282.709(2)(a), F.S.

⁴ Section 282.709(2)(b), F.S.

⁵ Section 282.709(2)(c), F.S.

⁶ Section 282.709(2)(d), F.S.

⁷ Section 282.709(2)(e), F.S.

III. Effect of Proposed Changes:

The bill amends s. 282.709, F.S., to add a representative of the Florida Sheriffs Association to the Joint Task Force on State Agency Law Enforcement Communications. This representative must be appointed by the president of the Florida Sheriffs Association. Currently, there are 20 sheriff's offices using the SLERS.⁸

The per diem and travel expenses incurred by the member of the task force who represents the Florida Sheriffs Association in attending task force meetings and in attending to task force affairs shall be paid by the sheriff's office that employs the representative.

The bill takes effect 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.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill does not appear to have any fiscal impact on state government. However, s. 282.709(2)(e), F.S., provides that per diem and travel expenses incurred by a member of the task force in attending its meetings and in attending to its affairs must be paid from funds budgeted to the *state agency* that the member represents. The sheriff representative does not represent a *state agency*, and the bill does not specify how per diem and travel expenses for this representative are to be paid.

⁸ Email from Department of Management Services staff to staff of the House Oversight, Transparency & Administration Subcommittee (Jan. 11, 2018) (on file with the Senate Committee on Criminal Justice).

VI. Technical Deficiencies:

Section 282.709(2)(e), F.S., provides that per diem and travel expenses incurred by a member of the task force in attending its meetings and in attending to its affairs must be paid from funds budgeted to the *state agency* that the member represents. The sheriff representative does not represent a *state agency*, and the bill does not specify how per diem and travel expenses for this representative are to be paid.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 282.709 of the Florida Statutes.

IX. Additional Information:

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

CS by Criminal Justice on January 22, 2018:

The committee substitute provides that the per diem and travel expenses incurred by the member of the Joint Task Force on State Agency Law Enforcement Communications who represents the Florida Sheriffs Association in attending task force meetings and in attending to task force affairs shall be paid by the sheriff's office that employs the representative.

- B. **Amendments:**

None.



244294

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/22/2018	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraphs (a) and (e) of subsection (2) of
section 282.709, Florida Statutes, are amended to read:

282.709 State agency law enforcement radio system and
interoperability network.—

(2) The Joint Task Force on State Agency Law Enforcement
Communications is created adjunct to the department to advise



244294

the department of member-agency needs relating to the planning, designing, and establishment of the statewide communication system.

(a) The Joint Task Force on State Agency Law Enforcement Communications shall consist of the following members:

1. A representative of the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation who shall be appointed by the secretary of the department.

2. A representative of the Division of Florida Highway Patrol of the Department of Highway Safety and Motor Vehicles who shall be appointed by the executive director of the department.

3. A representative of the Department of Law Enforcement who shall be appointed by the executive director of the department.

4. A representative of the Fish and Wildlife Conservation Commission who shall be appointed by the executive director of the commission.

5. A representative of the Department of Corrections who shall be appointed by the secretary of the department.

6. A representative of the Department of Financial Services who shall be appointed by the Chief Financial Officer.

7. A representative of the Department of Agriculture and Consumer Services who shall be appointed by the Commissioner of Agriculture.

8. A representative of the Florida Sheriffs Association who shall be appointed by the president of the Florida Sheriffs Association.



244294

(e) The per diem and travel expenses incurred by a member of the joint task force who represents a state agency in attending task force ~~its~~ meetings and in attending to task force ~~its~~ affairs shall be paid pursuant to s. 112.061, from funds budgeted to the state agency that the member represents. The per diem and travel expenses incurred by the member of the task force who represents the Florida Sheriffs Association in attending task force meetings and in attending to task force affairs shall be paid pursuant to s. 112.061, by the sheriff's office that employs the representative.

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

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to the Joint Task Force on State
Agency Law Enforcement Communications; amending s.
282.709, F.S.; providing that a representative of the
Florida Sheriffs Association shall be an appointed
member of the Joint Task Force on State Agency Law
Enforcement Communications; providing that the
sheriff's office that employs the representative must
pay the per diem and travel expenses incurred by the
representative; providing an effective date.

By Senator Montford

3-01196-18

20181460__

A bill to be entitled

An act relating to the state agency law enforcement radio system; amending s. 282.709, F.S.; adding to the Joint Task Force on State Agency Law Enforcement Communications a representative of the Florida Sheriffs Association, to be appointed by the president of the association; providing an effective date.

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

Section 1. Paragraph (a) of subsection (2) of section 282.709, Florida Statutes, is amended to read:

282.709 State agency law enforcement radio system and interoperability network.—

(2) The Joint Task Force on State Agency Law Enforcement Communications is created adjunct to the department to advise the department of member-agency needs relating to the planning, designing, and establishment of the statewide communication system.

