

STORAGE NAME: h0391.lecp

DATE: January 29, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
LAW ENFORCEMENT AND CRIME PREVENTION
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT**

BILL #: HB 391 (PCB LECP 99-03)

RELATING TO: Criminal Justice Information

SPONSOR(S): Committee on Law Enforcement and Crime Prevention

COMPANION BILL(S): None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) LAW ENFORCEMENT AND CRIME PREVENTION YEAS 9 NAYS 0
 - (2)
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

The Office of the Public Defender has requested on-line access to some of the computerized information contained in the Criminal Justice Information System. However, the Office of the Public Defender does not meet the definition of a "criminal justice agency" and therefore cannot have access to all such information. Public Defenders do have a legitimate need for some information contained in the Criminal Justice Information System, and the Florida Department of Law Enforcement agrees that the Office of the Public Defender should have access to non-confidential information. The proposed bill would provide Public Defenders access to the Criminal Justice Information System in the same manner as the Department of Revenue Child Support Enforcement currently receives access to on-line information from FDLE.

The bill would allow the Office of the Public Defender to have on-line access to some Florida criminal records. However, once again this access will NOT be based on or the same as a "criminal justice agency." Rather, Public Defenders will be limited in their access to records that are not exempt to from disclosure under Chapter 119 or confidential under law. Also, the Office of the Public Defender must bear the cost of establishing and maintaining on-line access.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Currently, Section 943.08, Florida Statutes set forth the duties and goals of the Criminal Justice Information Systems Council. Subsection (1) requires that the council facilitate the identification, standardization, sharing, and coordination of criminal and juvenile justice data among federal, state, and local agencies. Subsection (2) states that the council shall review proposed plans and policies relating to information systems, and the sharing of information with other criminal justice agencies.

Currently, Section 943.053, Florida Statutes, restricts the dissemination of certain computerized criminal justice information to criminal justice agencies, but provides an exception to the Florida Department of Revenue Child Support Enforcement. This agency may access Florida criminal records which are not exempt from disclosure under Chapter 119, and such other information as may be lawfully available from other states via the National Law Enforcement Telecommunications System.

The Public Defenders Office does not meet the definition of a "criminal justice agency," and therefore cannot share all the information available to such agencies. However, the Office of the Public Defender does have legitimate and necessary information needs which should be facilitated.

B. EFFECT OF PROPOSED CHANGES:

This bill will allow the Office of the Public defender the same access as is currently granted to the Department of Revenue Child Support Enforcement. The Office of the Public Defender would have on-line access to Florida criminal records that are not exempt from disclosure under Chapter 119, or confidential under law.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No

(3) any entitlement to a government service or benefit?

No

b. If an agency or program is eliminated or reduced:

Not Applicable

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

(2) what is the cost of such responsibility at the new level/agency?

(3) how is the new agency accountable to the people governed?

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No

b. Does the bill require or authorize an increase in any fees?

No

c. Does the bill reduce total taxes, both rates and revenues?

No

d. Does the bill reduce total fees, both rates and revenues?

No

e. Does the bill authorize any fee or tax increase by any local government?

No

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Yes, the Office of the Public Defender will bear all cost related to the use of the Criminal Justice Information System.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

Not Applicable

(1) Who evaluates the family's needs?

(2) Who makes the decisions?

(3) Are private alternatives permitted?

(4) Are families required to participate in a program?

(5) Are families penalized for not participating in a program?

b. Does the bill directly affect the legal rights and obligations between family members?

Not Applicable

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

Not Applicable

(1) parents and guardians?

(2) service providers?

(3) government employees/agencies?

D. STATUTE(S) AFFECTED:

Section 943.053 Florida Statutes

E. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends Section 943.053 to provide for the Office of the Public Defender to have on-line access to Florida criminal records which are not exempt from disclosure under chapter 119 or confidential under law.

Section 2: Provides for an effective date.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None

2. Recurring Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

4. Total Revenues and Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None

2. Recurring Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

N/A

3. Effects on Competition, Private Enterprise and Employment Markets:

N/A

D. FISCAL COMMENTS:

The bill provides that all costs pertaining to establishing and maintaining access of criminal record for the Office of the Public Defender be borne by the office to which the access was provided.

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IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

N/A

V. COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON LAW ENFORCEMENT AND CRIME PREVENTION:

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