(a) The Joint Task Force on State Agency Law Enforcement Communications shall consist of the following members:

1. A representative of the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation who shall be appointed by the secretary of the department.

2. A representative of the Division of Florida Highway Patrol of the Department of Highway Safety and Motor Vehicles who shall be appointed by the executive director of the department.

Page 1 of 2

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

3-01196-18

20181460__

3. A representative of the Department of Law Enforcement who shall be appointed by the executive director of the department.

4. A representative of the Fish and Wildlife Conservation Commission who shall be appointed by the executive director of the commission.

5. A representative of the Department of Corrections who shall be appointed by the secretary of the department.

6. A representative of the Department of Financial Services who shall be appointed by the Chief Financial Officer.

7. A representative of the Department of Agriculture and Consumer Services who shall be appointed by the Commissioner of Agriculture.

8. A representative of the Florida Sheriffs Association who shall be appointed by the president of the association.

Section 2. This act shall take effect July 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)

1/22/17

Meeting Date

1460

Bill Number (if applicable)

Topic State Agency Law Enforcement Radio System

Amendment Barcode (if applicable)

Name Tabitha Krol

Job Title Government Affairs Coordinator

Address 2617 Mahan Drive

Phone 850-877-2165

Street

Tallahassee

FL

32308

City

State

Zip

Email tkrol@flsheriffs.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Sheriffs 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

Committee Agenda Request

To: Senator Randolph Bracy, Chair
Senate Committee on Criminal Justice

Subject: Committee Agenda Request

Date: January 12, 2018

I respectfully request that SB 1460 on State Agency Law Enforcement Radio System be placed on the:

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

A handwritten signature in cursive script that reads "Bill Montford".

Senator Bill Montford
Florida Senate, District 3

CourtSmart Tag Report

Room: LL 37

Case No.:

Type:

Caption: Senate Criminal Justice Committee

Judge:

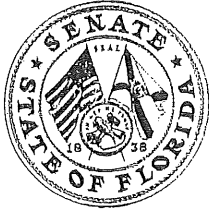
Started: 1/22/2018 3:36:13 PM

Ends: 1/22/2018 4:44:49 PM

Length: 01:08:37

3:36:15 PM Meeting called to order
3:36:18 PM Roll call
3:37:21 PM Tab 10- SB 1460 by Senator Montford- State Agency Law Enforcement Radio System
3:38:16 PM Amendment Barcode 244294 by Senator Montford
3:38:42 PM Back on SB 1460 as amended
3:39:01 PM Tabitha Krol from Florida Sheriffs Association waives in support
3:39:10 PM Roll call on SB 1460
3:39:49 PM Tab 6- SB 1060 by Senator Campbell- Defamation
3:42:32 PM Senator Bradley remarks on the quality of the bill
3:43:07 PM Close on SB 1060
3:43:25 PM Roll call on SB 1060
3:44:03 PM Tab 8- SB 1392 by Senator Brandes- Prearrest Diversion Programs
3:45:04 PM Amendment Barcode 445982 by Senator Brandes
3:45:53 PM Amendment Barcode 445982 adopted
3:46:04 PM Amendment Barcode 699198 by Senator Brandes
3:46:25 PM Amendment Barcode 699198 adopted
3:46:38 PM Amendment Barcode 148362 by Senator Brandes
3:46:55 PM Amendment Barcode 148362 is adopted
3:47:07 PM TP SB 1392
3:47:28 PM Tab 5- SB 982 by Senator Powell- Care for Retired Law Enforcement Dogs
3:49:33 PM Senator Rouson asks about the evidence to support the exact amount to support the dogs
3:50:27 PM Speakers waive in support
3:50:54 PM Close on SB 982
3:51:01 PM Roll call on SB 982
3:51:43 PM Back to Tab 8- SB 1392 by Senator Brandes- Prearrest Diversion Programs
3:51:56 PM Late filed Amendment Barcode 413792 by Senator Baxley
3:53:33 PM Senator Rouson asks if this amendment is considered friendly
3:54:13 PM Senator Brandes remarks on concerns about the time lengths between civil citations
3:56:13 PM Speakers waive in support
3:57:22 PM Speaker Jennifer Griffin FL Department of Health
3:59:27 PM Debate on SB 1392
3:59:50 PM Roll call on SB 1392
4:00:17 PM Tab 2- SB 936 by Senator Powell- Juvenile Justice
4:01:13 PM Amendment Barcode 348374 by Senator Powell
4:01:44 PM Amendment Barcode 348374 is adopted
4:01:51 PM Amendment Barcode 284830 by Senator Powell
4:02:24 PM Amendment Barcode 284830 is adopted
4:02:31 PM Amendment Barcode 392502 by Senator Powell
4:02:59 PM Amendment Barcode 392502 is adopted
4:03:03 PM Amendment Barcode 531932 by Senator Powell
4:03:25 PM Amendment Barcode 531932 is adopted
4:03:45 PM Back on SB 936 as amended
4:06:00 PM Speaker Carlos J Martinez with Florida Public Defender Association
4:09:14 PM Speaker Scott D McCoy with Southern Poverty Law Center/No Place for a Child Coalition
4:14:13 PM Speakers waive in support
4:14:44 PM Speaker Brianna Auker from Freedom High School PTSA
4:19:24 PM Barney Bishop with Florida Smart Justice Alliance waives in opposition
4:19:34 PM Speakers waive in support
4:20:30 PM Close on SB 936
4:20:58 PM Roll call on SB 936
4:21:33 PM Tab 7- SB 1332 by Senator Perry- Restoration of Civil Rights
4:24:31 PM Amendment Barcode 611208 by Senator Perry

4:25:00 PM	Amendment Barcode 611208 is adopted
4:25:07 PM	Back on SB 1332 as amended
4:25:24 PM	Speaker Kara Gross from the ACLU
4:28:24 PM	Speakers waive in support
4:28:53 PM	Speaker Sandra Collins
4:31:28 PM	More speakers waive in support
4:33:05 PM	Debate on SB 1332
4:36:59 PM	Close on SB 1332
4:38:49 PM	Roll call on SB 1332
4:40:17 PM	Tab 1- SB 932 by Senator Bracy- Citizen Support Organization for Florida Missing Childrens
4:41:07 PM	Roll call on SB 932
4:41:24 PM	Tab 3- SB 938 by Senator Bracy- Department of Corrections Direct-support Organization
4:42:02 PM	Speakers waive in support
4:42:12 PM	Roll call on SB 938
4:42:27 PM	Tab 4- SB 942 by Senator Bracy- Department of Juvenile Justices Direct-support Organization
4:43:00 PM	Amendment Barcode 337772 by Senator Bracy
4:43:30 PM	Amendment Barcode 337772 is adopted
4:43:37 PM	Back on SB 942 as amended
4:43:42 PM	Speakers waive in support
4:44:01 PM	Roll call on SB 942
4:44:37 PM	Senator Rouson moves to ajourn



SENATOR DENNIS BAXLEY
12th District

THE FLORIDA SENATE

COMMITTEES:

Governmental Oversight and Accountability, *Chair*
Criminal Justice, *Vice Chair*
Appropriations
Appropriations Subcommittee on Criminal and
Civil Justice
Appropriations Subcommittee on Health and
Human Services
Agriculture
Transportation

SELECT COMMITTEE:

Joint Select Committee on Collective Bargaining

JOINT COMMITTEE:

Joint Legislative Auditing Committee

January 22, 2018

The Honorable Senator Randolph Bracy
Criminal Justice Subcommittee
510 Knott Building
Tallahassee, FL 32399

Dear Chairman Bracy,

I had to leave to go present a bill in another committee and would like to enter into record my votes on the following bills:

- SB 932 – Yes
- SB 938 – Yes
- SB 942 – Yes
- SB 1060 – Yes
- SB 1460 – Yes

Onward & Upward,

A handwritten signature in black ink, appearing to read "Dennis Baxley".

Senator Dennis Baxley
Senate District 12

DKB/dd

cc: Lauren Jones, Staff Director

320 Senate Office Building, 404 South Monroe St, Tallahassee, Florida 32399-1100 • (850) 487-5012
Email: baxley.dennis@flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR ROB BRADLEY
5th District

COMMITTEES:
Appropriations, *Chair*
Environmental Preservation and
Conservation, *Chair*
Appropriations Subcommittee on Higher
Education
Appropriations Subcommittee on
Transportation, Tourism, and Economic
Development
Banking and Insurance
Criminal Justice
Judiciary
Rules

JOINT COMMITTEE:
Joint Legislative Budget Commission,
Alternating Chair

MEMORANDUM

To: Chair Bracy: Senate Criminal Justice Committee
From: Senator Rob Bradley *RB*
Subject: Missed Votes
Date: January 22, 2018

Please show me voting affirmative for the following bills heard today in the Senate Criminal Justice Committee:

- SB 932
- SB 938
- SB 942
- SB 1332

Thanks so very much for the consideration you have given to my request.

Cc: Ms. Lauren Jones
Staff Director Criminal Justice Committee

REPLY TO:

- ☐ 1279 Kingsley Avenue, Suite 107, Orange Park, Florida 32073 (904) 278-2085
- ☐ 414 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5005

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore